

Texas Historical Statutes Project

WEST'S TEXAS STATUTES 1984
VOLUME 1

Texas Constitution
Revised Civil Statutes (Articles 1 to 1273)



This project was made possible by the
Texas State Law Library
and a grant from the
Texas Bar Foundation.

Digitized with permission from



THOMSON REUTERS

STATE LAW LIBRARY
ATTORNEY GENERAL COLLECTION

Texas Constitution and Civil Statutes

Articles 1 to 1273

TEXAS STATE
LAW LIBRARY

[OCT 4 1984

*As Amended through the
1983 Regular and First
Called Sessions of the
68th Legislature*

WEST PUBLISHING CO.
ST. PAUL, MINNESOTA

COPYRIGHT © 1974, 1976, 1978, 1980, 1982 WEST PUBLISHING CO.

COPYRIGHT © 1984
By
WEST PUBLISHING CO.

PREFACE

This Pamphlet contains the text of the Civil Statutes, Articles 1 to 1273, as amended through the 1983 Regular and First Called Sessions of the 68th Legislature, the text of the Texas Constitution as amended through the November 8, 1983, general election, and the text of proposed amendments to the Constitution to be voted upon at the November 6, 1984, general election.

The Constitution and the Civil Statutes are each followed by a descriptive word Index to facilitate the search for specific textual provisions.

Comprehensive coverage of the judicial construction and interpretations of the Constitution and the Civil Statutes, together with cross references, references to law review commentaries discussing particular provisions, and other editorial features, is provided in the volumes of Vernon's Texas Constitution Annotated and Vernon's Texas Statutes and Codes Annotated.

THE PUBLISHER

August, 1984

*

TABLE OF CONTENTS

	Page
Preface	III
Effective Dates	VII
Revised Civil Statutes	IX

CONSTITUTION OF THE STATE OF TEXAS 1876

Proposed Amendments	1
Text	9
Index	81

REVISED CIVIL STATUTES

Article Analysis see beginning of each Title

Title	
1. General Provisions	111
2. Accountants—Public and Certified	121
3. Adoption—See Family Code	
3A. Aeronautics	133
4. Agriculture and Horticulture	156
5. Aliens	170
6. Amusements—Public Houses of	171
7. Animals	189
8. Apportionment	198
9. Apprentices—See Family Code	
10. Arbitration	335
10A. Architects	344
11. Archives	354
11A. Assignments, In General—See Business and Commerce Code	
12. Assignments for Creditors—See Business and Commerce Code	
13. Attachment	357
14. Attorneys at Law	360
Appendix	
A. State Bar Rules	375
Code of Professional Responsibility	385
B. Code of Judicial Conduct	424
15. Attorneys—District and County	429
16. Banks and Banking	516
17. Bees—See Agriculture Code	
18. Bills and Notes—See Business and Commerce Code	
19. Blue Sky Law—Securities	578
19A. The Securities Act—Repealed	605
20. Purchasing and General Services Commission	605

TABLE OF CONTENTS

Title	Page
20A. Board and Department of Public Welfare	651
21. Bond Investment Companies	661
22. Bonds—County, Municipal, etc.	662
23. Brands and Trade Marks—See Business and Commerce Code	
24. Building—Savings and Loan Associations	732
25. Carriers	757
26. Cemeteries	798
27. Certiorari	814
28. Cities, Towns and Villages	815
29. Commissioner of Deeds	1330
29A. Commissioners on Uniform Laws	1331

Index to Revised Civil Statutes follows the Final Title

EFFECTIVE DATES

The following table shows the date of adjournment and the effective date of ninety day bills enacted at sessions of the legislature beginning with the year 1945:

Year	Leg.	Session	Adjournment Date	Effective Date
1945	49	Regular	June 5, 1945	September 4, 1945
1947	50	Regular	June 6, 1947	September 5, 1947
1949	51	Regular	June 6, 1949	September 5, 1949
1951	52	Regular	June 8, 1951	September 7, 1951
1953	53	Regular	May 27, 1953	August 26, 1953
1954	53	1st C.S.	May 13, 1954	August 12, 1954
1955	54	Regular	June 7, 1955	September 6, 1955
1957	55	Regular	May 23, 1957	August 22, 1957
1957	55	1st C.S.	November 12, 1957	February 11, 1958
1957	55	2nd C.S.	December 3, 1957	March 4, 1958
1959	56	Regular	May 12, 1959	August 11, 1959
1959	56	1st C.S.	June 16, 1959	September 15, 1959
1959	56	2nd C.S.	July 16, 1959	October 15, 1959
1959	56	3rd C.S.	August 6, 1959	November 5, 1959
1961	57	Regular	May 29, 1961	August 28, 1961
1961	57	1st C.S.	August 8, 1961	November 7, 1961
1961	57	2nd C.S.	August 14, 1961	November 13, 1961
1962	57	3rd C.S.	February 1, 1962	May 3, 1962
1963	58	Regular	May 24, 1963	August 23, 1963
1965	59	Regular	May 31, 1965	August 30, 1965
1966	59	1st C.S.	February 23, 1966	*
1967	60	Regular	May 29, 1967	August 28, 1967
1968	60	1st C.S.	July 3, 1968	*
1969	61	Regular	June 2, 1969	September 1, 1969
1969	61	1st C.S.	August 26, 1969	*
1969	61	2nd C.S.	September 9, 1969	December 9, 1969
1971	62	Regular	May 31, 1971	August 30, 1971
1971	62	1st C.S.	June 4, 1971	September 3, 1971
1972	62	2nd C.S.	March 30, 1972	June 29, 1972
1972	62	3rd C.S.	July 7, 1972	*
1972	62	4th C.S.	October 17, 1972	January 16, 1973
1973	63	Regular	May 28, 1973	August 27, 1973
1973	63	1st C.S.	December 20, 1973	*
1975	64	Regular	June 2, 1975	September 1, 1975
1977	65	Regular	May 30, 1977	August 29, 1977
1977	65	1st C.S.	July 21, 1977	*
1978	65	2nd C.S.	August 8, 1978	November 7, 1978
1979	66	Regular	May 28, 1979	August 27, 1979
1981	67	Regular	June 1, 1981	August 31, 1981
1981	67	1st C.S.	August 11, 1981	November 10, 1981
1982	67	2nd C.S.	May 28, 1982	*
1982	67	3rd C.S.	September 9, 1982	*
1983	68	Regular	May 30, 1983	August 29, 1983
1983	68	1st C.S.	June 25, 1983	September 23, 1983

* No legislation for which the ninety day effective date is applicable.

REVISED CIVIL STATUTES

Title	Article
1. General Provisions	1
2. Accountants—Public and Certified	31
3. Adoption— <i>See Family Code</i>	
3A. Aeronautics	46c-1
4. Agriculture and Horticulture— <i>See Agriculture Code</i>	
5. Aliens	166
6. Amusements—Public Houses of	178
7. Animals	180
8. Apportionment	193
9. Apprentices— <i>See Family Code</i>	
10. Arbitration	224
10A. Architects	249a
11. Archives	250
11A. Assignments, in General— <i>See Business and Commerce Code</i>	
12. Assignments for Creditors— <i>See Business and Commerce Code</i>	
13. Attachment	275
14. Attorneys at Law	304
15. Attorneys—District and County	321
16. Banks and Banking	342
17. Bees— <i>See Agriculture Code</i>	
18. Bills and Notes— <i>See Business and Commerce Code</i>	
19. Blue Sky Law—Securities	579-1
19A. The Securities Act— <i>Repealed</i>	
20. Purchasing and General Services Commission	601
20A. Board and Department of Public Welfare	695b
21. Bond Investment Companies	696
22. Bonds—County, Municipal, etc.	701
23. Brands and Trade Marks— <i>See Business and Commerce Code</i>	
24. Building—Savings and Loan Associations	852
25. Carriers	882
26. Cemeteries	912
27. Certiorari	932
28. Cities, Towns and Villages	961
29. Commissioner of Deeds	1270
29A. Commissioners on Uniform Laws	1273a
30. Commission Merchants	1274
31. Conveyances— <i>See Property Code</i>	
32. Corporations	1302
Corporations—Business Corporation Act	
33. Counties and County Seats	1539
34. County Finances	1607
35. County Libraries	1677
36. County Treasurer	1703
37. Court—Supreme	1715
38. Court of Criminal Appeals	1801
39. Courts of Appeals	1812

REVISED CIVIL STATUTES

Title	Article
40. Courts—District	1884
41. Courts—County	1927
42. Courts—Practice in District and County	1971
43. Courts—Juvenile	2329
44. Courts—Commissioners	2339
45. Courts—Justice	2373
46. Credit Organizations	2461
46A. Declaratory Judgments	2524-1
47. Depositories	2525
48. Descent and Distribution— <i>See Probate Code</i>	
49. Education—Public— <i>See Education Code</i> Election Code	
51. Eleemosynary Institutions	3174
52. Eminent Domain— <i>See Property Code</i>	
52A. Engineers	3271a
53. Escheat— <i>See Property Code</i>	
54. Estates of Decedents— <i>See Probate Code</i>	
55. Evidence	3704
56. Execution	3770
57. Exemptions— <i>See Property Code</i>	
58. Express Companies	3860
59. Feeble Minded Persons—Proceedings in Case of	3867
60. Feeding Stuff— <i>See Agriculture Code</i>	
61. Fees of Office	3882
62. Fences— <i>See Agriculture Code</i>	
63. Fire Escapes	3955
63A. Fire Protection Districts	3972a
64. Forcible Entry and Detainer— <i>See Property Code</i>	
65. Frauds and Fraudulent Conveyances— <i>See Business and Com- merce Code</i>	
66. Free Passes, Franks and Transportation	4005
67. Fish, Oyster, Shell, etc.— <i>See Parks and Wildlife Code</i>	
68. Garnishment	4076
68A. Good Neighbor Commission of Texas	4101-1
69. Guardian and Ward— <i>See Probate Code</i>	
70. Heads of Departments	4330
71. Health—Public	4414
72. Holidays—Legal	4591
73. Hotels and Boarding Houses	4592
74. Humane Society— <i>Repealed</i>	
75. Husband and Wife— <i>See Family Code</i>	
76. Injunctions	4642
77. Injuries Resulting in Death	4671
Insurance Code	
79. Interest—Consumer Credit—Consumer Protection	5069
80. Intoxicating Liquor— <i>Repealed</i>	
81. Jails	5115
82. Juveniles	5119
83. Labor	5144
84. Landlord and Tenant— <i>See Property Code</i>	
85. Lands—Acquisition for Public Use	5240
86. Lands—Public— <i>See Natural Resources Code</i>	

REVISED CIVIL STATUTES

Title	Article
87. Legislature	5422
88. Libel	5430
89. State Library and Archives Commission	5434
90. Liens— <i>See Property Code</i>	
91. Limitations	5507
92. Mental Health	5547-1
93. Markets and Warehouses— <i>See Agriculture Code</i>	
94. Militia—Soldiers, Sailors and Marines	5765
95. Mines and Mining	5892
96. Minors—Removal of Disabilities of— <i>See Family Code</i>	
96A. Minors—Liability of Parents for Acts of Minors— <i>See Family Code</i>	
96B. Gifts to Minors— <i>See Property Code</i>	
97. Name	5924
97A. National Guard Armory Board	5931-1
98. Negotiable Instruments Act— <i>See Business and Commerce Code</i>	
99. Notaries Public	5949
100. Officers—Removal of	5961
101. Official Bonds	5998
102. Oil and Gas— <i>See Natural Resources Code</i>	
103. Parks	6067
104. Partition— <i>See Property Code</i>	
105. Partnerships and Joint Stock Companies	6110
106. Patriotism and the Flag	6139
106A. Passenger Elevators	6145a
107. Pawnbrokers and Loan Brokers— <i>Repealed</i>	
108. Penitentiaries	6166
109. Pensions	6204
109A. Plumbing	6243-101
110. Principal and Surety— <i>See Business and Commerce Code</i>	
Probate Code	
110A. Public Offices, Officers and Employees	6252-1
110B. Public Retirement Systems	
111. Quo Warranto	6253
112. Railroads	6259
113. Rangers— <i>State—Repealed</i>	
113A. Real Estate Dealers	6573a
114. Records	6574
115. Registration	6591
116. Roads, Bridges, and Ferries	6663
117. Salaries	6813
118. Seawalls	6830
119. Sequestration	6840
120. Sheriffs and Constables	6865
120A. State and National Defense	6889-1
121. Stock Laws— <i>See Agriculture Code</i>	
122. Taxation— <i>See Tax Code</i>	
122A. Taxation—General— <i>See Tax Code</i>	
123. Timber— <i>See Natural Resources Code</i>	
124. Trespass to Try Title— <i>See Property Code</i>	
125. Trial of Right of Property— <i>See Property Code</i>	
125A. Trusts and Trustees— <i>See Property Code</i>	

REVISED CIVIL STATUTES

Title		Article
126.	Trusts—Conspiracies Against Trade— <i>See Business and Commerce Code</i>	
127.	Veterinary Medicine and Surgery	7448
128.	Water— <i>See Water Code</i>	
129.	Wills— <i>See Probate Code</i>	
130.	Workers' Compensation and Crime Victims Compensation	8306
131.	Wrecks— <i>Repealed</i>	
132.	Occupational and Business Regulation	8401
133.	Safety	9201
	Final Title	

**CONSTITUTION
OF THE
STATE OF TEXAS 1876
PROPOSED AMENDMENTS**

ARTICLE III

LEGISLATIVE DEPARTMENT

§ 9. President pro tempore of the Senate; election of Senator to perform duties of Lieutenant Governor when office vacant; Speaker of House of Representatives

Sec. 9. (a) The Senate shall, at the beginning and close of each session, and at such other times as may be necessary, elect one of its members President pro tempore, who shall perform the duties of the Lieutenant Governor in any case of absence or disability of that officer. If the said office of Lieutenant Governor becomes vacant, the President pro tempore of the Senate shall convene the Committee of the Whole Senate within 30 days after the vacancy occurs. The Committee of the Whole shall elect one of its members to perform the duties of the Lieutenant Governor in addition to his duties as Senator until the next general election. If the Senator so elected ceases to be a Senator before the election of a new Lieutenant Governor, another Senator shall be elected in the same manner to perform the duties of the Lieutenant Governor until the next general election. Until the Committee of the Whole elects one of its members for this purpose, the President pro tempore shall perform the duties of the Lieutenant Governor as provided by this subsection.

(b) The House of Representatives shall, when it first assembles, organize temporarily, and thereupon proceed to the election of a Speaker from its own members.

(c) Each House shall choose its other officers.

Proposed by Senate Joint Resolution No. 22, Acts 1983, 68th Leg., p. 6692. For submission to the people in November, 1984.

§ 24. Compensation and expenses of members of Legislature; duration of sessions

Sec. 24. (a) Members of the Legislature shall receive from the Public Treasury a salary of Six Hundred Dollars (\$600) per month. Each member shall also receive a per diem for each day during each Regular and Special Session of the Legislature. The per diem allowed during a calendar year is in an amount equal to the maximum daily amount allowed as of January 1 of that year for federal income tax purposes as a deduction for ordinary and necessary business expenses incurred by a state

legislator, disregarding any exception in federal law for legislators residing near the capitol.

(b) No Regular Session shall be of longer duration than one hundred and forty (140) days.

(c) In addition to the per diem the Members of each House shall be entitled to mileage at the same rate as prescribed by law for employees of the State of Texas. This amendment takes effect on January 8, 1985.

Proposed by House Joint Resolution No. 22, Acts 1983, 68th Leg., p. 6713. For submission to the people in November, 1984.

§ 51-d. Payment of assistance to survivors of law enforcement officers

Sec. 51-d. The Legislature shall have the power, by general law, to provide for the payment of assistance by the State of Texas to the surviving spouse, minor children, and surviving dependent parents, brothers, and sisters of officers, employees, and agents, including members of organized volunteer fire departments and members of organized police reserve or auxiliary units with authority to make an arrest, of the state or of any city, county, district, or other political subdivision who, because of the hazardous nature of their duties, suffer death in the course of the performance of those official duties. Should the Legislature enact any enabling laws in anticipation of this amendment, no such law shall be void by reason of its anticipatory nature.

Proposed by House Joint Resolution No. 65, Acts 1983, 68th Leg., p. 6718. For submission to the people in November, 1984.

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

(a) Except as otherwise provided by this section, the Legislature shall have no power to authorize any county, city, town or other political corporation or subdivision of the State to lend its credit or to grant public money or thing of value in aid of, or to any individual, association or corporation whatsoever, or to become a stockholder in such corporation, association or company. However, this section does not prohibit the use of public funds or credit for the payment of premiums on nonassessable life, health, or accident insurance policies and annuity contracts

issued by a mutual insurance company authorized to do business in this State.

Proposed by House Joint Resolution No. 73, Acts 1983, 68th Leg., p. 6720. For submission to the people in November, 1984.

ARTICLE V
JUDICIAL DEPARTMENT

§ 1-a. Retirement, censure, removal and compensation of justices and judges; State Commission on Judicial Conduct; procedure

(2) The name of the State Judicial Qualifications Commission is changed to the State Commission on Judicial Conduct. The Commission consists of eleven (11) members, to wit: (i) one (1) Justice of a Court of Appeals; (ii) one (1) District Judge; (iii) two (2) members of the State Bar, who have respectively practiced as such for over ten (10) consecutive years next preceding their selection; (iiii) four (4) citizens, at least thirty (30) years of age, not licensed to practice law nor holding any salaried public office or employment; (v) one (1) Justice of the Peace; (vi) one (1) Judge of a Municipal Court; and, (vii) one (1) Judge of a County Court at Law; provided that no person shall be or remain a member of the Commission, who does not maintain physical residence within this State, or who resides in, or holds a judgeship within or for, the same Supreme Judicial District as another member of the Commission, or who shall have ceased to retain the qualifications above specified for his respective class of membership, except that the Justice of the Peace and the Judges of a Municipal Court and or a County Court at Law shall be selected at large without regard to whether they reside or hold a judgeship in the same Supreme Judicial District as another member of the Commission. Commissioners of classes (i), (ii), and (vii) above shall be chosen by the Supreme Court with advice and consent of the Senate, those of class (iii) by the Board of Directors of the State Bar under regulations to be prescribed by the Supreme Court with advice and consent of the Senate, those of class (iiii) by appointment of the Governor with advice and consent of the Senate, and the commissioners of classes (v) and (vi) by appointment of the Supreme Court as provided by law, with the advice and consent of the Senate.

(6) A. Any Justice or Judge of the courts established by this Constitution or created by the Legislature as provided in Section 1, Article V, of this Constitution, may, subject to the other provisions hereof, be removed from office for willful or persistent violation of rules promulgated by the Supreme Court of Texas, incompetence in performing the duties of the office, willful violation of the Code of Judicial Conduct, or willful or persistent conduct that is clearly inconsistent with the proper perform-

ance of his duties or casts public discredit upon the judiciary or administration of justice. Any person holding such office may be disciplined or censured, in lieu of removal from office, as provided by this section. Any person holding an office specified in this subsection may be suspended from office with or without pay by the Commission immediately on being indicted by a State or Federal grand jury for a felony offense or charged with a misdemeanor involving official misconduct. On the filing of a sworn complaint charging a person holding such office with willful or persistent violation of rules promulgated by the Supreme Court of Texas, incompetence in performing the duties of the office, willful violation of the Code of Judicial Conduct, or willful and persistent conduct that is clearly inconsistent with the proper performance of his duties or casts public discredit on the judiciary or on the administration of justice, the Commission, after giving the person notice and an opportunity to appear and be heard before the Commission, may recommend to the Supreme Court the suspension of such person from office. The Supreme Court, after considering the record of such appearance and the recommendation of the Commission, may suspend the person from office with or without pay, pending final disposition of the charge.

C. The law relating to the removal, discipline, suspension, or censure of a Justice or Judge of the courts established by this Constitution or created by the Legislature as provided in this Constitution applies to a master or magistrate appointed as provided by law to serve a trial court of this State and to a retired or former Judge who continues as a judicial officer subject to an assignment to sit on a court of this State. Under the law relating to the removal of an active Justice or Judge, the Commission and the review tribunal may prohibit a retired or former Judge from holding judicial office in the future or from sitting on a court of this State by assignment.

(8) After such investigation as it deems necessary, the Commission may in its discretion issue a private or public admonition, warning, reprimand, or requirement that the person obtain additional training or education, or if the Commission determines that the situation merits such action, it may institute formal proceedings and order a formal hearing to be held before it concerning the public censure, removal, or retirement of a person holding an office or position specified in Subsection (6) of this Section, or it may in its discretion request the Supreme Court to appoint an active or retired District Judge or Justice of a Court of Appeals, or retired Judge or Justice of the Court of Criminal Appeals or the Supreme Court, as a Master to hear and take evidence in any such matter, and to report thereon to the Commission. The Master shall have all the power of a District Judge in the enforcement of orders pertaining to witnesses, evidence, and procedure. If, after formal hearing, or after considering

the record and report of a Master, the Commission finds good cause therefor, it shall issue an order of public censure or it shall recommend to a review tribunal the removal or retirement, as the case may be, of the person in question holding an office or position specified in Subsection (6) of this Section and shall thereupon file with the tribunal the entire record before the Commission.

(9) A tribunal to review the Commission's recommendation for the removal or retirement of a person holding an office or position specified in Subsection (6) of this Section is composed of seven (7) Justices or Judges of the Court of Appeals who are selected by lot by the Chief Justice of the Supreme Court. Each Court of Appeals shall designate one of its members for inclusion in the list from which the selection is made. Service on the tribunal shall be considered part of the official duties of a judge, and no additional compensation may be paid for such service. The review tribunal shall review the record of the proceedings on the law and facts and in its discretion may, for good cause shown, permit the introduction of additional evidence. Within 90 days after the date on which the record is filed with the review tribunal, it shall order public censure, retirement or removal, as it finds just and proper, or wholly reject the recommendation. A Justice, Judge, Master, or Magistrate may appeal a decision of the review tribunal to the Supreme Court under the substantial evidence rule. Upon an order for involuntary retirement for disability or an order for removal, the office in question shall become vacant. The review tribunal, in an order for involuntary retirement for disability or an order for removal, may prohibit such person from holding judicial office in the future. The rights of an incumbent so retired to retirement benefits shall be the same as if his retirement had been voluntary.

(10) All papers filed with and proceedings before the Commission or a Master shall be confidential, unless otherwise provided by law, and the filing of papers with, and the giving of testimony before the Commission or a Master shall be privileged, unless otherwise provided by law. However, the Commission may issue a public statement through its executive director or its Chairman at any time during any of its proceedings under this Section when sources other than the Commission cause notoriety concerning a Judge or the Commission itself and the Commission determines that the best interests of a Judge or of the public will be served by issuing the statement.

(11) The Supreme Court shall by rule provide for the procedure before the Commission, Masters, review tribunal, and the Supreme Court. Such rule shall provide the right of discovery of evidence to a Justice, Judge, Master, or Magistrate after formal proceedings are instituted and shall afford to any person holding an office or position specified in Subsection (6) of this Section, against whom a proceeding is instituted to cause his retirement or removal, due process of law for the procedure be-

fore the Commission, Masters, review tribunal, and the Supreme Court in the same manner that any person whose property rights are in jeopardy in an adjudicatory proceeding is entitled to due process of law, regardless of whether or not the interest of the person holding an office or position specified in Subsection (6) of this Section in remaining in active status is considered to be a right or a privilege. Due process shall include the right to notice, counsel, hearing, confrontation of his accusers, and all such other incidents of due process as are ordinarily available in proceedings whether or not misfeasance is charged, upon proof of which a penalty may be imposed.

(12) No person holding an office specified in Subsection (6) of this Section shall sit as a member of the Commission in any proceeding involving his own suspension, discipline, censure, retirement or removal.

(14) The Legislature may promulgate laws in furtherance of this Section that are not inconsistent with its provisions.

Proposed by House Joint Resolution No. 4, §§ 1 to 4, Acts 1983, 68th Leg., p. 6694. For submission to the people in November, 1984.

Section 5 of H.J.R. No. 4, Acts 1983, 68th Leg., p. 6700, which in §§ 1 to 4 proposes the amendments to this section, provides:

"That the following temporary provision be added to the Texas Constitution:

"Temporary Provision. (a) This temporary provision applies to the constitutional amendment proposed by H.J.R. No. 4, 68th Legislature, Regular Session, 1983, and expires January 1, 1988.

"(b) The constitutional amendment takes effect January 1, 1985.

"(c) The initial term of the commissioner of class (v) added by amendment in 1977 expired on November 19, 1979. The initial term of the commissioner of class (vi) and (vii) expires on November 19, 1985.

"(d) Each person holding office as a member of the Commission on Judicial Conduct on January 1, 1985, continues to hold the office for the term for which he was appointed.

"(e) The offices of the first commissioner of class (i) and the first commissioner of class (ii) whose terms expire after January 1, 1985, are abolished on the expiration of the terms.

"(f) Changes made in the constitution by this amendment do not apply to investigations and formal proceedings where the investigation of judicial conduct by the commission began before January 1, 1985."

ARTICLE VII EDUCATION

§ 14. Prairie View A&M University

Sec. 14. Prairie View A&M University in Waller County is an institution of the first class under the direction of the same governing board as Texas A&M University referred to in Article VII, Section 13, of this constitution as the Agricultural and Mechanical College of Texas.

Proposed by House Joint Resolution No. 19, § 2, Acts 1983, 68th Leg., p. 6707. For submission to the people in November, 1984.

§ 17. Higher education; appropriations and funding

Sec. 17. (a) In the fiscal year beginning September 1, 1985, and each fiscal year thereafter, there is hereby appropriated out of the first money coming into the state treasury not otherwise appropriated by the constitution \$100 million to be used by eligible agencies and institutions of higher education for the purpose of acquiring land either with or without permanent improvements, constructing and equipping buildings or other permanent improvements, major repair or rehabilitation of buildings or other permanent improvements, and acquisition of capital equipment, library books and library materials. During the regular session of the legislature that is nearest, but preceding, the beginning of each fifth fiscal year dating from September 1, 1985, the legislature may by two-thirds vote of the membership of each house adjust the amount of the constitutional appropriation for the ensuing five years but may not adjust the appropriation in such a way as to impair any obligation created by the issuance of bonds or notes in accordance with this section.

(b) The funds appropriated under Subsection (a) of this section shall be for the use of the following eligible agencies and institutions of higher education (even though their names may be changed):

- (1) East Texas State University including East Texas State University at Texarkana;
- (2) Lamar University including Lamar University at Orange and Lamar University at Port Arthur;
- (3) Midwestern State University;
- (4) North Texas State University;
- (5) Pan American University including Pan American University at Brownsville;
- (6) Stephen F. Austin State University;
- (7) Texas College of Osteopathic Medicine;
- (8) Texas State University System Administration and the following component institutions:
 - (9) Angelo State University;
 - (10) Sam Houston State University;
 - (11) Southwest Texas State University;
 - (12) Sul Ross State University including Uvalde Study Center;
 - (13) Texas Southern University;
 - (14) Texas Tech University;
 - (15) Texas Tech University Health Sciences Center;
 - (16) Texas Woman's University;
 - (17) University of Houston System Administration and the following component institutions:
 - (18) University of Houston—University Park;
 - (19) University of Houston—Victoria;
 - (20) University of Houston—Clear Lake;
 - (21) University of Houston—Downtown;

(22) University System of South Texas System Administration and the following component institutions:

- (23) Corpus Christi State University;
- (24) Laredo State University;
- (25) Texas A&I University; and
- (26) West Texas State University.

(c) Pursuant to a two-thirds vote of the membership of each house of the legislature, institutions of higher education may be created at a later date by general law, and, when created, such an institution shall be entitled to participate in the funding provided by this section if it is not created as a part of The University of Texas System or The Texas A&M University System. An institution that is entitled to participate in dedicated funding provided by Article VII, Section 18, of this constitution may not be entitled to participate in the funding provided by this section.

(d) In the year 1985 and every 10 years thereafter, the legislature or an agency designated by the legislature no later than August 31 of such year shall allocate by equitable formula the annual appropriations made under Subsection (a) of this section to the governing boards of eligible agencies and institutions of higher education. The legislature shall review, or provide for a review, of the allocation formula at the end of the fifth year of each 10-year allocation period. At that time adjustments may be made in the allocation formula, but no adjustment that will prevent the payment of outstanding bonds and notes, both principal and interest, may be made.

(e) Each governing board authorized to participate in the distribution of money under this section is authorized to expend all money distributed to it for any of the purposes enumerated in Subsection (a). In addition, unless a single bonding agency is designated as hereinafter provided, such governing board may issue bonds and notes for the purposes of refunding bonds or notes issued under this section or prior law, acquiring land either with or without permanent improvements, constructing and equipping buildings or other permanent improvements, and for major repair and rehabilitation of buildings or other permanent improvements, and may pledge up to 50 percent of the money allocated to such governing board pursuant to this section to secure the payment of the principal and interest of such bonds or notes. Proceeds from the issuance of bonds or notes under this subsection shall be maintained in a local depository selected by the governing board issuing the bonds or notes. The bonds and notes issued under this subsection shall be payable solely out of the money appropriated by this section and shall mature serially or otherwise in not more than 10 years from their respective dates. All bonds issued under this section shall be sold only through competitive bidding and are subject to approval by the attorney general. Bonds approved by the attorney general shall be incontestable. The

permanent university fund may be invested in the bonds and notes issued under this section. In lieu of the authority granted to each governing board herein, the legislature by general law may designate a single agency to issue bonds and notes authorized under this section and transfer to that agency the authority to collect and pledge money to the payment of such bonds and notes for the purposes, to the extent, and subject to the restrictions of this section. Provided, that such agency shall be authorized to issue such bonds and notes for the benefit of an eligible institution and pledge money collected hereunder only as directed by the governing board of each eligible institution.

(f) The funds appropriated by this section may not be used for the purpose of constructing, equipping, repairing, or rehabilitating buildings or other permanent improvements that are to be used for student housing, intercollegiate athletics, or auxiliary enterprises.

(g) Except for that portion of the allocated funds that may be required to be transferred to a single bonding agency, if one is created, the comptroller of public accounts shall make annual transfers of the funds allocated pursuant to Subsection (d) directly to the governing boards of the eligible institutions.

(h) To assure efficient use of construction funds and the orderly development of physical plants to accommodate the state's real need, the legislature may provide for the approval or disapproval of all new construction projects at the eligible agencies and institutions entitled to participate in the funding provided by this section.

(i) The legislature by general law may dedicate portions of the state's revenues to the creation of a dedicated fund ("the higher education fund") for the purposes expressed in Subsection (a) of this section. The legislature shall provide for administration of the fund, which shall be invested in the manner provided for investment of the permanent university fund. The income from the investment of the higher education fund shall be credited to the higher education fund until such time as the fund totals \$2 billion. The principal of the higher education fund shall never be expended. At the beginning of the fiscal year after the fund reaches \$2 billion, as certified by the comptroller of public accounts, the dedication of general revenue funds provided for in Subsection (a) of this section shall cease. At the beginning of the fiscal year after the fund reaches \$2 billion, and each year thereafter, 10 percent of the interest, dividends, and other income accruing from the investments of the higher education fund during the previous fiscal year shall be deposited and become part of the principal of the fund, and out of the remainder of the annual income from the investment of the principal of the fund there shall be appropriated an annual sum sufficient to pay the principal and interest due on the bonds and notes issued under this section and the balance of the income shall be allocated, distributed, and expended

as provided for the appropriations made under Subsection (a).

(j) The state systems and institutions of higher education designated in this section may not receive any additional funds from the general revenue of the state for acquiring land with or without permanent improvements, for constructing or equipping buildings or other permanent improvements, or for major repair and rehabilitation of buildings or other permanent improvements except that:

(1) in the case of fire or natural disaster the legislature may appropriate from the general revenue an amount sufficient to replace the uninsured loss of any building or other permanent improvement; and

(2) the legislature, by two-thirds vote of each house, may, in cases of demonstrated need, which need must be clearly expressed in the body of the act, appropriate additional general revenue funds for acquiring land with or without permanent improvements, for constructing or equipping buildings or other permanent improvements, or for major repair and rehabilitation of buildings or other permanent improvements.

This subsection does not apply to legislative appropriations made prior to the adoption of this amendment.

(k) Without the prior approval of the legislature, appropriations under this section may not be expended for acquiring land with or without permanent improvements, or for constructing and equipping buildings or other permanent improvements, for a branch campus or educational center that is not a separate degree-granting institution created by general law.

(l) This section is self-enacting upon the issuance of the governor's proclamation declaring the adoption of the amendment, and the state comptroller of public accounts and the state treasurer shall do all things necessary to effectuate this section. This section does not impair any obligation created by the issuance of any bonds and notes in accordance with prior law, and all outstanding bonds and notes shall be paid in full, both principal and interest, in accordance with their terms. If the provisions of this section conflict with any other provisions of this constitution, then the provisions of this section shall prevail, notwithstanding all such conflicting provisions.

Proposed by House Joint Resolution No. 19, § 1, Acts 1983, 68th Leg., p. 6701. For submission to the people in November, 1984.

§ 18. Texas A&M University System; University of Texas System; bonds and notes payable out of the available university fund

Sec. 18. (a) The Board of Regents of the Texas A&M University System may issue bonds and notes not to exceed a total amount of 10 percent of the cost value of the investments and other assets of the permanent university fund (exclusive of real estate) at the time of the issuance thereof, and may

pledge all or any part of its one-third interest in the available university fund to secure the payment of the principal and interest of those bonds and notes, for the purpose of acquiring land either with or without permanent improvements, constructing and equipping buildings or other permanent improvements, major repair and rehabilitation of buildings and other permanent improvements, acquiring capital equipment and library books and library materials, and refunding bonds or notes issued under this Section or prior law, at or for The Texas A&M University System administration and the following component institutions of the system:

- (1) Texas A&M University, including its medical college which the legislature may authorize as a separate medical institution;
- (2) Prairie View A&M University, including its nursing school in Houston;
- (3) Tarleton State University;
- (4) Texas A&M University at Galveston;
- (5) Texas Forest Service;
- (6) Texas Agricultural Experiment Stations;
- (7) Texas Agricultural Extension Service;
- (8) Texas Engineering Experiment Stations;
- (9) Texas Transportation Institute; and
- (10) Texas Engineering Extension Service.

(b) The Board of Regents of The University of Texas System may issue bonds and notes not to exceed a total amount of 20 percent of the cost value of investments and other assets of the permanent university fund (exclusive of real estate) at the time of issuance thereof, and may pledge all or any part of its two-thirds interest in the available university fund to secure the payment of the principal and interest of those bonds and notes, for the purpose of acquiring land either with or without permanent improvements, constructing and equipping buildings or other permanent improvements, major repair and rehabilitation of buildings and other permanent improvements, acquiring capital equipment and library books and library materials, and refunding bonds or notes issued under this section or prior law, at or for The University of Texas System administration and the following component institutions of the system:

- (1) The University of Texas at Arlington;
- (2) The University of Texas at Austin;
- (3) The University of Texas at Dallas;
- (4) The University of Texas at El Paso;
- (5) The University of Texas of the Permian Basin;
- (6) The University of Texas at San Antonio;
- (7) The University of Texas at Tyler;
- (8) The University of Texas Health Science Center at Dallas;

(9) The University of Texas Medical Branch at Galveston;

(10) The University of Texas Health Science Center at Houston;

(11) The University of Texas Health Science Center at San Antonio;

(12) The University of Texas System Cancer Center;

(13) The University of Texas Health Center at Tyler; and

(14) The University of Texas Institute of Texan Cultures at San Antonio.

(c) Pursuant to a two-thirds vote of the membership of each house of the legislature, institutions of higher education may be created at a later date as a part of The University of Texas System or The Texas A&M University System by general law, and, when created, such an institution shall be entitled to participate in the funding provided by this section for the system in which it is created. An institution that is entitled to participate in dedicated funding provided by Article VII, Section 17, of this constitution may not be entitled to participate in the funding provided by this section.

(d) The proceeds of the bonds or notes issued under Subsection (a) or (b) of this section may not be used for the purpose of constructing, equipping, repairing, or rehabilitating buildings or other permanent improvements that are to be used for student housing, intercollegiate athletics, or auxiliary enterprises.

(e) The available university fund consists of the dividends, interest and other income from the permanent university fund (less administrative expenses) including the net income attributable to the surface of permanent university fund land. Out of one-third of the available university fund, there shall be appropriated an annual sum sufficient to pay the principal and interest due on the bonds and notes issued by the Board of Regents of The Texas A&M University System under this section and prior law, and the remainder of that one-third of the available university fund shall be appropriated to the Board of Regents of The Texas A&M University System which shall have the authority and duty in turn to appropriate an equitable portion of the same for the support and maintenance of The Texas A&M University System administration, Texas A&M University, and Prairie View A&M University. The Board of Regents of The Texas A&M University System, in making just and equitable appropriations to Texas A&M University and Prairie View A&M University, shall exercise its discretion with due regard to such criteria as the board may deem appropriate from year to year, taking into account all amounts appropriated from Subsection (f) of this section. Out of the other two-thirds of the available university fund there shall be appropriated an annual sum sufficient to pay the principal and interest due on the bonds and notes issued by the Board of

Regents of The University of Texas System under this section and prior law, and the remainder of such two-thirds of the available university fund, shall be appropriated for the support and maintenance of The University of Texas at Austin and The University of Texas System administration.

(f) It is provided, however, that, for 10 years beginning upon the adoption of this amendment, before any other allocation is made of The University of Texas System's two-thirds share of the available university fund, remaining after payment of principal and interest on its bonds and notes issued under this section and prior law, \$6 million per year shall be appropriated out of that share to the Board of Regents of The Texas A&M University System for said board's use in making appropriations to Prairie View A&M University. This subsection expires and is deleted from this constitution 10 years from the adoption of this amendment.

(g) The bonds and notes issued under this section shall be payable solely out of the available university fund, mature serially or otherwise in not more than 30 years from their respective dates, and, except for refunding bonds, be sold only through competitive bidding. All of these bonds and notes are subject to approval by the attorney general and when so approved are incontestable. The permanent university fund may be invested in these bonds and notes.

(h) To assure efficient use of construction funds and the orderly development of physical plants to accommodate the state's real need, the legislature may provide for the approval or disapproval of all new construction projects at the eligible agencies and institutions entitled to participate in the funding provided by this section except The University of Texas at Austin, Texas A&M University in College Station, and Prairie View A&M University.

(i) The state systems and institutions of higher education designated in this section may not receive any funds from the general revenue of the state for acquiring land with or without permanent improvements, for constructing or equipping buildings or other permanent improvements, or for major repair and rehabilitation of buildings or other permanent improvements except that:

(1) in the case of fire or natural disaster the legislature may appropriate from the general revenue an amount sufficient to replace the uninsured loss of any building or other permanent improvement; and

(2) the legislature, by two-thirds vote of each house, may, in cases of demonstrated need, which need must be clearly expressed in the body of the act, appropriate general revenue funds for acquiring land with or without permanent improvements, for constructing or equipping buildings or other permanent improvements, or for major repair and rehabilitation of buildings or other permanent improvements.

This subsection does not apply to legislative appropriations made prior to the adoption of this amendment.

(j) This section is self-enacting on the issuance of the governor's proclamation declaring the adoption of this amendment, and the state comptroller of public accounts and the state treasurer shall do all things necessary to effectuate this section. This section does not impair any obligation created by the issuance of bonds or notes in accordance with prior law, and all outstanding bonds and notes shall be paid in full, both principal and interest, in accordance with their terms, and the changes herein made in the allocation of the available university fund shall not affect the pledges thereof made in connection with such bonds or notes heretofore issued. If the provisions of this section conflict with any other provision of this constitution, then the provisions of this section shall prevail, notwithstanding any such conflicting provisions.

Proposed by House Joint Resolution No. 19, § 3, Acts 1983, 68th Leg., p. 6707. To be submitted to the people in November, 1984.

ARTICLE XVI

GENERAL PROVISIONS

§ 16. Corporations with banking and discounting privileges

* * * * *

(c) A corporate body created by virtue of the power granted by this section, notwithstanding any other provision of this section, has the same rights and privileges that are or may be granted to national banks of the United States domiciled in this State.

Proposed by House Joint Resolution No. 29, Acts 1983, 68th Leg., p. 6714. For submission to the people in November, 1984.

§ 44. County treasurer and county surveyor

Sec. 44. (a) Except as provided by Subsection (b) and Subsection (b)(1) of this section, the Legislature shall prescribe the duties and provide for the election by the qualified voters of each county in this State, of a County Treasurer and a County Surveyor, who shall have an office at the county seat, and hold their office for four years, and until their successors are qualified; and shall have such compensation as may be provided by law.

(b) The office of County Treasurer in the counties of Tarrant and Bee is abolished and all the powers, duties, and functions of the office in each of these counties are transferred to the County Auditor or to the officer who succeeds to the auditor's functions.

(b)(1) The office of County Treasurer in the counties of Bexar and Collin are abolished and all the powers, duties, and functions of the office in each of these counties are transferred to the County Clerk.

(c) Provided however, that the office of County Treasurer shall be abolished in the above counties only after a local election has been held in each county and the proposition "to abolish the elective

office of county treasurer" has passed by a majority of those persons voting in said election.

Proposed by Senate Joint Resolution No. 20, § 1, Acts 1983, 68th Leg., p. 6690. For submission to the people in November, 1984.

Section 2 of S.J.R. No. 20, Acts 1983, 68th Leg., p. 6691, which in § 1 proposes the amendments to this section, provides:

"That the following provision be added to the Texas Constitution:

"Temporary Provision. The constitutional amendment proposed by the 68th Legislature, Regular Session, abolishing the office of county treasurer in Bexar and Collin counties takes effect on January 1, 1985. This provision expires when executed."

CONSTITUTION OF THE STATE OF TEXAS 1876

Adopted February 15, 1876

As amended to July 1, 1984

Article

- Preamble.
- I. Bill of Rights.
- II. The Powers of Government.
- III. Legislative Department.
- IV. Executive Department.
- V. Judicial Department.
- VI. Suffrage.
- VII. Education.
- VIII. Taxation and Revenue.
- IX. Counties.
- X. Railroads.
- XI. Municipal Corporations.
- XII. Private Corporations.
- XIII. Spanish and Mexican Land Titles.
- XIV. Public Lands and Land Office.
- XV. Impeachment.
- XVI. General Provisions.
- XVII. Mode of Amending the Constitution of This State.

PREAMBLE

Humbly invoking the blessings of Almighty God, the people of the State of Texas, do ordain and establish this Constitution.

ARTICLE I BILL OF RIGHTS

- Sec.
- 1. Freedom and sovereignty of state.
- 2. Inherent political power; republican form of government.
- 3. Equal rights.
- 3a. Equality under the law.
- 4. Religious tests.
- 5. Witnesses not disqualified by religious beliefs; oaths and affirmations.
- 6. Freedom of worship.
- 7. Appropriations for sectarian purposes.
- 8. Freedom of speech and press; libel.
- 9. Searches and seizures.
- 10. Rights of accused in criminal prosecutions.
- 11. Bail.
- 11a. Multiple convictions; denial of bail.
- 12. Habeas corpus.
- 13. Excessive bail or fines; cruel and unusual punishment; remedy by due course of law.
- 14. Double jeopardy.
- 15. Right of trial by jury.
- 15-a. Commitment of persons of unsound mind.
- 16. Bills of attainder; ex post facto or retroactive laws; impairing obligation of contracts.

Sec.

- 17. Taking, damaging or destroying property for public use; special privileges and immunities; control of privileges and franchises.
- 18. Imprisonment for debt.
- 19. Deprivation of life, liberty, etc.; due course of law.
- 20. Outlawry or transportation for offense.
- 21. Corruption of blood; forfeiture of estate; descent in case of suicide.
- 22. Treason.
- 23. Right to keep and bear arms.
- 24. Military subordinate to civil authority.
- 25. Quartering soldiers in houses.
- 26. Perpetuities and monopolies; primogeniture or entailments.
- 27. Right of assembly; petition for redress of grievances.
- 28. Suspension of laws.
- 29. Provisions of Bill of Rights excepted from powers of government; to forever remain inviolate.

That the general, great and essential principles of liberty and free government may be recognized and established, we declare:

§ 1. Freedom and sovereignty of state

Section 1. Texas is a free and independent State, subject only to the Constitution of the United

States, and the maintenance of our free institutions and the perpetuity of the Union depend upon the preservation of the right of local self-government, unimpaired to all the States.

§ 2. Inherent political power; republican form of government

Sec. 2. All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit. The faith of the people of Texas stands pledged to the preservation of a republican form of government, and, subject to this limitation only, they have at all times the inalienable right to alter, reform or abolish their government in such manner as they may think expedient.

§ 3. Equal rights

Sec. 3. All free men, when they form a social compact, have equal rights, and no man, or set of men, is entitled to exclusive separate public emoluments, or privileges, but in consideration of public services.

§ 3a. Equality under the law

Sec. 3a. Equality under the law shall not be denied or abridged because of sex, race, color, creed, or national origin. This amendment is self-operative.

Adopted Nov. 7, 1972.

§ 4. Religious tests

Sec. 4. No religious test shall ever be required as a qualification to any office, or public trust, in this State; nor shall any one be excluded from holding office on account of his religious sentiments, provided he acknowledge the existence of a Supreme Being.

§ 5. Witnesses not disqualified by religious beliefs; oaths and affirmations

Sec. 5. No person shall be disqualified to give evidence in any of the Courts of this State on account of his religious opinions, or for the want of any religious belief, but all oaths or affirmations shall be administered in the mode most binding upon the conscience, and shall be taken subject to the pains and penalties of perjury.

§ 6. Freedom of worship

Sec. 6. All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences. No man shall be compelled to attend, erect or support any place of worship, or to maintain any ministry against his consent. No human authority ought, in any case whatever, to control or interfere with the rights of conscience in matters of religion, and no preference shall ever be given by law to any religious society or mode of worship. But it shall be the duty of the Legislature to pass such laws as may be necessary to protect equally every religious denomination in

the peaceable enjoyment of its own mode of public worship.

§ 7. Appropriations for sectarian purposes

Sec. 7. No money shall be appropriated, or drawn from the Treasury for the benefit of any sect, or religious society, theological or religious seminary; nor shall property belonging to the State be appropriated for any such purposes.

§ 8. Freedom of speech and press; libel

Sec. 8. Every person shall be at liberty to speak, write or publish his opinions on any subject, being responsible for the abuse of that privilege; and no law shall ever be passed curtailing the liberty of speech or of the press. In prosecutions for the publication of papers, investigating the conduct of officers, or men in public capacity, or when the matter published is proper for public information, the truth thereof may be given in evidence. And in all indictments for libels, the jury shall have the right to determine the law and the facts, under the direction of the court, as in other cases.

§ 9. Searches and seizures

Sec. 9. The people shall be secure in their persons, houses, papers and possessions, from all unreasonable seizures or searches, and no warrant to search any place, or to seize any person or thing, shall issue without describing them as near as may be, nor without probable cause, supported by oath or affirmation.

§ 10. Rights of accused in criminal prosecutions

Sec. 10. In all criminal prosecutions the accused shall have a speedy public trial by an impartial jury. He shall have the right to demand the nature and cause of the accusation against him, and to have a copy thereof. He shall not be compelled to give evidence against himself, and shall have the right of being heard by himself or counsel, or both, shall be confronted by the witnesses against him and shall have compulsory process for obtaining witnesses in his favor, except that when the witness resides out of the State and the offense charged is a violation of any of the anti-trust laws of this State, the defendant and the State shall have the right to produce and have the evidence admitted by deposition, under such rules and laws as the Legislature may hereafter provide; and no person shall be held to answer for a criminal offense, unless on an indictment of a grand jury, except in cases in which the punishment is by fine or imprisonment, otherwise than in the penitentiary, in cases of impeachment, and in cases arising in the army or navy, or in the militia, when in actual service in time of war or public danger.

Amended Nov. 5, 1918.

§ 11. Bail

Sec. 11. All prisoners shall be bailable by sufficient sureties, unless for capital offenses, when the

proof is evident; but this provision shall not be so construed as to prevent bail after indictment found upon examination of the evidence, in such manner as may be prescribed by law.

§ 11a. Multiple convictions; denial of bail

Sec. 11a. Any person (1) accused of a felony less than capital in this State, who has been theretofore twice convicted of a felony, the second conviction being subsequent to the first, both in point of time of commission of the offense and conviction therefor, (2) accused of a felony less than capital in this State, committed while on bail for a prior felony for which he has been indicted, or (3) accused of a felony less than capital in this State involving the use of a deadly weapon after being convicted of a prior felony, after a hearing, and upon evidence substantially showing the guilt of the accused of the offense in (1) or (3) above or of the offense committed while on bail in (2) above, may be denied bail pending trial, by a district judge in this State, if said order denying bail pending trial is issued within seven calendar days subsequent to the time of incarceration of the accused; provided, however, that if the accused is not accorded a trial upon the accusation under (1) or (3) above or the accusation and indictment used under (2) above within sixty (60) days from the time of his incarceration upon the accusation, the order denying bail shall be automatically set aside, unless a continuance is obtained upon the motion or request of the accused; provided, further, that the right of appeal to the Court of Criminal Appeals of this State is expressly accorded the accused for a review of any judgment or order made hereunder, and said appeal shall be given preference by the Court of Criminal Appeals.

Adopted Nov. 6, 1956. Amended Nov. 8, 1977.

§ 12. Habeas corpus

Sec. 12. The writ of habeas corpus is a writ of right, and shall never be suspended. The Legislature shall enact laws to render the remedy speedy and effectual.

§ 13. Excessive bail or fines; cruel and unusual punishment; remedy by due course of law

Sec. 13. Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted. All courts shall be open, and every person for an injury done him, in his lands, goods, person or reputation, shall have remedy by due course of law.

§ 14. Double jeopardy

Sec. 14. No person, for the same offense, shall be twice put in jeopardy of life or liberty, nor shall a person be again put upon trial for the same offense, after a verdict of not guilty in a court of competent jurisdiction.

§ 15. Right of trial by jury

Sec. 15. The right of trial by jury shall remain inviolate. The Legislature shall pass such laws as may be needed to regulate the same, and to maintain its purity and efficiency. Provided, that the Legislature may provide for the temporary commitment, for observation and/or treatment, of mentally ill persons not charged with a criminal offense, for a period of time not to exceed ninety (90) days, by order of the County Court without the necessity of a trial by jury.

Amended Aug. 24, 1935.

§ 15-a. Commitment of persons of unsound mind

Sec. 15-a. No person shall be committed as a person of unsound mind except on competent medical or psychiatric testimony. The Legislature may enact all laws necessary to provide for the trial, adjudication of insanity and commitment of persons of unsound mind and to provide for a method of appeal from judgments rendered in such cases. Such laws may provide for a waiver of trial by jury, in cases where the person under inquiry has not been charged with the commission of a criminal offense, by the concurrence of the person under inquiry, or his next of kin, and an attorney ad litem appointed by a judge of either the County or Probate Court of the county where the trial is being held; and shall provide for a method of service of notice of such trial upon the person under inquiry and of his right to demand a trial by jury.

Adopted Nov. 6, 1956.

§ 16. Bills of attainder; ex post facto or retroactive laws; impairing obligation of contracts

Sec. 16. No bill of attainder, ex post facto law, retroactive law, or any law impairing the obligation of contracts, shall be made.

§ 17. Taking, damaging, or destroying property for public use; special privileges and immunities; control of privileges and franchises

Sec. 17. No person's property shall be taken, damaged or destroyed for or applied to public use without adequate compensation being made, unless by the consent of such person; and, when taken, except for the use of the State, such compensation shall be first made, or secured by a deposit of money; and no irrevocable or uncontrollable grant of special privileges or immunities, shall be made; but all privileges and franchises granted by the Legislature, or created under its authority shall be subject to the control thereof.

§ 18. Imprisonment for debt

Sec. 18. No person shall ever be imprisoned for debt.

§ 19. Deprivation of life, liberty, etc.; due course of law

Sec. 19. No citizen of this State shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised, except by the due course of the law of the land.

§ 20. Outlawry or transportation for offense

Sec. 20. No citizen shall be outlawed, nor shall any person be transported out of the State for any offense committed within the same.

§ 21. Corruption of blood; forfeiture of estate; descent in case of suicide

Sec. 21. No conviction shall work corruption of blood, or forfeiture of estate, and the estates of those who destroy their own lives shall descend or vest as in case of natural death.

§ 22. Treason

Sec. 22. Treason against the State shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort; and no person shall be convicted of treason except on the testimony of two witnesses to the same overt act, or on confession in open court.

§ 23. Right to keep and bear arms

Sec. 23. Every citizen shall have the right to keep and bear arms in the lawful defense of himself or the State; but the Legislature shall have power, by law, to regulate the wearing of arms, with a view to prevent crime.

§ 24. Military subordinate to civil authority

Sec. 24. The military shall at all times be subordinate to the civil authority.

§ 25. Quartering soldiers in houses

Sec. 25. No soldier shall in time of peace be quartered in the house of any citizen without the consent of the owner, nor in time of war but in a manner prescribed by law.

§ 26. Perpetuities and monopolies; primogeniture or entailments

Sec. 26. Perpetuities and monopolies are contrary to the genius of a free government, and shall never be allowed, nor shall the law of primogeniture or entailments ever be in force in this State.

§ 27. Right of assembly; petition for redress of grievances

Sec. 27. The citizens shall have the right, in a peaceable manner, to assemble together for their common good; and apply to those invested with the powers of government for redress of grievances or other purposes, by petition, address or remonstrance.

§ 28. Suspension of laws

Sec. 28. No power of suspending laws in this State shall be exercised except by the Legislature.

§ 29. Provisions of Bill of Rights excepted from powers of government; to forever remain inviolate

Sec. 29. To guard against transgressions of the high powers herein delegated, we declare that everything in this "Bill of Rights" is excepted out of the general powers of government, and shall forever remain inviolate, and all laws contrary thereto, or to the following provisions, shall be void.

ARTICLE II

THE POWERS OF GOVERNMENT

Sec.

1. Division of powers; three separate departments; exercise of power properly attached to other departments.

§ 1. Division of powers; three separate departments; exercise of power properly attached to other departments

Section 1. The powers of the Government of the State of Texas shall be divided into three distinct departments, each of which shall be confided to a separate body of magistracy, to wit: Those which are Legislative to one; those which are Executive to another, and those which are Judicial to another; and no person, or collection of persons, being of one of these departments, shall exercise any power properly attached to either of the others, except in the instances herein expressly permitted.

ARTICLE III

LEGISLATIVE DEPARTMENT

Sec.

1. Senate and House of Representatives.
2. Membership of Senate and House of Representatives.
3. Election and term of office of Senators.
4. Election and term of members of House of Representatives.
5. Meetings; order of business.
6. Qualifications of Senators.
7. Qualifications of Representatives.
8. Each House judge of qualifications and election; contests.
9. President pro tempore of Senate; Speaker of House of Representatives.
10. Quorum; adjournments from day to day; compelling attendance.
11. Rules of procedure; expulsion of member.
12. Journals of proceedings; entering yeas and nays.
13. Vacancies; writs of election.
14. Privileged from arrest.
15. Disrespectful or disorderly conduct; obstruction of proceedings.
16. Open sessions.
17. Adjournments.
18. Ineligibility for other offices; interest in contracts.
19. Ineligibility of persons holding other offices.

- Sec.**
- 20. Collectors of taxes; persons entrusted with public money; ineligibility.
 - 21. Words spoken in debate.
 - 22. Disclosure of private interest in measure or bill; not to vote.
 - 23. Removal from district or county from which elected.
 - 24. Compensation and expenses of Members of Legislature; duration of Sessions.
 - 25. Senatorial Districts.
 - 26. Apportionment of members of House of Representatives.
 - 26a. Counties with more than seven representatives.
 - 27. Elections.
 - 28. Time for apportionment; apportionment by Legislative Redistricting Board.

PROCEEDINGS

- 29. Enacting clause of laws.
- 30. Laws passed by bill; amendments changing purpose.
- 31. Origination in either House; amendment.
- 32. Reading on three several days; suspension of rule.
- 33. Revenue bills.
- 34. Defeated bills and resolutions.
- 35. Subjects and titles of bills.
- 36. Revival or amendment by reference; re-enactment and publication at length.
- 37. Reference to committee and report.
- 38. Signing bills and joint resolutions; entry on journals.
- 39. Time of taking effect of laws; emergencies; entry on journal.
- 40. Special sessions; subjects of legislation; duration.
- 41. Elections by Senate and House of Representatives.

REQUIREMENTS AND LIMITATIONS

- 42. Repealed.
- 43. Revision of laws.
- 44. Compensation of public officers, servants, agents and contractors; extra compensation; unauthorized claims; unauthorized employment.
- 45. Change of venue in civil and criminal cases.
- 46. Repealed.
- 47. Lotteries and gift enterprises; bingo games.
- 48 to 48b. Repealed.
- 48-c. Blank.
- 48-d. Rural fire prevention districts.
- 49. State debts.
- 49a. Financial statement and estimate by Comptroller of Public Accounts; limitation of appropriations; bonds.
- 49-b. Veterans' Land Board; bond issue, Veterans' Land Fund; purchase of lands and resale to Texas veterans.
- 49-b-1. Bonds issued to augment Veterans' Land Fund and for Veterans' Housing Assistance Fund; appropriation when money in either fund not available.
- 49-c. Texas Water Development Board; bond issue; Texas Water Development Fund.
- 49-d. Acquisition and development of water storage facilities; filtration, treatment and transportation of water; enlargement of reservoirs.
- 49-d-1. Additional Texas Water Development Bonds.
- 49-e. Texas Park Development Fund.
- 50. Loan or pledge of credit of State.
- 50a. State Medical Education Board; State Medical Education Fund; purpose.
- 50b. Student loans.
- 50b-1. Additional student loans.

- Sec.**
- 50c. Farm and ranch real estate loans; guarantee.
 - 51. Grants of public money prohibited; exceptions.
 - 51-a. Assistance grants and medical care for needy aged, disabled and blind persons, and needy dependent children.
 - 51-b. Repealed.
 - 51-b-1. Assistance for totally and permanently disabled individuals.
 - 51-c. Aid or compensation to persons improperly fined or imprisoned.
 - 51-d. Payment of assistance to survivors of law enforcement officers.
 - 51-e, 51-f. Repealed.
 - 51g. Social security coverage of proprietary employees of political subdivisions.
 - 52. Counties, cities, towns or other political corporations or subdivisions; lending credit; grants.
 - 52-a. Blank.
 - 52-b. Loan of state's credit or grant of public money for toll road purposes.
 - 52-c. Blank.
 - 52d. County or road district tax for road purposes.
 - 52e. Payment of medical expenses of law enforcement officials.
 - 52e. Dallas County bond issues for roads and turnpikes.
 - 52f. Private roads; construction and maintenance by counties of 5,000 or less.
 - 53. County or municipal authorities; extra compensation; unauthorized claims.
 - 54. Liens on railroad; release, alienation or change.
 - 55. Release or extinguishment of indebtedness to state, county, subdivision or municipal corporation.
 - 56. Local and special laws.
 - 57. Notice of intention to apply for local or special laws.
 - 58. Seat of government.
 - 59. Workmen's compensation insurance for state employees.
 - 60. Workmen's compensation insurance for employees of counties and other political subdivisions.
 - 61. Workmen's compensation insurance for municipal employees.
 - 61. Minimum salaries.
 - 62. Continuity of state and local governmental operations.
 - 63. Consolidation of governmental functions of political subdivisions in counties of 1,200,000 or more.
 - 64. Consolidation of governmental offices and functions in counties and political subdivisions.
 - 65. Public bonds; interest rate; conflicting rates repealed.

§ 1. Senate and House of Representatives

Section 1. The Legislative power of this State shall be vested in a Senate and House of Representatives, which together shall be styled "The Legislature of the State of Texas."

§ 2. Membership of Senate and House of Representatives

Sec. 2. The Senate shall consist of thirty-one members, and shall never be increased above this number. The House of Representatives shall consist of ninety-three members until the first appor-

tionment after the adoption of this Constitution, when or at any apportionment thereafter, the number of Representatives may be increased by the Legislature, upon the ratio of not more than one Representative for every fifteen thousand inhabitants; provided, the number of Representatives shall never exceed one hundred and fifty.

§ 3. Election and term of office of Senators

Sec. 3. The Senators shall be chosen by the qualified electors for the term of four years; but a new Senate shall be chosen after every apportionment, and the Senators elected after each apportionment shall be divided by lot into two classes. The seats of the Senators of the first class shall be vacated at the expiration of the first two years, and those of the second class at the expiration of four years, so that one half of the Senators shall be chosen biennially thereafter. Senators shall take office following their election, on the day set by law for the convening of the Regular Session of the Legislature, and shall serve thereafter for the full term of years to which elected and until their successors shall have been elected and qualified.

Amended Nov. 8, 1966.

§ 4. Election and term of members of House of Representatives

Sec. 4. The Members of the House of Representatives shall be chosen by the qualified electors for the term of two years. Representatives shall take office following their election, on the day set by law for the convening of the Regular Session of the Legislature, and shall serve thereafter for the full term of years to which elected and until their successors shall have been elected and qualified.

Amended Nov. 8, 1966.

§ 5. Meetings; order of business

Sec. 5. The Legislature shall meet every two years at such time as may be provided by law and at other times when convened by the Governor. When convened in regular Session, the first thirty days thereof shall be devoted to the introduction of bills and resolutions, acting upon emergency appropriations, passing upon the confirmation of the recess appointees of the Governor and such emergency matters as may be submitted by the Governor in special messages to the Legislature; provided that during the succeeding thirty days of the regular session of the Legislature the various committees of each House shall hold hearings to consider all bills and resolutions and other matters then pending; and such emergency matters as may be submitted by the Governor; provided further that during the following sixty days the Legislature shall act upon such bills and resolutions as may be then pending and upon such emergency matters as may be submitted by the Governor in special messages to the Legislature; provided, however, either House may

otherwise determine its order of business by an affirmative vote of four-fifths of its membership.

Amended Nov. 4, 1930.

§ 6. Qualifications of Senators

Sec. 6. No person shall be a Senator, unless he be a citizen of the United States, and, at the time of his election a qualified elector of this State, and shall have been a resident of this State five years next preceding his election, and the last year thereof a resident of the district for which he shall be chosen, and shall have attained the age of twenty-six years.

§ 7. Qualifications of Representatives

Sec. 7. No person shall be a Representative, unless he be a citizen of the United States, and, at the time of his election, a qualified elector of this State, and shall have been a resident of this State two years next preceding his election, the last year thereof a resident of the district for which he shall be chosen, and shall have attained the age of twenty-one years.

§ 8. Each House judge of qualifications and election; contests

Sec. 8. Each House shall be the judge of the qualifications and election of its own members; but contested elections shall be determined in such manner as shall be provided by law.

§ 9. President pro tempore of Senate; Speaker of House of Representatives

Sec. 9. The Senate shall, at the beginning and close of each session, and at such other times as may be necessary, elect one of its members President pro tempore, who shall perform the duties of the Lieutenant Governor in any case of absence or disability of that officer, and whenever the said office of Lieutenant Governor shall be vacant. The House of Representatives shall, when it first assembles; organize temporarily, and thereupon proceed to the election of a Speaker from its own members; and each House shall choose its other officers.

§ 10. Quorum; adjournments from day to day; compelling attendance

Sec. 10. Two-thirds of each House shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the attendance of absent members, in such manner and under such penalties as each House may provide.

§ 11. Rules of procedure; expulsion of member

Sec. 11. Each House may determine the rules of its own proceedings, punish members for disorderly conduct, and, with the consent of two-thirds, expel a member, but not a second time for the same offence.

§ 12. Journals of proceedings; entering yeas and nays

Sec. 12. Each House shall keep a journal of its proceedings, and publish the same; and the yeas and nays of the members of either House on any question shall, at the desire of any three members present, be entered on the journals.

§ 13. Vacancies; writs of election

Sec. 13. When vacancies occur in either House, the Governor, or the person exercising the power of the Governor, shall issue writs of election to fill such vacancies; and should the Governor fail to issue a writ of election to fill any such vacancy within twenty days after it occurs, the returning officer of the district in which such vacancy may have happened, shall be authorized to order an election for that purpose.

§ 14. Privileged from arrest

Sec. 14. Senators and Representatives shall, except in cases of treason, felony, or breach of the peace, be privileged from arrest during the session of the Legislature, and in going to and returning from the same, allowing one day for every twenty miles such member may reside from the place at which the Legislature is convened.

§ 15. Disrespectful or disorderly conduct; obstruction of proceedings

Sec. 15. Each House may punish, by imprisonment, during its sessions, any person not a member, for disrespectful or disorderly conduct in its presence, or for obstructing any of its proceedings; provided, such imprisonment shall not, at any one time, exceed forty-eight hours.

§ 16. Open sessions

Sec. 16. The sessions of each House shall be open, except the Senate when in Executive session.

§ 17. Adjournments

Sec. 17. Neither House shall, without the consent of the other, adjourn for more than three days, nor to any other place than that where the Legislature may be sitting.

§ 18. Ineligibility for other offices; interest in contracts

Sec. 18. No Senator or Representative shall, during the term for which he was elected, be eligible to (1) any civil office of profit under this State which shall have been created, or the emoluments of which may have been increased, during such term, or (2) any office or place, the appointment to which may be made, in whole or in part, by either branch of the Legislature; provided, however, the fact that the term of office of Senators and Representatives does not end precisely on the last day of December but extends a few days into January of the succeeding year shall be considered as de minimis, and the

ineligibility herein created shall terminate on the last day in December of the last full calendar year of the term for which he was elected. No member of either House shall vote for any other member for any office whatever, which may be filled by a vote of the Legislature, except in such cases as are in this Constitution provided, nor shall any member of the Legislature be interested, either directly or indirectly, in any contract with the State, or any county thereof, authorized by any law passed during the term for which he was elected.

Amended Nov. 5, 1968.

§ 19. Ineligibility of persons holding other offices

Sec. 19. No judge of any court, Secretary of State, Attorney General, clerk of any court of record, or any person holding a lucrative office under the United States, or this State, or any foreign government shall during the term for which he is elected or appointed, be eligible to the Legislature.

§ 20. Collectors of taxes; persons entrusted with public money; ineligibility

Sec. 20. No person who at any time may have been a collector of taxes, or who may have been otherwise entrusted with public money, shall be eligible to the Legislature, or to any office of profit or trust under the State government, until he shall have obtained a discharge for the amount of such collections, or for all public moneys with which he may have been entrusted.

§ 21. Words spoken in debate

Sec. 21. No member shall be questioned in any other place for words spoken in debate in either House.

§ 22. Disclosure of private interest in measure or bill; not to vote

Sec. 22. A member who has a personal or private interest in any measure or bill, proposed, or pending before the Legislature, shall disclose the fact to the House, of which he is a member, and shall not vote thereon.

§ 23. Removal from district or county from which elected

Sec. 23. If any Senator or Representative remove his residence from the district or county for which he was elected, his office shall thereby become vacant, and the vacancy shall be filled as provided in section 13 of this article.

§ 24. Compensation and expenses of Members of Legislature; duration of Sessions

Sec. 24. Members of the Legislature shall receive from the Public Treasury a salary of Six Hundred Dollars (\$600) per month. Each member shall also receive a per diem of Thirty Dollars (\$30) for each day during each Regular and Special Ses-

sion of the Legislature. No Regular Session shall be of longer duration than one hundred and forty (140) days.

In addition to the per diem the Members of each House shall be entitled to mileage at the same rate as prescribed by law for employees of the State of Texas. This amendment takes effect on April 22, 1975.

Amended Nov. 4, 1930; Nov. 2, 1954; Nov. 8, 1960; April 22, 1975.

§ 25. Senatorial Districts

Sec. 25. The State shall be divided into Senatorial Districts of contiguous territory according to the number of qualified electors, as nearly as may be, and each district shall be entitled to elect one Senator; and no single county shall be entitled to more than one Senator.

§ 26. Apportionment of members of House of Representatives

Sec. 26. The members of the House of Representatives shall be apportioned among the several counties, according to the number of population in each, as nearly as may be, on a ratio obtained by dividing the population of the State, as ascertained by the most recent United States census, by the number of members of which the House is composed; provided, that whenever a single county has sufficient population to be entitled to a Representative, such county shall be formed into a separate Representative District, and when two or more counties are required to make up the ratio of representation, such counties shall be contiguous to each other; and when any one county has more than sufficient population to be entitled to one or more Representatives, such Representative or Representatives shall be apportioned to such county, and for any surplus of population it may be joined in a Representative District with any other contiguous county or counties.

§ 26a. Counties with more than seven Representatives

Sec. 26a. Provided however, that no county shall be entitled to or have under any apportionment more than seven (7) Representatives unless the population of such county shall exceed seven hundred thousand (700,000) people as ascertained by the most recent United States Census, in which event such county shall be entitled to one additional Representative for each one hundred thousand (100,000) population in excess of seven hundred thousand (700,000) population as shown by the latest United States Census; nor shall any district be created which would permit any county to have more than seven (7) Representatives except under the conditions set forth above.

Adopted Nov. 3, 1936.

§ 27. Elections

Sec. 27. Elections for Senators and Representatives shall be general throughout the State, and shall be regulated by law.

§ 28. Time for apportionment; apportionment by Legislative Redistricting Board

Sec. 28. The Legislature shall, at its first regular session after the publication of each United States decennial census, apportion the state into senatorial and representative districts, agreeable to the provisions of Sections 25, 26, and 26-a of this Article. In the event the Legislature shall at any such first regular session following the publication of a United States decennial census, fail to make such apportionment, same shall be done by the Legislative Redistricting Board of Texas, which is hereby created, and shall be composed of five (5) members, as follows: The Lieutenant Governor, the Speaker of the House of Representatives, the Attorney General, the Comptroller of Public Accounts and the Commissioner of the General Land Office, a majority of whom shall constitute a quorum. Said Board shall assemble in the City of Austin within ninety (90) days after the final adjournment of such regular session. The Board shall, within sixty (60) days after assembling, apportion the state into senatorial and representative districts, or into senatorial or representative districts, as the failure of action of such Legislature may make necessary. Such apportionment shall be in writing and signed by three (3) or more of the members of the Board duly acknowledged as the act and deed of such Board, and, when so executed and filed with the Secretary of State, shall have force and effect of law. Such apportionment shall become effective at the next succeeding statewide general election. The Supreme Court of Texas shall have jurisdiction to compel such Commission to perform its duties in accordance with the provisions of this section by writ of mandamus or other extraordinary writs conformable to the usages of law. The Legislature shall provide necessary funds for clerical and technical aid and for other expenses incidental to the work of the Board, and the Lieutenant Governor and the Speaker of the House of Representatives shall be entitled to receive per diem and travel expense during the Board's session in the same manner and amount as they would receive while attending a special session of the Legislature. This amendment shall become effective January 1, 1951.

Amended Nov. 2, 1948.

PROCEEDINGS

§ 29. Enacting clause of laws

Sec. 29. The enacting clause of all laws shall be: "Be it enacted by the Legislature of the State of Texas."

§ 30. Laws passed by bill; amendments changing purpose

Sec. 30. No law shall be passed, except by bill, and no bill shall be so amended in its passage through either House, as to change its original purpose.

§ 31. Origination in either House; amendment

Sec. 31. Bills may originate in either House, and, when passed by such House, may be amended, altered or rejected by the other.

§ 32. Reading on three several days; suspension of rule

Sec. 32. No bill shall have the force of a law, until it has been read on three several days in each House, and free discussion allowed thereon; but in cases of imperative public necessity (which necessity shall be stated in a preamble or in the body of the bill) four-fifths of the House, in which the bill may be pending, may suspend this rule, the yeas and nays being taken on the question of suspension, and entered upon the journals.

§ 33. Revenue bills

Sec. 33. All bills for raising revenue shall originate in the House of Representatives, but the Senate may amend or reject them as other bills.

§ 34. Defeated bills and resolutions

Sec. 34. After a bill has been considered and defeated by either House of the Legislature, no bill containing the same substance, shall be passed into a law during the same session. After a resolution has been acted on and defeated, no resolution containing the same substance, shall be considered at the same session.

§ 35. Subjects and titles of bills

Sec. 35. No bill, (except general appropriation bills, which may embrace the various subjects and accounts, for and on account of which moneys are appropriated) shall contain more than one subject, which shall be expressed in its title. But if any subject shall be embraced in an act, which shall not be expressed in the title, such act shall be void only as to so much thereof, as shall not be so expressed.

§ 36. Revival or amendment by reference; re-enactment and publication at length

Sec. 36. No law shall be revived or amended by reference to its title; but in such case the act revived, or the section or sections amended, shall be re-enacted and published at length.

§ 37. Reference to committee and report

Sec. 37. No bill shall be considered, unless it has been first referred to a committee and reported thereon, and no bill shall be passed which has not been presented and referred to and reported from a

committee at least three days before the final adjournment of the Legislature.

§ 38. Signing bills and joint resolutions; entry on journals

Sec. 38. The presiding officer of each House shall, in the presence of the House over which he presides, sign all bills and joint resolutions passed by the Legislature, after their titles have been publicly read before signing; and the fact of signing shall be entered on the journals.

§ 39. Time of taking effect of laws; emergencies; entry on journal

Sec. 39. No law passed by the Legislature, except the general appropriation act, shall take effect or go into force until ninety days after the adjournment of the session at which it was enacted, unless in case of an emergency, which emergency must be expressed in a preamble or in the body of the act, the Legislature shall, by a vote of two-thirds of all the members elected to each House, otherwise direct; said vote to be taken by yeas and nays, and entered upon the journals.

§ 40. Special sessions; subjects of legislation; duration

Sec. 40. When the Legislature shall be convened in special session, there shall be no legislation upon subjects other than those designated in the proclamation of the Governor calling such session, or presented to them by the Governor; and no such session shall be of longer duration than thirty days.

§ 41. Elections by Senate and House of Representatives

Sec. 41. In all elections by the Senate and House of Representatives, jointly or separately, the vote shall be given viva voce, except in the election of their officers.

REQUIREMENTS AND LIMITATIONS

§ 42. Repealed. Aug. 5, 1969

§ 43. Revision of laws

Sec. 43. The first session of the Legislature under this Constitution shall provide for revising, digesting and publishing the laws, civil and criminal; and a like revision, digest and publication may be made every ten years thereafter; provided, that in the adoption of and giving effect to any such digest or revision, the Legislature shall not be limited by sections 35 and 36 of this Article.

§ 44. Compensation of public officers, servants, agents and contractors; extra compensation; unauthorized claims; unauthorized employment

Sec. 44. The Legislature shall provide by law for the compensation of all officers, servants, agents and public contractors, not provided for in

this Constitution, but shall not grant extra compensation to any officer, agent, servant, or public contractors, after such public service shall have been performed or contract entered into, for the performance of the same; nor grant, by appropriation or otherwise, any amount of money out of the Treasury of the State, to any individual, on a claim, real or pretended, when the same shall not have been provided for by pre-existing law; nor employ any one in the name of the State, unless authorized by pre-existing law.

§ 45. Change of venue in civil and criminal cases

Sec. 45. The power to change the venue in civil and criminal cases shall be vested in the courts, to be exercised in such manner as shall be provided by law; and the Legislature shall pass laws for that purpose.

§ 46. Repealed. Aug. 5, 1969

§ 47. Lotteries and gift enterprises; bingo games

Sec. 47. (a) The Legislature shall pass laws prohibiting lotteries and gift enterprises in this State.

(b) The Legislature by law may authorize and regulate bingo games conducted by a church, synagogue, religious society, volunteer fire department, nonprofit veterans organization, fraternal organization, or nonprofit organization supporting medical research or treatment programs. A law enacted under this subsection must permit the qualified voters of any county, justice precinct, or incorporated city or town to determine from time to time by a majority vote of the qualified voters voting on the question at an election whether bingo games may be held in the county, justice precinct, or city or town. The law must also require that:

(1) all proceeds from the games are spent in Texas for charitable purposes of the organizations;

(2) the games are limited to one location as defined by law on property owned or leased by the church, synagogue, religious society, volunteer fire department, nonprofit veterans organization, fraternal organization, or nonprofit organization supporting medical research or treatment programs; and

(3) the games are conducted, promoted, and administered by members of the church, synagogue, religious society, volunteer fire department, nonprofit veterans organization, fraternal organization, or nonprofit organization supporting medical research or treatment programs.

(c) The law enacted by the Legislature authorizing bingo games must include:

(1) a requirement that the entities conducting the games report quarterly to the Comptroller of Public Accounts about the amount of proceeds that the entities collect from the games and the purposes for which the proceeds are spent; and

(2) criminal or civil penalties to enforce the reporting requirement.

Amended Nov. 4, 1980.

§ 48. Repealed. Aug. 5, 1969

§§ 48a, 48b. Repealed. April 22, 1975

§ 48-c. Blank

§ 48-d. Rural fire prevention districts

Sec. 48-d. The Legislature shall have the power to provide for the establishment and creation of rural fire prevention districts and to authorize a tax on the ad valorem property situated in said districts not to exceed Three (3c) Cents on the One Hundred (\$100.00) Dollars valuation for the support thereof; provided that no tax shall be levied in support of said districts until approved by vote of the people residing therein.

Adopted Nov. 6, 1949.

§ 49. State debts

Sec. 49. No debt shall be created by or on behalf of the State, except to supply casual deficiencies of revenue, repel invasion, suppress insurrection, defend the State in war, or pay existing debt; and the debt created to supply deficiencies in the revenue, shall never exceed in the aggregate at any one time two hundred thousand dollars.

§ 49a. Financial statement and estimate by Comptroller of Public Accounts; limitation of appropriations; bonds

Sec. 49a. It shall be the duty of the Comptroller of Public Accounts in advance of each Regular Session of the Legislature to prepare and submit to the Governor and to the Legislature upon its convening a statement under oath showing fully the financial condition of the State Treasury at the close of the last fiscal period and an estimate of the probable receipts and disbursements for the then current fiscal year. There shall also be contained in said statement an itemized estimate of the anticipated revenue based on the laws then in effect that will be received by and for the State from all sources showing the fund accounts to be credited during the succeeding biennium and said statement shall contain such other information as may be required by law. Supplemental statements shall be submitted at any Special Session of the Legislature and at such other times as may be necessary to show probable changes.

From and after January 1, 1945, save in the case of emergency and imperative public necessity and with a four-fifths vote of the total membership of each House, no appropriation in excess of the cash and anticipated revenue of the funds from which such appropriation is to be made shall be valid. From and after January 1, 1945, no bill containing an appropriation shall be considered as passed or be sent to the Governor for consideration until and unless the Comptroller of Public Accounts endorses

his certificate thereon showing that the amount appropriated is within the amount estimated to be available in the affected funds. When the Comptroller finds an appropriation bill exceeds the estimated revenue he shall endorse such finding thereon and return to the House in which same originated. Such information shall be immediately made known to both the House of Representatives and the Senate and the necessary steps shall be taken to bring such appropriation to within the revenue, either by providing additional revenue or reducing the appropriation.

For the purpose of financing the outstanding obligations of the General Revenue Fund of the State and placing its current accounts on a cash basis the Legislature of the State of Texas is hereby authorized to provide for the issuance, sale, and retirement of serial bonds, equal in principal to the total outstanding, valid, and approved obligations owing by said fund on September 1, 1943, provided such bonds shall not draw interest in excess of two (2) per cent per annum and shall mature within twenty (20) years from date.

Adopted Nov. 3, 1942.

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

Sec. 49-b. By virtue of prior Amendments to this Constitution, there has been created a governmental agency of the State of Texas performing governmental duties which has been designated the Veterans' Land Board. Said Board shall continue to function for the purposes specified in all of the prior Constitutional Amendments except as modified herein. Said Board shall be composed of the Commissioner of the General Land Office and two (2) citizens of the State of Texas, one (1) of whom shall be well versed in veterans' affairs and one (1) of whom shall be well versed in finances. One (1) such citizen member shall, with the advice and consent of the Senate, be appointed biennially by the Governor to serve for a term of four (4) years; but the members serving on said Board on the date of adoption hereof shall complete the terms to which they were appointed. In the event of the resignation or death of any such citizen member, the Governor shall appoint a replacement to serve for the unexpired portion of the term to which the deceased or resigning member had been appointed. The compensation for said citizen members shall be as is now or may hereafter be fixed by the Legislature; and each shall make bond in such amount as is now or may hereafter be prescribed by the Legislature.

The Commissioner of the General Land Office shall act as Chairman of said Board and shall be the administrator of the Veterans' Land Program under such terms and restrictions as are now or may hereafter be provided by law. In the absence or illness of said Commissioner, the Chief Clerk of the General Land Office shall be the Acting Chairman

of said Board with the same duties and powers that said Commissioner would have if present.

The Veterans' Land Board may provide for, issue and sell not to exceed Nine Hundred Fifty Million Dollars (\$950,000,000) in bonds or obligations of the State of Texas for the purpose of creating a fund to be known as the Veterans' Land Fund, Seven Hundred Million Dollars (\$700,000,000) of which have heretofore been authorized. Such bonds or obligations shall be sold for not less than par value and accrued interest; shall be issued in such forms, denominations, and upon such terms as are now or may hereafter be provided by law; shall be issued and sold at such times, at such places, and in such installments as may be determined by said Board; and shall bear a rate or rates of interest as may be fixed by said Board but the weighted average annual interest rate, as that phrase is commonly and ordinarily used and understood in the municipal bond market, of all the bonds issued and sold in any installment of any bonds may not exceed the rate specified in Section 65 of this Article. All bonds or obligations issued and sold hereunder shall, after execution by the Board, approval by the Attorney General of Texas, registration by the Comptroller of Public Accounts of the State of Texas, and delivery to the purchaser or purchasers, be incontestable and shall constitute general obligations of the State of Texas under the Constitution of Texas; and all bonds heretofore issued and sold by said Board are hereby in all respects validated and declared to be general obligations of the State of Texas. In order to prevent default in the payment of principal or interest on any such bonds, the Legislature shall appropriate a sufficient amount to pay the same.

In the sale of any such bonds or obligations, a preferential right of purchase shall be given to the administrators of the various Teacher Retirement Funds, the Permanent University Funds, and the Permanent School Funds.

Said Veterans' Land Fund shall consist of any lands heretofore or hereafter purchased by said Board, until the sale price therefor, together with any interest and penalties due, have been received by said Board (although nothing herein shall be construed to prevent said Board from accepting full payment for a portion of any tract), and of the moneys attributable to any bonds heretofore or hereafter issued and sold by said Board which moneys so attributable shall include but shall not be limited to the proceeds from the issuance and sale of such bonds; the moneys received from the sale or resale of any lands, or rights therein, purchased with such proceeds; the moneys received from the sale or resale of any lands, or rights therein, purchased with other moneys attributable to such bonds; the interest and penalties received from the sale or resale of such lands, or rights therein; the bonuses, income, rents, royalties, and any other pecuniary benefit received by said Board from any such lands; sums received by way of indemnity or forfeiture for the failure of any bidder for the

purchase of any such bonds to comply with his bid and accept and pay for such bonds or for the failure of any bidder for the purchase of any lands comprising a part of said Fund to comply with his bid and accept and pay for any such lands; and interest received from investments of any such moneys. The principal and interest on the bonds heretofore and hereafter issued by said Board shall be paid out of the moneys of said Fund in conformance with the Constitutional provisions authorizing such bonds; but the moneys of said Fund which are not immediately committed to the payment of principal and interest on such bonds, the purchase of lands as herein provided, or the payment of expenses as herein provided may be invested in bonds or obligations of the United States until such funds are needed for such purposes.

All moneys comprising a part of said Fund and not expended for the purposes herein provided shall be a part of said Fund until there are sufficient moneys therein to retire fully all of the bonds heretofore or hereafter issued and sold by said Board; at which time all such moneys remaining in said Fund, except such portion thereof as may be necessary to retire all such bonds which portion shall be set aside and retained in said Fund for the purpose of retiring all such bonds, shall be deposited to the credit of the General Revenue Fund to be appropriated to such purposes as may be prescribed by law. All moneys becoming a part of said Fund thereafter shall likewise be deposited to the credit of the General Revenue Fund.

When a Division of said Fund (each Division consisting of the moneys attributable to the bonds issued and sold pursuant to a single Constitutional authorization and the lands purchased therewith) contains sufficient moneys to retire all of the bonds secured by such Division, the moneys thereof, except such portion as may be needed to retire all of the bonds secured by such Division which portion shall be set aside and remain a part of such Division for the purpose of retiring all such bonds, may be used for the purpose of paying the principal and the interest thereon, together with the expenses herein authorized, of any other bonds heretofore or hereafter issued and sold by said Board. Such use shall be a matter for the discretion and direction of said Board; but there may be no such use of any such moneys contrary to the rights of any holder of any of the bonds issued and sold by said Board or violative of any contract to which said Board is a party.

The Veterans' Land Fund shall be used by said Board for the purpose of purchasing lands situated in the State of Texas owned by the United States or any governmental agency thereof, owned by the Texas Prison System or any other governmental agency of the State of Texas, or owned by any person, firm, or corporation. All lands thus purchased shall be acquired at the lowest price obtainable, to be paid for in cash, and shall be a part of said Fund. Such lands heretofore or hereafter pur-

chased and comprising a part of said Fund are hereby declared to be held for a governmental purpose, although the individual purchasers thereof shall be subject to taxation to the same extent and in the same manner as are purchasers of lands dedicated to the Permanent Free Public School Fund.

The lands of the Veterans' Land Fund shall be sold by said Board in such quantities, on such terms, at such prices, at such rates of interest and under such rules and regulations as are now or may hereafter be provided by law to veterans who served not less than ninety (90) continuous days, unless sooner discharged by reason of a service-connected disability, on active duty in the Army, Navy, Air Force, Coast Guard or Marine Corps of the United States after September 16, 1940, and who, upon the date of filing his or her application to purchase any such land is a citizen of the United States, is a bona fide resident of the State of Texas, and has not been dishonorably discharged from any branch of the Armed Forces above-named and who at the time of his or her enlistment, induction, commissioning, or drafting was a bona fide resident of the State of Texas, or who has resided in Texas at least five (5) years prior to the date of filing his or her application, and provided that in the event of the death of an eligible Texas Veteran after the veteran has filed with the Board an application and contract of sale to purchase through the Board the tract selected by him or her and before the purchase has been completed, then the surviving spouse may complete the transaction. The unmarried surviving spouses of veterans who died in the line of duty may also apply to purchase a tract through the Board provided the deceased veterans meet the requirements set out in this Article with the exception that the deceased veterans need not have served ninety (90) continuous days and provided further that the deceased veterans were bona fide residents of the State of Texas at the time of enlistment, induction, commissioning, or drafting. The foregoing notwithstanding, any lands in the Veterans' Land Fund which have been first offered for sale to veterans and which have not been sold may be sold or resold to such purchasers, in such quantities, and on such terms, and at such prices and rates of interest, and under such rules and regulations as are now or may hereafter be provided by law.

Said Veterans' Land Fund, to the extent of the moneys attributable to any bonds hereafter issued and sold by said Board may be used by said Board, as is now or may hereafter be provided by law, for the purpose of paying the expenses of surveying, monumenting, road construction, legal fees, recordation fees, advertising and other like costs necessary or incidental to the purchase and sale, or resale, of any lands purchased with any of the moneys attributable to such additional bonds, such expenses to be added to the price of such lands when sold, or resold, by said Board; for the purpose

of paying the expenses of issuing, selling, and delivering any such additional bonds; and for the purpose of meeting the expenses of paying the interest or principal due or to become due on any such additional bonds.

All of the moneys attributable to any series of bonds hereafter issued and sold by said Board (a "series of bonds" being all of the bonds issued and sold in a single transaction as a single installment of bonds) may be used for the purchase of lands as herein provided, to be sold as herein provided, for a period ending eight (8) years after the date of sale of such series of bonds; provided, however, that so much of such moneys as may be necessary to pay interest on bonds hereafter issued and sold shall be set aside for that purpose in accordance with the resolution adopted by said Board authorizing the issuance and sale of such series of bonds. After such eight (8) year period, all of such moneys shall be set aside for the retirement of any bonds hereafter issued and sold and to pay interest thereon, together with any expenses as provided herein, in accordance with the resolution or resolutions authorizing the issuance and sale of such additional bonds, until there are sufficient moneys to retire all of the bonds hereafter issued and sold, at which time all such moneys then remaining a part of said Veterans' Land Fund and thereafter becoming a part of said Fund shall be governed as elsewhere provided herein.

This Amendment being intended only to establish a basic framework and not to be a comprehensive treatment of the Veterans' Land Program, there is hereby reposed in the Legislature full power to implement and effectuate the design and objects of this Amendment, including the power to delegate such duties, responsibilities, functions, and authority to the Veterans' Land Board as it believes necessary.

Should the Legislature enact any enabling laws in anticipation of this Amendment, no such law shall be void by reason of its anticipatory nature.

Adopted Nov. 13, 1951. Amended Nov. 6, 1956, eff. Jan. 1, 1957; Nov. 8, 1960; Nov. 6, 1962; Nov. 11, 1967; Nov. 6, 1973; Nov. 8, 1977; Nov. 3, 1981.

§ 49-b-1. Bonds issued to augment Veterans' Land Fund and for Veterans' Housing Assistance Fund; appropriation when money in either fund not available.

Sec. 49-b-1. (a) In addition to the general obligation bonds authorized to be issued and to be sold by the Veterans' Land Board by Section 49-b of this article, the Veterans' Land Board may provide for, issue, and sell not to exceed \$800 million in bonds of the State of Texas to provide financing to veterans of the state in recognition of their service to their state and country.

(b) For purposes of this section, "veteran" means a person who served not less than 90 continuous days, unless sooner discharged by reason of a ser-

vice connected disability, on active duty in the Army, Navy, Air Force, Coast Guard, or Marine Corps of the United States after September 16, 1940, and who, upon the date of filing his or her application for financial assistance under this section is a citizen of the United States, is a bona fide resident of the State of Texas, and was discharged from military service under honorable conditions from any branch of the above-named Armed Forces and who at the time of his or her enlistment, induction, commissioning, or drafting was a bona fide resident of the State of Texas or who has resided in Texas at least five years immediately before the date of filing his or her application. In the event of the death of an eligible Texas veteran after the veteran has filed an application, the veteran's surviving spouse may complete the transaction. The term veteran also includes the unmarried surviving spouse of a veteran who died in the line of duty, if the deceased veteran meets the requirements set out in this section with the exception that the deceased veteran need not have served 90 continuous days and if the deceased veteran was a bona fide resident of the State of Texas at the time of enlistment, induction, commissioning, or drafting.

(c) The bonds shall be sold for not less than par value and accrued interest; shall be issued in such forms and denominations, upon such terms, at such times and places, and in such installments as may be determined by the board; and, notwithstanding the rate of interest specified by any other provision of this constitution, shall bear a rate or rates of interest fixed by the board. All bonds issued and sold pursuant to Subsections (a) through (f) of this section shall, after execution by the board, approval by the Attorney General of Texas, registration by the Comptroller of Public Accounts of the State of Texas, and delivery to the purchaser or purchasers, be incontestable and shall constitute general obligations of the state under the Constitution of Texas.

(d) Three hundred million dollars of the state bonds authorized by this section shall be used to augment the Veterans' Land Fund. The Veterans' Land Fund shall be used by the board for the purpose of purchasing lands situated in the State of Texas owned by the United States government or any agency thereof, the State of Texas or any subdivision or agency thereof, or any person, firm, or corporation. The lands shall be sold to veterans in such quantities, on such terms, at such prices, at such rates of interest, and under such rules and regulations as may be authorized by law. The expenses of the board in connection with the issuance of the bonds and the purchase and sale of the lands may be paid from money in the fund. The Veterans' Land Fund shall continue to consist of any lands purchased by the board until the sale price therefor, together with any interest and penalties due, have been received by the board (although nothing herein shall prevent the board from accepting full payment for a portion of any tract) and of the money attributable to any bonds issued and sold

by the board for the Veterans' Land Fund, which money so attributable shall include but shall not be limited to the proceeds from the issuance and sale of such bonds; the money received from the sale or resale of any lands, or rights therein, purchased from such proceeds; the money received from the sale or resale of any lands, or rights therein, purchased with other money attributable to such bonds; the interest and penalties received from the sale or resale of such lands, or rights therein; the bonuses, income, rents, royalties, and any other pecuniary benefit received by the board from any such lands; sums received by way of indemnity or forfeiture for the failure of any bidder for the purchase of any such bonds to comply with his bid and accept and pay for such bonds or for the failure of any bidder for the purchase of any lands comprising a part of the fund to comply with his bid and accept and pay for any such lands; and interest received from investments of any such money. The principal of and interest on the general obligation bonds previously authorized by Section 49-b of this constitution shall be paid out of the money of the fund in conformance with the constitutional provisions authorizing such bonds. The principal of and interest on the general obligation bonds authorized by this section for the benefit of the Veterans' Land Fund shall be paid out of the money of the fund, but the money of the fund which is not immediately committed to the payment of principal and interest on such bonds, the purchase of lands as herein provided, or the payment of expenses as herein provided may be invested in bonds or obligations of the United States until the money is needed for such purposes.

(e) The Veterans' Housing Assistance Fund is created, and \$500 million of the state bonds authorized by this section shall be used for the Veterans' Housing Assistance Fund. Money in the Veterans' Housing Assistance Fund shall be administered by the Veterans' Land Board and shall be used for the purpose of making home mortgage loans to veterans for housing within the State of Texas in such quantities, on such terms, at such rates of interest, and under such rules and regulations as may be authorized by law. The expenses of the board in connection with the issuance of the bonds and the making of the loans may be paid from money in the fund. The Veterans' Housing Assistance Fund shall consist of any interest of the board in all home mortgage loans made to veterans by the board pursuant to a Veterans' Housing Assistance Program which the legislature may establish by appropriate legislation until, with respect to any such home mortgage loan, the principal amount, together with any interest and penalties due, have been received by the board; the money attributable to any bonds issued and sold by the board to provide money for the fund, which money so attributable shall include but shall not be limited to the proceeds from the issuance and sale of such bonds; income, rents, and any other pecuniary benefit received by the board as a result of making such loans; sums received by way of indemnity or forfeiture for the

failure of any bidder for the purchase of any such bonds to comply with his bid and accept and pay for such bonds; and interest received from investments of any such money. The principal of and interest on the general obligation bonds authorized by this section for the benefit of the Veterans' Housing Assistance Fund shall be paid out of the money of the fund, but the money of the fund which is not immediately committed to the payment of principal and interest on such bonds, the making of home mortgage loans as herein provided, or the payment of expenses as herein provided may be invested in bonds or obligations of the United States until the money is needed for such purposes.

(f) To the extent there is not money in either the Veterans' Land Fund or the Veterans' Housing Assistance Fund as the case may be, available for payment of principal of and interest on the general obligation bonds authorized by this section to provide money for either of the funds, there is hereby appropriated out of the first money coming into the treasury in each fiscal year, not otherwise appropriated by this constitution, an amount which is sufficient to pay the principal of and interest on such general obligation bonds that mature or become due during that fiscal year.

(g) Receipt of all kinds of the funds determined by the board not to be required for the payment of principal of and interest on the general obligation bonds herein authorized, heretofore authorized, or hereafter authorized by this constitution to be issued by the board to provide money for either of the funds may be used by the board, to the extent not inconsistent with the proceedings authorizing such bonds, to pay the principal of and interest on general obligation bonds issued to provide money for the other fund, or to pay the principal of and interest on revenue bonds of the board issued for the purposes of providing funds for the purchasing of lands and making the sale thereof to veterans or making home mortgage loans to veterans as provided by this section. The revenue bonds shall be special obligations and payable only from the receipt of the funds and shall not constitute indebtedness of the state or the Veterans' Land Board. The board is authorized to issue such revenue bonds from time to time which shall not exceed an aggregate principal amount that can be fully retired from the receipts of the funds and other revenues pledged to the retirement of the revenue bonds. The revenue bonds shall be issued in such forms and denominations, upon such terms, at such times and places, and in such installments as may be determined by the board; and, notwithstanding the rate of interest specified by any other provision of the constitution, shall bear a rate or rates of interest fixed by the board.

Adopted Nov. 8, 1933.

§ 49-c. Texas Water Development Board; bond issue; Texas Water Development Fund

Sec. 49-c. There is hereby created as an agency of the State of Texas the Texas Water Development

Board to exercise such powers as necessary under this provision together with such other duties and restrictions as may be prescribed by law. The qualifications, compensation, and number of members of said Board shall be determined by law. They shall be appointed by the Governor with the advice and consent of the Senate in the manner and for such terms as may be prescribed by law.

The Texas Water Development Board shall have the authority to provide for, issue and sell general obligation bonds of the State of Texas in an amount not to exceed One Hundred Million Dollars (\$100,000,000). The Legislature of Texas, upon two-thirds (2/3) vote of the elected Members of each House, may authorize the Board to issue additional bonds in an amount not exceeding One Hundred Million Dollars (\$100,000,000). The bonds authorized herein or permitted to be authorized by the Legislature shall be called "Texas Water Development Bonds," shall be executed in such form, denominations and upon such terms as may be prescribed by law, provided, however, that the bonds shall not bear more than four per cent (4%) interest per annum; they may be issued in such installments as the Board finds feasible and practical in accomplishing the purpose set forth herein.

All moneys received from the sale of State bonds shall be deposited in a fund hereby created in the State Treasury to be known as the Texas Water Development Fund to be administered (without further appropriation) by the Texas Water Development Board in such manner as prescribed by law.

Such fund shall be used only for the purpose of aiding or making funds available upon such terms and conditions as the Legislature may prescribe, to the various political subdivisions or bodies politic and corporate of the State of Texas including river authorities, conservation and reclamation districts and districts created or organized or authorized to be created or organized under Article XVI, Section 59 or Article III, Section 52, of this Constitution, interstate compact commissions to which the State of Texas is a party and municipal corporations, in the conservation and development of the water resources of this State, including the control, storing and preservation of its storm and flood waters and the waters of its rivers and streams, for all useful and lawful purposes by the acquisition, improvement, extension, or construction of dams, reservoirs and other water storage projects, including any system necessary for the transportation of water from storage to points of treatment and/or distribution, including facilities for transporting water therefrom to wholesale purchasers, or for any one or more of such purposes or methods.

Any or all financial assistance as provided herein shall be repaid with interest upon such terms, conditions and manner of repayment as may be provided by law.

While any of the bonds authorized by this provision or while any of the bonds that may be authoriz-

ed by the Legislature under this provision, or any interest on any of such bonds, is outstanding and unpaid, there is hereby appropriated out of the first moneys coming into the Treasury in each fiscal year, not otherwise appropriated by this Constitution, an amount which is sufficient to pay the principal and interest on such bonds that mature or become due during such fiscal year, less the amount in the sinking fund at the close of the prior fiscal year.

The Legislature may provide for the investment of moneys available in the Texas Water Development Fund, and the interest and sinking funds established for the payment of bonds issued by the Texas Water Development Board. Income from such investment shall be used for the purposes prescribed by the Legislature. The Legislature may also make appropriations from the General Revenue Fund for paying administrative expenses of the Board.

From the moneys received by the Texas Water Development Board as repayment of principal for financial assistance or as interest thereon, there shall be deposited in the interest and sinking fund for the bonds authorized by this Section sufficient moneys to pay the interest and principal to become due during the ensuing year and sufficient to establish and maintain a reserve in said fund equal to the average annual principal and interest requirements on all outstanding bonds issued under this Section. If any year prior to December 31, 1982 moneys are received in excess of the foregoing requirements then such excess shall be deposited to the Texas Water Development Fund, and may be used for administrative expenses of the Board and for the same purposes and upon the same terms and conditions prescribed for the proceeds derived from the sale of such State bonds. No grant of financial assistance shall be made under the provisions of this Section after December 31, 1982, and all moneys thereafter received as repayment of principal for financial assistance or as interest thereon shall be deposited in the interest and sinking fund for the State bonds; except that such amount as may be required to meet the administrative expenses of the Board may be annually set aside; and provided, that after all State bonds have been fully paid with interest, or after there are on deposit in the interest and sinking fund sufficient moneys to pay all future maturities of principal and interest, additional moneys so received shall be deposited to the General Revenue Fund.

All bonds issued hereunder shall after approval by the Attorney General, registration by the Comptroller of Public Accounts of the State of Texas, and delivery to the purchasers, be incontestable and shall constitute general obligations of the State of Texas under the Constitution of Texas.

Should the Legislature enact enabling laws in anticipation of the adoption of this amendment, such

acts shall not be void by reason of their anticipatory nature.

Adopted Nov. 5, 1957.

§ 49-d. Acquisition and development of water storage facilities; filtration, treatment and transportation of water; enlargement of reservoirs

Sec. 49-d. It is hereby declared to be the policy of the State of Texas to encourage the optimum development of the limited number of feasible sites available for the construction or enlargement of dams and reservoirs for conservation of the public waters of the state, which waters are held in trust for the use and benefit of the public. The proceeds from the sale of the additional bonds authorized hereunder deposited in the Texas Water Development Fund and the proceeds of bonds previously authorized by Article III, Section 49-c of this Constitution, may be used by the Texas Water Development Board, under such provisions as the Legislature may prescribe by General Law, including the requirement of a permit for storage or beneficial use, for the additional purposes of acquiring and developing storage facilities, and any system or works necessary for the filtration, treatment and transportation of water from storage to points of treatment, filtration and/or distribution, including facilities for transporting water therefrom to wholesale purchasers, or for any one or more of such purposes or methods; provided, however, the Texas Water Development Fund or any other state fund provided for water development, transmission, transfer or filtration shall not be used to finance any project which contemplates or results in the removal from the basin of origin of any surface water necessary to supply the reasonably foreseeable future water requirements for the next ensuing fifty-year period within the river basin of origin, except on a temporary, interim basis.

Under such provisions as the Legislature may prescribe by General Law the Texas Water Development Fund may be used for the conservation and development of water for useful purposes by construction or reconstruction or enlargement of reservoirs constructed or to be constructed or enlarged within the State of Texas or on any stream constituting a boundary of the State of Texas, together with any system or works necessary for the filtration, treatment and/or transportation of water, by any one or more of the following governmental agencies: by the United States of America or any agency, department or instrumentality thereof; by the State of Texas or any agency, department or instrumentality thereof; by political subdivisions or bodies politic and corporate of the state; by interstate compact commissions to which the State of Texas is a party; and by municipal corporations. The Legislature shall provide terms and conditions under which the Texas Water Development Board may sell, transfer or lease, in whole or in part, any reservoir and associated system or works which the

Texas Water Development Board has financed in whole or in part.

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

The aggregate of the bonds authorized hereunder shall not exceed \$200,000,000 and shall be in addition to the aggregate of the bonds previously authorized by said Section 49-c of Article III of this Constitution. The Legislature upon two-thirds (2/3) vote of the elected members of each House, may authorize the Board to issue all or any portion of such \$200,000,000 in additional bonds herein authorized.

The Legislature shall provide terms and conditions for the Texas Water Development Board to sell, transfer or lease, in whole or in part, any acquired storage facilities or the right to use such storage facilities together with any associated system or works necessary for the filtration, treatment or transportation of water at a price not less than the direct cost of the Board in acquiring same; and the Legislature may provide terms and conditions for the Board to sell any unappropriated public waters of the state that might be stored in such facilities. As a prerequisite to the purchase of such storage or water, the applicant therefor shall have secured a valid permit from the Texas Water Commission or its successor authorizing the acquisition of such storage facilities or the water impounded therein. The money received from any sale, transfer or lease of storage facilities or associated system or works shall be used to pay principal and interest on state bonds issued or contractual obligations incurred by the Texas Water Development Board, provided that when moneys are sufficient to pay the full amount of indebtedness then outstanding and the full amount of interest to accrue thereon, any further sums received from the sale, transfer or lease of such storage facilities or associated system or works may be used for the acquisition of additional storage facilities or associated system or works or for providing financial assistance as authorized by said Section 49-c. Money received from the sale of water, which shall include standby service, may be used for the operation and maintenance

nance of acquired facilities, and for the payment of principal and interest on debt incurred.

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

Adopted Nov. 6, 1962. Amended Nov. 8, 1966.

§ 49-d-1. Additional Texas Water Development Bonds

Sec. 49-d-1. (a) The Texas Water Development Board shall upon direction of the Texas Water Quality Board, or any successor agency designated by the Legislature, issue additional Texas Water Development Bonds up to an additional aggregate principal amount of \$200,000,000 to provide grants, loans, or any combination of grants and loans for water quality enhancement purposes as established by the Legislature. The Texas Water Quality Board or any successor agency designated by the Legislature may make such grants and loans to political subdivisions or bodies politic and corporate of the State of Texas, including municipal corporations, river authorities, conservation and reclamation districts, and districts created or organized or authorized to be created or organized under Article XVI, Section 59, or Article III, Section 52, of this Constitution, State agencies, and interstate agencies and compact commissions to which the State of Texas is a party, and upon such terms and conditions as the Legislature may authorize by general law. The bonds shall be issued for such terms, in such denominations, form and installments, and upon such conditions as the Legislature may authorize.

(b) The proceeds from the sale of such bonds shall be deposited in the Texas Water Development Fund to be invested and administered as prescribed by law.

(c) The bonds authorized in this Section 49-d-1 and all bonds authorized by Sections 49-c and 49-d of Article III shall bear interest at not more than 6% per annum and mature as the Texas Water Development Board shall prescribe, subject to the limitations as may be imposed by the Legislature.

(d) The Texas Water Development Fund shall be used for the purposes heretofore permitted by, and subject to the limitations in Sections 49-c, 49-d and 49-d-1; provided, however, that the financial assistance may be made pursuant to the provisions of Sections 49-c, 49-d and 49-d-1 subject only to the availability of funds and without regard to the provisions in Section 49-c that such financial assistance shall terminate after December 31, 1982.

(e) Texas Water Development Bonds are secured by the general credit of the State and shall after approval by the Attorney General, registration by the Comptroller of Public Accounts of the State of Texas, and delivery to the purchasers, be incontestable and shall constitute general obligations of the State of Texas under the Constitution of Texas.

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

Adopted May 18, 1971. Amended Nov. 2, 1976.

§ 49-e. Texas Park Development Fund

Sec. 49-e. The Parks and Wildlife Department, or its successor vested with the powers, duties, and authority which deals with the operation, maintenance, and improvement of State Parks, shall have the authority to provide for, issue and sell general obligation bonds of the State of Texas in an amount not to exceed Seventy-Five Million Dollars (\$75,000,000). The bonds authorized herein shall be called "Texas Park Development Bonds," shall be executed in such form, denominations, and upon such terms as may be prescribed by law, provided, however, that the bonds shall bear a rate or rates of interest as may be fixed by the Parks and Wildlife Department or its successor, but the weighted average annual interest rate, as that phrase is commonly and ordinarily used and understood in the municipal bond market, of all the bonds issued and sold in any installment of any bonds, shall not exceed four and one-half percent (4½%) interest per annum; they may be issued in such installments as said Parks and Wildlife Department, or its said successor, finds feasible and practical in accomplishing the purpose set forth herein.

All moneys received from the sale of said bonds shall be deposited in a fund hereby created with the State Treasurer to be known as the Texas Park Development Fund to be administered (without further appropriation) by the said Parks and Wildlife Department, or its said successor, in such manner as prescribed by law.

Such fund shall be used by said Parks and Wildlife Department, or its said successor, under such provisions as the Legislature may prescribe by general law, for the purposes of acquiring lands from the United States, or any governmental agency thereof, from any governmental agency of the State of Texas, or from any person, firm, or corporation, for State Park Sites and for developing said sites as State Parks.

While any of the bonds authorized by this provision, or any interest on any such bonds, is outstanding and unpaid, there is hereby appropriated out of the first moneys coming into the Treasury in each fiscal year, not otherwise appropriated by this Constitution, an amount which is sufficient to pay the principal and interest on such bonds that mature or become due during such fiscal year, less the amount in the interest and sinking fund at the close of the prior fiscal year, which includes any receipts derived during the prior fiscal year by said Parks and Wildlife Department, or its said successor, from admission charges to State Parks, as the Legislature may prescribe by general law.

The Legislature may provide for the investment of moneys available in the Texas Park Development Fund and the interest and sinking fund established for the payment of bonds issued by said Parks and Wildlife Department, or its said successor. Income from such investment shall be used for the purposes prescribed by the Legislature.

From the moneys received by said Parks and Wildlife Department, or its said successor, from the sale of the bonds issued hereunder, there shall be deposited in the interest and sinking fund for the bonds authorized by this section sufficient moneys to pay the interest to become due during the State fiscal year in which the bonds were issued. After all bonds have been fully paid with interest, or after there are on deposit in the interest and sinking fund sufficient moneys to pay all future maturities of principal and interest, additional moneys received from admission charges to State Parks shall be deposited to the State Parks Fund, or any successor fund which may be established by the Legislature as a depository for Park revenue earned by said Parks and Wildlife Department, or its said successor.

All bonds issued hereunder shall after approval by the Attorney General, registration by the Comptroller of Public Accounts of the State of Texas, and delivery to the purchasers, be incontestable and shall constitute general obligations of the State of Texas under the Constitution of Texas.

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

Adopted Nov. 11, 1967.

§ 50. Loan or pledge of credit of State

Sec. 50. The Legislature shall have no power to give or to lend, or to authorize the giving or lending, of the credit of the State in aid of, or to any person, association or corporation, whether municipal or other, or to pledge the credit of the State in any manner whatsoever, for the payment of the liabilities, present or prospective, of any individual, association of individuals, municipal or other corporation whatsoever.

§ 50a. State Medical Education Board; State Medical Education Fund; purpose

Sec. 50a. The Legislature shall create a State Medical Education Board to be composed of not more than six (6) members whose qualifications, duties and terms of office shall be prescribed by law. The Legislature shall also establish a State Medical Education Fund and make adequate appropriations therefor to be used by the State Medical Education Board to provide grants, loans or scholarships to students desiring to study medicine and agreeing to practice in the rural areas of this State, upon such terms and conditions as shall be pre-

scribed by law. The term "rural areas" as used in this Section shall be defined by law.

Adopted Nov. 4, 1952.

§ 50b. Student loans

Sec. 50b. (a) The Legislature may provide that the Coordinating Board, Texas College and University System, or its successor or successors, shall have the authority to provide for, issue and sell general obligation bonds of the State of Texas in an amount not to exceed Eighty-five Million Dollars (\$85,000,000). The bonds authorized herein shall be called "Texas College Student Loan Bonds," shall be executed in such form, denominations and upon such terms as may be prescribed by law, provided, however, that the bonds shall not bear more than four per cent (4%) interest per annum; they may be issued in such installments as the Board finds feasible and practical in accomplishing the purposes of this Section.

(b) All moneys received from the sale of such bonds shall be deposited in a fund hereby created in the State Treasury to be known as the Texas Opportunity Plan Fund to be administered by the Coordinating Board, Texas College and University System, or its successor or successors to make loans to students who have been admitted to attend any institution of higher education within the State of Texas, public or private, including Junior Colleges, which are recognized or accredited under terms and conditions prescribed by the Legislature, and to pay interest and principal on such bonds and provide a sinking fund therefor under such conditions as the Legislature may prescribe.

(c) While any of the bonds, or interest on said bonds authorized by this Section is outstanding and unpaid, there is hereby appropriated out of the first moneys coming into the Treasury in each fiscal year, not otherwise appropriated by this Constitution, an amount sufficient to pay the principal and interest on such bonds that mature or become due during such fiscal year, less the amount in the sinking fund at the close of the prior fiscal year.

(d) The Legislature may provide for the investment of moneys available in the Texas Opportunity Plan Fund, and the interest and sinking funds established for the payment of bonds issued by the Coordinating Board, Texas College and University System, or its successor or successors. Income from such investment shall be used for the purposes prescribed by the Legislature.

(e) All bonds issued hereunder shall, after approval by the Attorney General, registration by the Comptroller of Public Accounts of the State of Texas, and delivery to the purchasers, be incontestable and shall constitute general obligations of the State of Texas under this Constitution.

(f) Should the Legislature enact enabling laws in anticipation of the adoption of this Amendment,

such acts shall not be void because of their anticipatory nature.

Adopted Nov. 2, 1965.

§ 50b-1. Additional student loans

Sec. 50b-1. (a) The Legislature may provide that the Coordinating Board, Texas College and University System, or its successor or successors, shall have authority to provide for, issue and sell general obligation bonds of the State of Texas in an amount not to exceed Two Hundred Million Dollars (\$200,000,000) in addition to those heretofore authorized to be issued pursuant to Section 50b of the Constitution. The bonds authorized herein shall be executed in such form, upon such terms and be in such denomination as may be prescribed by law and shall bear interest, and be issued in such installments as shall be prescribed by the Board provided that the maximum net effective interest rate to be borne by such bonds may be fixed by law.

(b) The moneys received from the sale of such bonds shall be deposited to the credit of the Texas Opportunity Plan Fund created by Section 50b of the Constitution and shall otherwise be handled as provided in Section 50b of the Constitution and the laws enacted pursuant thereto.

(c) The said bonds shall be general obligations of the state and shall be payable in the same manner and from the same sources as bonds heretofore authorized pursuant to Section 50b.

(d) All bonds issued hereunder shall, after approval by the Attorney General, registration by the Comptroller of Public Accounts of the State of Texas, and delivery to the purchasers, be incontestable and shall constitute general obligations of the State of Texas under this Constitution.

(e) Should the Legislature enact enabling laws in anticipation of the adoption of this Amendment such acts shall not be void because of their anticipatory nature.

Adopted Aug. 5, 1969.

§ 50c. Farm and ranch real estate loans; guarantee

Sec. 50c. (a) The legislature may provide that the commissioner of agriculture shall have the authority to provide for, issue, and sell general obligation bonds of the State of Texas in an amount not to exceed \$10 million. The bonds shall be called "Farm and Ranch Loan Security Bonds" and shall be executed in such form, denominations, and on such terms as may be prescribed by law. The bonds shall bear interest rates fixed by the Legislature of the State of Texas.

(b) All money received from the sale of Farm and Ranch Loan Security Bonds shall be deposited in a fund hereby created with the State Treasurer to be known as the "Farm and Ranch Loan Security Fund." This fund shall be administered without

further appropriation by the commissioner of agriculture in the manner prescribed by law.

(c) The Farm and Ranch Loan Security Fund shall be used by the commissioner of agriculture under provisions prescribed by the legislature for the purpose of guaranteeing loans used for the purchase of farm and ranch real estate, for acquiring real estate mortgages or deeds of trust on lands purchased with guaranteed loans, and to advance to the borrower a percentage of the principal and interest due on those loans; provided that the commissioner shall require at least six percent interest be paid by the borrower on any advance of principal and interest. The legislature may authorize the commissioner to sell at foreclosure any land acquired in this manner, and proceeds from that sale shall be deposited in the Farm and Ranch Loan Security Fund.

(d) The legislature may provide for the investment of money available in the Farm and Ranch Loan Security Fund and the interest and sinking fund established for the payment of bonds issued by the commissioner of agriculture. Income from the investment shall be used for purposes prescribed by the legislature.

(e) While any of the bonds authorized by this section or any interest on those bonds is outstanding and unpaid, there is hereby appropriated out of the first money coming into the treasury in each fiscal year not otherwise appropriated by this constitution an amount that is sufficient to pay the principal and interest on the bonds that mature or become due during the fiscal year less the amount in the interest and sinking fund at the close of the prior fiscal year.

Adopted Nov. 6, 1979.

§ 51. Grants of public money prohibited; exceptions

Sec. 51. The Legislature shall have no power to make any grant or authorize the making of any grant of public moneys to any individual, association of individuals, municipal or other corporations whatsoever; provided, however, the Legislature may grant aid to indigent and disabled Confederate soldiers and sailors under such regulations and limitations as may be deemed by the Legislature as expedient, and to their widows in indigent circumstances under such regulations and limitations as may be deemed by the Legislature as expedient; provided that the provisions of this Section shall not be construed so as to prevent the grant of aid in cases of public calamity.

Amended Nov. 6, 1894; Nov. 1, 1898; Nov. 8, 1904; Nov. 8, 1910; Nov. 5, 1912; Nov. 4, 1924; Nov. 6, 1928; Nov. 5, 1968.

§ 51-a. Assistance grants and medical care for needy aged, disabled and blind persons and needy dependent children

Sec. 51-a. The Legislature shall have the power, by General Laws, to provide, subject to limitations

herein contained, and such other limitations, restrictions and regulations as may by the Legislature be deemed expedient, for assistance grants to needy dependent children and the caretakers of such children, needy persons who are totally and permanently disabled because of a mental or physical handicap, needy aged persons and needy blind persons.

The Legislature may provide by General Law for medical care, rehabilitation and other similar services for needy persons. The Legislature may prescribe such other eligibility requirements for participation in these programs as it deems appropriate and may make appropriations out of state funds for such purposes. The maximum amount paid out of state funds for assistance grants, to or on behalf of needy dependent children and their caretakers shall not exceed the amount of Eighty Million Dollars (\$80,000,000) during any fiscal year, except that the limit shall be One Hundred Sixty Million Dollars (\$160,000,000) for the two years of the 1982-1983 biennium. For the two years of each subsequent biennium, the maximum amount shall not exceed one percent of the state budget. The Legislature by general statute shall provide for the means for determining the state budget amounts, including state and other funds appropriated by the Legislature, to be used in establishing the biennial limit.

Provided further, that if the limitations and restrictions herein contained are found to be in conflict with the provisions of appropriate federal statutes, as they now are or as they may be amended to the extent that federal matching money is not available to the state for these purposes, then and in that event the Legislature is specifically authorized and empowered to prescribe such limitations and restrictions and enact such laws as may be necessary in order that such federal matching money will be available for assistance and/or medical care for or on behalf of needy persons.

Nothing in this Section shall be construed to amend, modify or repeal Section 31 of Article XVI of this Constitution; provided further, however, that such medical care, services or assistance shall also include the employment of objective or subjective means, without the use of drugs, for the purpose of ascertaining and measuring the powers of vision of the human eye, and fitting lenses or prisms to correct or remedy any defect or abnormal condition of vision. Nothing herein shall be construed to permit optometrists to treat the eyes for any defect whatsoever in any manner nor to administer nor to prescribe any drug or physical treatment whatsoever, unless such optometrist is a regularly licensed physician or surgeon under the laws of this state.

Adopted Aug. 26, 1933. Amended Aug. 25, 1945; Amended Nov. 2, 1954; Nov. 5, 1957; Nov. 6, 1962; Nov. 9, 1963; Nov. 2, 1965; Aug. 5, 1969; Nov. 2, 1982.

§ 51-b. Repealed. Nov. 7, 1978

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

Amendment proposed by S.J.R. No. 21, Acts 1963, 58th Leg., p. 1804, adopted by the voters at election held on Nov. 9, 1963, amended and merged this section and § 51-a of this Article into one section designated § 51-a. See, § 51-a of this Article, ante.

§ 51-c. Aid or compensation to persons improperly fined or imprisoned

Sec. 51-c. The Legislature may grant aid and compensation to any person who has heretofore paid a fine or served a sentence in prison, or who may hereafter pay a fine or serve a sentence in prison, under the laws of this State for an offense for which he or she is not guilty, under such regulations and limitations as the Legislature may deem expedient.

Adopted Nov. 6, 1956.

§ 51-d. Payment of assistance to survivors of law enforcement officers

Sec. 51-d. The Legislature shall have the power, by general law, to provide for the payment of assistance by the State of Texas to the surviving spouse and minor children of officers, employees, and agents, including members of organized volunteer fire departments and members of organized police reserve or auxiliary units with authority to make an arrest, of the state or of any city, county, district, or other political subdivision who, because of the hazardous nature of their duties, suffer death in the course of the performance of those official duties. Should the Legislature enact any enabling laws in anticipation of this amendment, no such law shall be void by reason of its anticipatory nature.

Adopted Nov. 8, 1966. Amended Aug. 5, 1969.

§§ 51-e, 51-f. Repealed. April 22, 1975

§ 51g. Social security coverage of proprietary employees of political subdivisions

Sec. 51g. The Legislature shall have the power to pass such laws as may be necessary to enable the State to enter into agreements with the Federal Government to obtain for proprietary employees of its political subdivisions coverage under the old-age and survivors insurance provisions of Title II of the Federal Social Security Act as amended. The Legislature shall have the power to make appropriations and authorize all obligations necessary to the establishment of such Social Security coverage program.

Adopted Nov. 2, 1954.

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

Sec. 52. (a) Except as otherwise provided by this section, the Legislature shall have no power to authorize any county, city, town or other political corporation or subdivision of the State to lend its credit or to grant public money or thing of value in aid of, or to any individual, association or corporation whatsoever, or to become a stockholder in such corporation, association or company.

(b) Under Legislative provision, any county, any political subdivision of a county, any number of adjoining counties, or any political subdivision of the State, or any defined district now or hereafter to be described and defined within the State of Texas, and which may or may not include, towns, villages or municipal corporations, upon a vote of two-thirds majority of the resident property taxpayers voting thereon who are qualified electors of such district or territory to be affected thereby, in addition to all other debts, may issue bonds or otherwise lend its credit in any amount not to exceed one-fourth of the assessed valuation of the real property of such district or territory, except that the total bonded indebtedness of any city or town shall never exceed the limits imposed by other provisions of this Constitution, and levy and collect taxes to pay the interest thereon and provide a sinking fund for the redemption thereof, as the Legislature may authorize, and in such manner as it may authorize the same, for the following purposes to wit:

(1) The improvement of rivers, creeks, and streams to prevent overflows, and to permit of navigation thereof, or irrigation thereof, or in aid of such purposes.

(2) The construction and maintenance of pools, lakes, reservoirs, dams, canals and waterways for the purposes of irrigation, drainage or navigation, or in aid thereof.

(3) The construction, maintenance and operation of macadamized, graveled or paved roads and turnpikes, or in aid thereof.

(c) Notwithstanding the provisions of Subsection (b) of this Section, bonds may be issued by any county in an amount not to exceed one-fourth of the assessed valuation of the real property in the county, for the construction, maintenance, and operation of macadamized, graveled, or paved roads and turnpikes, or in aid thereof, upon a vote of a majority of the resident property taxpayers voting thereon who are qualified electors of the county, and without the necessity of further or amendatory legislation. The county may levy and collect taxes to pay the interest on the bonds as it becomes due and to provide a sinking fund for redemption of the bonds.

(d) Any defined district created under this section that is authorized to issue bonds or otherwise lend its credit for the purposes stated in Subdivisions (1) and (2) of Subsection (b) of this section may engage

in fire-fighting activities and may issue bonds or otherwise lend its credit for fire-fighting purposes as provided by law and this constitution.

Amended Nov. 8, 1904, proclamation Dec. 29, 1904; Nov. 3, 1970; Nov. 7, 1978.

§ 52-a. Blank

§ 52-b. Loan of state's credit or grant of public money for toll road purposes

Sec. 52-b. The Legislature shall have no power or authority to in any manner lend the credit of the State or grant any public money to, or assume any indebtedness, present or future, bonded or otherwise, of any individual, person, firm, partnership, association, corporation, public corporation, public agency, or political subdivision of the State, or anyone else, which is now or hereafter authorized to construct, maintain or operate toll roads and turnpikes within this State.

Adopted Nov. 2, 1954.

§ 52-c. Blank

§ 52d. County or road district tax for road purposes

Sec. 52d. Upon the vote of a majority of the resident qualified electors owning rendered taxable property therein so authorizing, a county or road district may collect an annual tax for a period not exceeding five (5) years to create a fund for constructing lasting and permanent roads and bridges or both. No contract involving the expenditure of any of such fund shall be valid unless, when it is made, money shall be on hand in such fund.

At such election, the Commissioners' Court shall submit for adoption a road plan and designate the amount of special tax to be levied; the number of years said tax is to be levied; the location, description, and character of the roads and bridges; and the estimated cost thereof. The funds raised by such taxes shall not be used for purposes other than those specified in the plan submitted to the voters. Elections may be held from time to time to extend or discontinue said plan or to increase or diminish said tax. The Legislature shall enact laws prescribing the procedure hereunder.

The provisions of this section shall apply only to Harris County and road districts therein.

Adopted Aug. 23, 1937.

§ 52e. Payment of medical expenses of law enforcement officials [see, also, § 52e of this Article, post]

Sec. 52e. Each county in the State of Texas is hereby authorized to pay all medical expenses, all doctor bills and all hospital bills for Sheriffs, Deputy Sheriffs, Constables, Deputy Constables and other county and precinct law enforcement officials who are injured in the course of their official duties; providing that while said Sheriff, Deputy Sheriff, Constable, Deputy Constable or other county or

precinct law enforcement official is hospitalized or incapacitated that the county shall continue to pay his maximum salary; providing, however, that said payment of salary shall cease on the expiration of the term of office to which such official was elected or appointed. Provided, however, that no provision contained herein shall be construed to amend, modify, repeal or nullify Article 16, Section 31, of the Constitution of the State of Texas.

Adopted Nov. 11, 1967.

§ 52e. Dallas County bond issues for roads and turnpikes [see, also, § 52e of this Article, ante]

Sec. 52e. Bonds to be issued by Dallas County under Section 52 of Article III of this Constitution for the construction, maintenance and operation of macadamized, graveled or paved roads and turnpikes, or in aid thereof, may, without the necessity of further or amendatory legislation, be issued upon a vote of a majority of the resident property taxpayers voting thereon who are qualified electors of said county, and bonds heretofore or hereafter issued under Subsections (a) and (b) of said Section 52 shall not be included in determining the debt limit prescribed in said Section.

Adopted Nov. 5, 1968.

§ 52f. Private roads; construction and maintenance by counties of 5,000 or less

Sec. 52f. A county with a population of 5,000 or less, according to the most recent federal census, may construct and maintain private roads if it imposes a reasonable charge for the work. The Legislature by general law may limit this authority. Revenue received from private road work may be used only for the construction, including right-of-way acquisition, or maintenance of public roads.

Adopted Nov. 4, 1980.

§ 53. County or municipal authorities; extra compensation; unauthorized claims

Sec. 53. The Legislature shall have no power to grant, or to authorize any county or municipal authority to grant, any extra compensation, fee or allowance to a public officer, agent, servant or contractor, after service has been rendered, or a contract has been entered into, and performed in whole or in part; nor pay, nor authorize the payment of, any claim created against any county or municipality of the State, under any agreement or contract, made without authority of law.

§ 54. Liens on railroad; release, alienation or change

Sec. 54. The Legislature shall have no power to release or alienate any lien held by the State upon any railroad, or in any wise change the tenor or meaning, or pass any act explanatory thereof; but the same shall be enforced in accordance with the original terms upon which it was acquired.

§ 55. Release or extinguishment of indebtedness to state, county, subdivision or municipal corporation

Sec. 55. The Legislature shall have no power to release or extinguish, or to authorize the releasing or extinguishing, in whole or in part, the indebtedness, liability or obligation of any corporation or individual, to this State or to any county or defined subdivision thereof, or other municipal corporation therein, except delinquent taxes which have been due for a period of at least ten years.

Amended Nov. 8, 1932.

§ 56. Local and special laws

Sec. 56. The Legislature shall not, except as otherwise provided in this Constitution, pass any local or special law, authorizing:

- The creation, extension or impairing of liens;
- Regulating the affairs of counties, cities, towns, wards or school districts;
- Changing the names of persons or places;
- Changing the venue in civil or criminal cases;
- Authorizing the laying out, opening, altering or maintaining of roads, highways, streets or alleys;
- Relating to ferries or bridges, or incorporating ferry or bridge companies, except for the erection of bridges crossing streams which form boundaries between this and any other State;
- Vacating roads, town plats, streets or alleys;
- Relating to cemeteries, grave-yards or public grounds not of the State;
- Authorizing the adoption or legitimation of children;
- Locating or changing county seats;
- Incorporating cities, towns or villages, or changing their charters;
- For the opening and conducting of elections, or fixing or changing the places of voting;
- Granting divorces;
- Creating offices, or prescribing the powers and duties of officers, in counties, cities, towns, election or school districts;
- Changing the law of descent or succession;
- Regulating the practice or jurisdiction of, or changing the rules of evidence in any judicial proceeding or inquiry before courts, justices of the peace, sheriffs, commissioners, arbitrators or other tribunals, or providing or changing methods for the collection of debts, or the enforcing of judgments, or prescribing the effect of judicial sales of real estate;
- Regulating the fees, or extending the powers and duties of aldermen, justices of the peace, magistrates or constables;

Regulating the management of public schools, the building or repairing of school houses, and the raising of money for such purposes;

Fixing the rate of interest;

Affecting the estates of minors, or persons under disability;

Remitting fines, penalties and forfeitures, and refunding moneys legally paid into the treasury;

Exempting property from taxation;

Regulating labor, trade, mining and manufacturing;

Declaring any named person of age;

Extending the time for the assessment or collection of taxes, or otherwise relieving any assessor or collector of taxes from the due performance of his official duties, or his securities from liability;

Giving effect to informal or invalid wills or deeds;

Summoning or empanelling grand or petit juries;

For limitation of civil or criminal actions;

For incorporating railroads or other works of internal improvements;

And in all other cases where a general law can be made applicable, no local or special law shall be enacted; provided, that nothing herein contained shall be construed to prohibit the Legislature from passing special laws for the preservation of the game and fish of this State in certain localities.

§ 57. Notice of intention to apply for local or special laws

Sec. 57. No local or special law shall be passed, unless notice of the intention to apply therefor shall have been published in the locality where the matter or thing to be affected may be situated, which notice shall state the substance of the contemplated law, and shall be published at least thirty days prior to the introduction into the Legislature of such bill and in the manner to be provided by law. The evidence of such notice having been published, shall be exhibited in the Legislature, before such act shall be passed.

§ 58. Seat of government

Sec. 58. The Legislature shall hold its sessions at the City of Austin, which is hereby declared to be the seat of government.

§ 59. Workmen's compensation insurance for state employees

Sec. 59. The Legislature shall have power to pass such laws as may be necessary to provide for Workmen's Compensation Insurance for such State employees, as in its judgment is necessary or required; and to provide for the payment of all costs, charges, and premiums on such policies of insur-

ance; providing the State shall never be required to purchase insurance for any employee.

Adopted Nov. 3, 1936.

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

Sec. 60. The Legislature shall have the power to pass such laws as may be necessary to enable all counties and other political subdivisions of this State to provide Workman's Compensation Insurance, including the right to provide its own insurance risk, for all employees of the county or political subdivision as in its judgment is necessary or required; and the Legislature shall provide suitable laws for the administration of such insurance in the counties or political subdivisions of this State and for the payment of the costs, charges and premiums on such policies of insurance and the benefits to be paid thereunder.

Adopted Nov. 2, 1948. Amended Nov. 6, 1962.

§ 61. Workmen's compensation insurance for municipal employees [see, also, § 61 of this Article, post]

Sec. 61. The Legislature shall have the power to enact laws to enable cities, towns, and villages of this State to provide Workmen's Compensation Insurance, including the right to provide their own insurance risk for all employees; and the Legislature shall provide suitable laws for the administration of such insurance in the said municipalities and for payment of the costs, charges, and premiums on policies of insurance and the benefits to be paid thereunder.

Adopted Nov. 4, 1952.

§ 61. Minimum salaries [see, also, § 61 of this Article, ante]

Sec. 61. The Legislature shall not fix the salary of the Governor, Attorney General, Comptroller of Public Accounts, the Treasurer, Commissioner of the General Land Office or Secretary of State at a sum less than that fixed for such officials in the Constitution on January 1, 1953.

Adopted Nov. 2, 1954.

§ 62. Continuity of state and local governmental operations

Sec. 62. (a) The Legislature, in order to insure continuity of state and local governmental operations in periods of emergency resulting from disasters caused by enemy attack, shall have the power and the immediate duty to provide for prompt and temporary succession to the powers and duties of public offices, of whatever nature and whether filled by election or appointment, the incumbents of which may become unavailable for carrying on the powers and duties of such offices. Provided, however, that Article I of the Constitution of Texas, known as the "Bill of Rights" shall not be in any

manner affected, amended, impaired, suspended, repealed or suspended hereby.

(b) When such a period of emergency or the immediate threat of enemy attack exists, the Legislature may suspend procedural rules imposed by this Constitution that relate to:

- (1) the order of business of the Legislature;
- (2) the percentage of each house of the Legislature necessary to constitute a quorum;
- (3) the requirement that a bill must be read on three days in each house before it has the force of law;
- (4) the requirement that a bill must be referred to and reported from committee before its consideration; and
- (5) the date on which laws passed by the Legislature take effect.

(c) When such a period of emergency or the immediate threat of enemy attack exists, the Governor, after consulting with the Lieutenant Governor and the Speaker of the House of Representatives, may suspend the constitutional requirement that the Legislature hold its sessions in Austin, the seat of government. When this requirement has been suspended, the Governor shall determine a place other than Austin at which the Legislature will hold its sessions during such period of emergency or immediate threat of enemy attack. The Governor shall notify the Lieutenant Governor and the Speaker of the House of Representatives of the place and time at which the Legislature will meet. The Governor may take security precautions, consistent with the state of emergency, in determining the extent to which that information may be released.

(d) To suspend the constitutional rules specified by Subsection (b) of this section, the Governor must issue a proclamation and the House of Representatives and the Senate must concur in the proclamation as provided by this section.

(e) The Governor's proclamation must declare that a period of emergency resulting from disasters caused by enemy attack exists, or that the immediate threat of enemy attack exists, and that suspension of constitutional rules relating to legislative procedure is necessary to assure continuity of state government. The proclamation must specify the period, not to exceed two years, during which the constitutional rules specified by Subsection (b) of this section are suspended.

(f) The House of Representatives and the Senate, by concurrent resolution approved by the majority of the members present, must concur in the Governor's proclamation. A resolution of the House of Representatives and the Senate concurring in the Governor's proclamation suspends the constitutional rules specified by Subsection (b) of this section for the period of time specified by the Governor's proclamation.

(g) The constitutional rules specified by Subsection (b) of this section may not be suspended for more than two years under a single proclamation. A suspension may be renewed, however, if the Governor issues another proclamation as provided by Subsection (e) of this section and the House of Representatives and the Senate, by concurrent resolution, concur in that proclamation.

Adopted Nov. 6, 1962. Amended Nov. 8, 1983.

§ 63. Consolidation of governmental functions of political subdivisions in counties of 1,200,000 or more

Sec. 63. (1) The Legislature may by statute provide for the consolidation of some functions of government of any one or more political subdivisions comprising or located within any county in this State having one million, two hundred thousand (1,200,000) or more inhabitants. Any such statute shall require an election to be held within the political subdivisions affected thereby with approval by a majority of the voters in each of these political subdivisions, under such terms and conditions as the Legislature may require.

(2) The county government, or any political subdivision(s) comprising or located therein, may contract one with another for the performance of governmental functions required or authorized by this Constitution or the Laws of this State, under such terms and conditions as the Legislature may prescribe. The term "governmental functions," as it relates to counties, includes all duties, activities and operations of state-wide importance in which the county acts for the State, as well as of local importance, whether required or authorized by this Constitution or the Laws of this State.

Adopted Nov. 8, 1966.

§ 64. Consolidation of governmental offices and functions in counties and political subdivisions

Sec. 64. (a) The Legislature may by special statute provide for consolidation of governmental offices and functions of government of any one or more political subdivisions comprising or located within any county. Any such statute shall require an election to be held within the political subdivisions affected thereby with approval by a majority of the voters in each of these subdivisions, under such terms and conditions as the Legislature may require.

(b) The county government, or any political subdivision(s) comprising or located therein, may contract one with another for the performance of governmental functions required or authorized by this Constitution or the Laws of this State, under such terms and conditions as the Legislature may prescribe. No person acting under a contract made pursuant to this Subsection (b) shall be deemed to hold more than one office of honor, trust or profit or more than one civil office of emolument. The

term "governmental functions," as it relates to counties, includes all duties, activities and operations of statewide importance in which the county acts for the State, as well as of local importance, whether required or authorized by this Constitution or the Laws of this State.

Adopted Nov. 5, 1968. Amended Nov. 3, 1970.

§ 65. Public bonds; interest rate; conflicting rates repealed

Sec. 65. (a) Wherever the Constitution authorizes an agency, instrumentality, or subdivision of the State to issue bonds and specifies the maximum rate of interest which may be paid on such bonds issued pursuant to such constitutional authority, such bonds may bear interest at rates not to exceed a weighted average annual interest rate of 12% unless otherwise provided by Subsection (b) of this section. All Constitutional provisions specifically setting rates in conflict with this provision are hereby repealed.

(b) Bonds issued by the Veterans' Land Board after the effective date of this subsection bear interest at a rate or rates determined by the board, but the rate or rates may not exceed a net effective interest rate of 10% per year unless otherwise provided by law. A statute that is in effect on the effective date of this subsection and that sets as a maximum interest rate payable on bonds issued by the Veterans' Land Board a rate different from the maximum rate provided by this subsection is ineffective unless reenacted by the legislature after that date.

Adopted Nov. 7, 1972. Amended Nov. 3, 1981; Nov. 2, 1982.

**ARTICLE IV
EXECUTIVE DEPARTMENT**

- Sec.
1. Officers constituting the Executive Department.
 2. Election of officers of Executive Department.
 3. Returns of election; declaration of election; tie votes; contests.
 - 3a. Death, disability or failure to qualify of person receiving highest vote.
 4. Installation of Governor; term; eligibility.
 5. Compensation of Governor.
 6. Holding other offices; practice of profession; other salary reward or compensation.
 7. Commander-in-Chief of military forces; calling forth militia.
 8. Convening Legislature on extraordinary occasions.
 9. Governor's message and recommendations; accounting for public money; estimates of money required.
 10. Execution of laws; conduct of business with other states and United States.
 11. Board of Pardons and Paroles; parole laws; reprieves, commutations and pardons; remission of fines and forfeitures.
 - 11A. Suspension of sentence and probation.
 12. Vacancies in State or district offices.
 13. Residence of Governor.

- Sec.
14. Approval or disapproval of bills; return and reconsideration; failure to return; disapproval of items of appropriation.
 15. Approval or disapproval of orders, resolutions or votes.
 16. Lieutenant Governor.
 17. Death, resignation, refusal to serve, removal, inability to serve, impeachment or absence; compensation.
 18. Restrictions and inhibitions.
 19. Seal of State.
 20. Commissions.
 21. Secretary of State.
 22. Attorney General.
 23. Comptroller of Public Accounts; Treasurer; Commissioner of General Land Office; elected statutory State officers; term; salary, fees, costs and perquisites.
 24. Accounts and reports; information to, and inspection by, Governor; perjury.
 25. Custodians of public funds; breaches of trust and duty.
 26. Notaries Public.

§ 1. Officers constituting the Executive Department

Sec. 1. The Executive Department of the State shall consist of a Governor, who shall be the Chief Executive Officer of the State, a Lieutenant Governor, Secretary of State, Comptroller of Public Accounts, Treasurer, Commissioner of the General Land Office, and Attorney General.

§ 2. Election of officers of Executive Department

Sec. 2. All the above officers of the Executive Department (except Secretary of State) shall be elected by the qualified voters of the State at the time and places of election for members of the Legislature.

§ 3. Returns of election; declaration of election; tie votes; contests

Sec. 3. The returns of every election for said executive officers, until otherwise provided by law, shall be made out, sealed up, and transmitted by the returning officers prescribed by law, to the seat of Government, directed to the Secretary of State, who shall deliver the same to the Speaker of the House of Representatives, as soon as the Speaker shall be chosen, and the said Speaker shall, during the first week of the session of the Legislature, open and publish them in the presence of both Houses of the Legislature. The person, voted for at said election, having the highest number of votes for each of said offices respectively, and being constitutionally eligible, shall be declared by the Speaker, under sanction of the Legislature, to be elected to said office. But, if two or more persons shall have the highest and an equal number of votes for either of said offices, one of them shall be immediately chosen to such office by joint vote of both Houses of the Legislature. Contested elections for either of said offices,

shall be determined by both Houses of the Legislature in joint session.

§ 3a. Death, disability or failure to qualify of person receiving highest vote

Sec. 3a. If, at the time the Legislature shall canvass the election returns for the offices of Governor and Lieutenant Governor, the person receiving the highest number of votes for the office of Governor, as declared by the Speaker, has died, then the person having the highest number of votes for the office of Lieutenant Governor shall act as Governor until after the next general election. It is further provided that in the event the person with the highest number of votes for the office of Governor, as declared by the Speaker, shall become disabled, or fail to qualify, then the Lieutenant Governor shall act as Governor until a person has qualified for the office of Governor, or until after the next general election. Any succession to the Governorship not otherwise provided for in this Constitution, may be provided for by law; provided, however, that any person succeeding to the office of Governor shall be qualified as otherwise provided in this Constitution, and shall, during the entire term to which he may succeed, be under all the restrictions and inhibitions imposed in this Constitution on the Governor.

Adopted Nov. 2, 1948.

§ 4. Installation of Governor; term; eligibility

Sec. 4. The Governor elected at the general election in 1974, and thereafter, shall be installed on the first Tuesday after the organization of the Legislature, or as soon thereafter as practicable, and shall hold his office for the term of four years, or until his successor shall be duly installed. He shall be at least thirty years of age, a citizen of the United States, and shall have resided in this State at least five years immediately preceding his election.

Amended Nov. 7, 1972.

§ 5. Compensation of Governor

Sec. 5. The Governor shall, at stated times, receive as compensation for his services an annual salary in an amount to be fixed by the Legislature, and shall have the use and occupation of the Governor's Mansion, fixtures and furniture.

Amended Nov. 3, 1936; Nov. 2, 1954.

§ 6. Holding other offices; practice of profession; other salary reward or compensation

Sec. 6. During the time he holds the office of Governor, he shall not hold any other office: civil, military or corporate; nor shall he practice any profession, and receive compensation, reward, fee, or the promise thereof for the same; nor receive any salary, reward or compensation or the promise thereof from any person or corporation, for any service rendered or performed during the time he is

Governor, or to be thereafter rendered or performed.

§ 7. Commander-in-Chief of military forces; calling forth militia

Sec. 7. He shall be Commander-in-Chief of the military forces of the State, except when they are called into actual service of the United States. He shall have power to call forth the militia to execute the laws of the State, to suppress insurrections, repel invasions, and protect the frontier from hostile incursions by Indians or other predatory bands.

§ 8. Convening Legislature on extraordinary occasions

Sec. 8. The Governor may, on extraordinary occasions, convene the Legislature at the seat of Government, or at a different place, in case that should be in possession of the public enemy or in case of the prevalence of disease thereat. His proclamation therefor shall state specifically the purpose for which the Legislature is convened.

§ 9. Governor's message and recommendations; accounting for public money; estimates of money required

Sec. 9. The Governor shall, at the commencement of each session of the Legislature, and at the close of his term of office, give to the Legislature information, by message, of the condition of the State; and he shall recommend to the Legislature such measures as he may deem expedient. He shall account to the Legislature for all public moneys received and paid out by him, from any funds subject to his order, with vouchers; and shall accompany his message with a statement of the same. And at the commencement of each regular session, he shall present estimates of the amount of money required to be raised by taxation for all purposes.

§ 10. Execution of laws; conduct of business with other states and United States

Sec. 10. He shall cause the laws to be faithfully executed and shall conduct, in person, or in such manner as shall be prescribed by law, all intercourse and business of the State with other States and with the United States.

§ 11. Board of Pardons and Paroles; parole laws; reprieves, commutations and pardons; remission of fines and forfeitures

Sec. 11. The Legislature shall by law establish a Board of Pardons and Paroles and shall require it to keep record of its actions and the reasons for its actions. The Legislature shall have authority to enact parole laws.

In all criminal cases, except treason and impeachment, the Governor shall have power, after conviction, on the written signed recommendation and advice of the Board of Pardons and Paroles, or a majority thereof, to grant reprieves and commutations of punishment and pardons; and under such

rules as the Legislature may prescribe, and upon the written recommendation and advice of a majority of the Board of Pardons and Paroles, he shall have the power to remit fines and forfeitures. The Governor shall have the power to grant one reprieve in any capital case for a period not to exceed thirty (30) days; and he shall have power to revoke conditional pardons. With the advice and consent of the Legislature, he may grant reprieves, commutations of punishment and pardons in cases of treason. Amended Nov. 3, 1936; Nov. 8, 1983.

§ 11A. Suspension of sentence and probation

Sec. 11A. The Courts of the State of Texas having original jurisdiction of criminal actions shall have the power, after conviction, to suspend the imposition or execution of sentence and to place the defendant upon probation and to reimpose such sentence, under such conditions as the Legislature may prescribe.

Adopted Aug. 24, 1935.

§ 12. Vacancies in State or district offices

Sec. 12. All vacancies in State or district offices, except members of the Legislature, shall be filled unless otherwise provided by law, by appointment of the Governor, which appointment, if made during its session, shall be with the advice and consent of two-thirds of the Senate present. If made during the recess of the Senate, the said appointee, or some other person to fill such vacancy, shall be nominated to the Senate during the first ten days of its session. If rejected, said office shall immediately become vacant, and the Governor shall, without delay, make further nominations, until a confirmation takes place. But should there be no confirmation during the session of the Senate, the Governor shall not thereafter appoint any person to fill such vacancy who has been rejected by the Senate; but may appoint some other person to fill the vacancy until the next session of the Senate or until the regular election to said office, should it sooner occur. Appointments to vacancies in offices elective by the people shall only continue until the first general election thereafter.

§ 13. Residence of Governor

Sec. 13. During the session of the Legislature the Governor shall reside where its sessions are held, and at all other times at the seat of Government, except when by act of the Legislature, he may be required or authorized to reside elsewhere.

§ 14. Approval or disapproval of bills; return and reconsideration; failure to return; disapproval of items of appropriation

Sec. 14. Every bill which shall have passed both Houses of the Legislature shall be presented to the Governor for his approval. If he approve he shall sign it; but if he disapprove it, he shall return it, with his objections, to the House in which it originated, which House shall enter the objections at

large upon its journal, and proceed to reconsider it. If after such reconsideration, two-thirds of the members present agree to pass the bill, it shall be sent, with the objections, to the other House, by which likewise it shall be reconsidered; and, if approved by two-thirds of the members of that House, it shall become a law; but in such cases the votes of both Houses shall be determined by yeas and nays, and the names of the members voting for and against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the Governor with his objections within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Legislature, by its adjournment, prevent its return, in which case it shall be a law, unless he shall file the same, with his objections, in the office of the Secretary of State and give notice thereof by public proclamation within twenty days after such adjournment. If any bill presented to the Governor contains several items of appropriation he may object to one or more of such items, and approve the other portion of the bill. In such case he shall append to the bill, at the time of signing it, a statement of the items to which he objects, and no item so objected to shall take effect. If the Legislature be in session, he shall transmit to the House in which the bill originated a copy of such statement and the items objected to shall be separately considered. If, on reconsideration, one or more of such items be approved by two-thirds of the members present of each House, the same shall be part of the law, notwithstanding the objections of the Governor. If any such bill, containing several items of appropriation, not having been presented to the Governor ten days (Sundays excepted) prior to adjournment, be in the hands of the Governor at the time of adjournment, he shall have twenty days from such adjournment within which to file objections to any items thereof and make proclamation of the same, and such item or items shall not take effect.

§ 15. Approval or disapproval of orders, resolutions or votes

Sec. 15. Every order, resolution or vote to which the concurrence of both Houses of the Legislature may be necessary, except on questions of adjournment, shall be presented to the Governor, and, before it shall take effect, shall be approved by him; or, being disapproved, shall be repassed by both Houses, and all the rules, provisions and limitations shall apply thereto as prescribed in the last preceding section in the case of a bill.

§ 16. Lieutenant Governor

Sec. 16. There shall also be a Lieutenant Governor, who shall be chosen at every election for Governor by the same electors, in the same manner, continue in office for the same time, and possess the same qualifications. The electors shall distinguish for whom they vote as Governor and for whom as Lieutenant Governor. The Lieutenant Governor,

shall by virtue of his office, be President of the Senate, and shall have, when in Committee of the Whole, a right to debate and vote on all questions; and when the Senate is equally divided to give the casting vote. In case of the death, resignation, removal from office, inability or refusal of the Governor to serve, or of his impeachment or absence from the State, the Lieutenant Governor shall exercise the powers and authority appertaining to the office of Governor until another be chosen at the periodical election, and be duly qualified; or until the Governor impeached, absent or disabled, shall be acquitted, return, or his disability be removed.

§ 17. Death, resignation, refusal to serve, removal, inability to serve, impeachment or absence; compensation

Sec. 17. If, during the vacancy in the office of Governor, the Lieutenant Governor should die, resign, refuse to serve, or be removed from office, or be unable to serve; or if he shall be impeached or absent from the State, the President of the Senate, for the time being, shall, in like manner, administer the Government until he shall be superseded by a Governor or Lieutenant Governor. The Lieutenant Governor shall, while he acts as President of the Senate, receive for his services the same compensation and mileage which shall be allowed to the members of the Senate, and no more; and during the time he administers the Government, as Governor, he shall receive in like manner the same compensation which the Governor would have received had he been employed in the duties of his office, and no more. The President, for the time being, of the Senate, shall, during the time he administers the Government, receive in like manner the same compensation, which the Governor would have received had he been employed in the duties of his office.

§ 18. Restrictions and inhibitions

Sec. 18. The Lieutenant Governor or President of the Senate succeeding to the office of Governor, shall, during the entire term to which he may succeed, be under all the restrictions and inhibitions imposed in this Constitution on the Governor.

§ 19. Seal of State

Sec. 19. There shall be a Seal of the State which shall be kept by the Secretary of State, and used by him officially under the direction of the Governor. The Seal of the State shall be a star of five points encircled by olive and live oak branches, and the words "The State of Texas."

§ 20. Commissions

Sec. 20. All commissions shall be in the name and by the authority of the State of Texas, sealed with the State Seal, signed by the Governor and attested by the Secretary of State.

§ 21. Secretary of State

Sec. 21. There shall be a Secretary of State, who shall be appointed by the Governor, by and with the advice and consent of the Senate, and who shall continue in office during the term of service of the Governor. He shall authenticate the publication of the laws, and keep a fair register of all official acts and proceedings of the Governor, and shall, when required, lay the same and all papers, minutes and vouchers relative thereto, before the Legislature, or either House thereof, and shall perform such other duties as may be required of him by law. He shall receive for his services an annual salary in an amount to be fixed by the Legislature.

Amended Nov. 3, 1936; Nov. 2, 1954.

§ 22. Attorney General

Sec. 22. The Attorney General elected at the general election in 1974, and thereafter, shall hold office for four years and until his successor is duly qualified. He shall represent the State in all suits and pleas in the Supreme Court of the State in which the State may be a party, and shall especially inquire into the charter rights of all private corporations, and from time to time, in the name of the State, take such action in the courts as may be proper and necessary to prevent any private corporation from exercising any power or demanding or collecting any species of taxes, tolls, freight or wharfage not authorized by law. He shall, whenever sufficient cause exists, seek a judicial forfeiture of such charters, unless otherwise expressly directed by law, and give legal advice in writing to the Governor and other executive officers, when requested by them, and perform such other duties as may be required by law. He shall reside at the seat of government during his continuance in office. He shall receive for his services an annual salary in an amount to be fixed by the Legislature.

Amended Nov. 3, 1936; Nov. 2, 1954; Nov. 7, 1972.

§ 23. Comptroller of Public Accounts; Treasurer; Commissioner of General Land Office; elected statutory State officers; term; salary, fees, costs and perquisites

Sec. 23. The Comptroller of Public Accounts, the Treasurer, the Commissioner of the General Land Office, and any statutory State officer who is elected by the electorate of Texas at large, unless a term of office is otherwise specifically provided in this Constitution, shall each hold office for the term of four years and until his successor is qualified. The four-year term applies to these officers who are elected at the general election in 1974 or thereafter. Each shall receive an annual salary in an amount to be fixed by the Legislature; reside at the Capital of the State during his continuance in office, and perform such duties as are or may be required by law. They and the Secretary of State shall not receive to their own use any fees, costs or perquisites of office. All fees that may be payable by law for any service performed by any officer specified in this

section or in his office, shall be paid, when received, into the State Treasury.

Amended Nov. 3, 1936; Nov. 2, 1954; Nov. 7, 1972.

§ 24. Accounts and reports; information to, and inspection by, Governor; perjury

Sec. 24. An account shall be kept by the officers of the Executive Department, and by all officers and managers of State institutions, of all moneys and choses in action received and disbursed or otherwise disposed of by them, severally, from all sources, and for every service performed; and a semi-annual report thereof shall be made to the Governor under oath. The Governor may, at any time, require information in writing from any and all of said officers or managers, upon any subject relating to the duties, condition, management and expenses of their respective offices and institutions, which information shall be required by the Governor under oath, and the Governor may also inspect their books, accounts, vouchers and public funds; and any officer or manager who, at any time, shall wilfully make a false report or give false information, shall be guilty of perjury, and so adjudged, and punished accordingly, and removed from office.

§ 25. Custodians of public funds; breaches of trust and duty

Sec. 25. The Legislature shall pass efficient laws facilitating the investigation of breaches of trust and duty by all custodians of public funds and providing for their suspension from office on reasonable cause shown, and for the appointment of temporary incumbents of their offices during such suspension.

§ 26. Notaries Public

Sec. 26. (a) The Secretary of State shall appoint a convenient number of Notaries Public for the state who shall perform such duties as now are or may be prescribed by law. The qualifications of Notaries Public shall be prescribed by law.

(b) The terms of office of Notaries Public shall be not less than two years nor more than four years as provided by law.

Amended Nov. 5, 1940; Nov. 6, 1979, eff. Jan. 1, 1980.

**ARTICLE V
JUDICIAL DEPARTMENT**

Sec.

1. Judicial power; courts in which vested.
- 1-a. Retirement, censure, removal and compensation of justices and judges; State Commission on Judicial Conduct; procedure.
2. Supreme Court; Justices; sections; eligibility; election; vacancies.
3. Jurisdiction of Supreme Court; writs; clerk.
- 3a. Sessions of Court.
- 3-b. Appeal from order granting or denying Injunction.
4. Court of Criminal Appeals; judges.
5. Jurisdiction of Court of Criminal Appeals; terms of court; clerk.

WTSC Civil Statutes—2

Sec.

6. Courts of Appeals; transfer of causes; terms of Justices.
7. Judicial districts; district judges; terms or sessions; absence, disability or disqualification of Judge.
8. Jurisdiction of District Court.
9. Clerk of District Court.
10. Trial by jury.
11. Disqualification of judges; exchange of districts; holding court for other judges.
12. Judges to be conservators of the peace; style of writs and process; prosecutions in name of state; conclusion.
13. Number of grand and petit jurors; number concurring.
14. Judicial Districts and time of holding court fixed by ordinance.
15. County Court; County Judge.
16. County Courts; jurisdiction; appeals; disqualification of judge.
- 16a. Judges of statutory courts with probate jurisdiction; assignment.
17. Terms of County Court; prosecutions; juries.
18. Division of counties into precincts; election of constable and justice of the peace; county commissioners and county commissioners court.
19. Justices of the peace; jurisdiction; appeals; ex officio notaries public; times and places of holding court.
20. County Clerk.
21. County Attorneys; District Attorneys.
22. Changing jurisdiction of County Courts.
23. Sheriffs.
24. Removal of county officers.
25. Rules of court.
26. Criminal cases; no appeal by State.
27. Transfer of cases pending at adoption of Constitution.
28. Vacancies in judicial offices.
29. County Court; terms of court; probate business; commencement of prosecutions; jury.
30. Judges of Courts of county-wide jurisdiction; Criminal District Attorneys.

§ 1. Judicial power; courts in which vested

Sec. 1. The judicial power of this State shall be vested in one Supreme Court, in one Court of Criminal Appeals, in Courts of Appeals, in District Courts, in County Courts, in Commissioners Courts, in Courts of Justices of the Peace, and in such other courts as may be provided by law.

The Legislature may establish such other courts as it may deem necessary and prescribe the jurisdiction and organization thereof, and may conform the jurisdiction of the district and other inferior courts thereto.

Amended Aug. 11, 1891, proclamation Sept. 22, 1891; Nov. 8, 1977; Nov. 4, 1980, eff. Sept. 1, 1981.

§ 1-a. Retirement, censure, removal and compensation of justices and judges; State Commission on Judicial Conduct; procedure

Sec. 1-a. (1) Subject to the further provisions of this Section, the Legislature shall provide for the retirement and compensation of Justices and Judges

of the Appellate Courts and District and Criminal District Courts on account of length of service, age and disability, and for their reassignment to active duty where and when needed. The office of every such Justice and Judge shall become vacant when the incumbent reaches the age of seventy-five (75) years or such earlier age, not less than seventy (70) years, as the Legislature may prescribe; but, in the case of an incumbent whose term of office includes the effective date of this Amendment, this provision shall not prevent him from serving the remainder of said term nor be applicable to him before his period or periods of judicial service shall have reached a total of ten (10) years.

(2) The name of the State Judicial Qualifications Commission is changed to the State Commission on Judicial Conduct. The Commission consists of eleven (11) members, to wit: (i) two (2) Justices of Courts of Civil Appeals; (ii) two (2) District Judges; (iii) two (2) members of the State Bar, who have respectively practiced as such for over ten (10) consecutive years next preceding their selection; (iii) four (4) citizens, at least thirty (30) years of age, not licensed to practice law nor holding any salaried public office or employment; and (v) one (1) Justice of the Peace; provided that no person shall be or remain a member of the Commission, who does not maintain physical residence within this State, or who resides in, or holds a judgeship within or for, the same Supreme Judicial District as another member of the Commission, or who shall have ceased to retain the qualifications above specified for his respective class of membership, except that the Justice of the Peace shall be selected at large without regard to whether he resides or holds a judgeship in the same Supreme Judicial District as another member of the Commission. Commissioners of classes (i) and (ii) above shall be chosen by the Supreme Court with advice and consent of the Senate, those of class (iii) by the Board of Directors of the State Bar under regulations to be prescribed by the Supreme Court with advice and consent of the Senate, those of class (iii) by appointment of the Governor with advice and consent of the Senate, and the commissioner of class (v) by appointment of the Supreme Court from a list of five (5) names submitted by the executive committee of the Justice of the Peace and Constables Association of Texas, with the advice and consent of the Senate. The initial term of the commissioner of class (v) and the fourth commissioner of class (iii) added by this amendment terminates on November 19, 1979. Each person holding office as a member of the Commission on the effective date of this amendment continues to hold the office for the term for which he was appointed.

(3) The regular term of office of Commissioners shall be six (6) years; but the initial members of each of classes (i), (ii) and (iii) shall respectively be chosen for terms of four (4) and six (6) years, and the initial members of class (iii) for respective terms of two (2), four (4) and six (6) years. Interim

vacancies shall be filled in the same manner as vacancies due to expiration of a full term, but only for the unexpired portion of the term in question. Commissioners may succeed themselves in office only if having served less than three (3) consecutive years.

(4) Commissioners shall receive no compensation for their services as such. The Legislature shall provide for the payment of the necessary expense for the operation of the Commission.

(5) The Commission may hold its meetings, hearings and other proceedings at such times and places as it shall determine but shall meet at Austin at least once each year. It shall annually select one of its members as Chairman. A quorum shall consist of six (6) members. Proceedings shall be by majority vote of those present, except that recommendations for retirement, censure, suspension, or removal of any person holding an office named in Paragraph A of Subsection (6) of this Section shall be by affirmative vote of at least six (6) members.

(6) A. Any Justice or Judge of the Appellate Courts and District and Criminal District Courts, and any County Judge, and any Judge of a County Court at Law, a Court of Domestic Relations, a Juvenile Court, a Probate Court, or a Corporation or Municipal Court, and any Justice of the Peace, and any Judge or presiding officer of any special court created by the Legislature as provided in Section 1, Article V, of this Constitution, may, subject to the other provisions hereof, be removed from office for willful or persistent conduct, which is clearly inconsistent with the proper performance of his said duties or casts public discredit upon the judiciary or administration of justice; or any person holding such office may be censured, in lieu of removal from office, under procedures provided for by the Legislature. Any person holding an office named in this subsection may be suspended from office with or without pay by the Commission immediately on being indicted by a State or Federal grand jury for a felony offense; or, on the filing of a sworn complaint charging a person holding such office with willful and persistent conduct which is clearly inconsistent with the proper performance of his duties or which casts public discredit on the judiciary or on the administration of justice, the Commission, after giving the person notice and an opportunity to appear before the Commission, may recommend to the Supreme Court the suspension of such person from office. The Supreme Court, after considering the record of such appearance and the recommendation of the Commission, may suspend the person from office with or without pay, pending final disposition of the charge.

B. Any person holding an office named in Paragraph A of this subsection who is eligible for retirement benefits under the laws of this state providing for judicial retirement may be involuntarily retired, and any person holding an office named in that paragraph who is not eligible for retirement bene-

fits under such laws may be removed from office, for disability seriously interfering with the performance of his duties, which is, or is likely to become, permanent in nature.

(7) The Commission shall keep itself informed as fully as may be of circumstances relating to the misconduct or disability of particular persons holding an office named in Paragraph A of Subsection (6) of this Section, receive complaints or reports, formal or informal, from any source in this behalf and make such preliminary investigations as it may determine. Its orders for the attendance or testimony of witnesses or for the production of documents at any hearing or investigation shall be enforceable by contempt proceedings in the District Court or by a Master.

(8) After such investigation as it deems necessary, the Commission may in its discretion issue a private or public reprimand, or if the Commission determines that the situation merits such action, it may institute formal proceedings and order a formal hearing to be held before it concerning the public censure, removal, or retirement of a person holding an office named in Paragraph A of Subsection (6) of this Section, or it may in its discretion request the Supreme Court to appoint an active or retired District Judge or Justice of a Court of Civil Appeals, or retired Judge or Justice of the Court of Criminal Appeals or the Supreme Court, as a Master to hear and take evidence in any such matter, and to report thereon to the Commission. The Master shall have all the power of a District Judge in the enforcement of orders pertaining to witnesses, evidence, and procedure. If, after formal hearing, or after considering the record and report of a Master, the Commission finds good cause therefor, it shall issue an order of public censure or it shall recommend to the Supreme Court the removal, or retirement, as the case may be, of the person in question holding an office named in Paragraph A of Subsection (6) of this Section and shall thereupon file with the Clerk of the Supreme Court the entire record before the Commission.

(9) The Supreme Court shall review the record of the proceedings on the law and facts and in its discretion may, for good cause shown, permit the introduction of additional evidence and shall order public censure, retirement or removal, as it finds just and proper, or wholly reject the recommendation. Upon an order for involuntary retirement for disability or an order for removal, the office in question shall become vacant. The Supreme Court, in an order for involuntary retirement for disability or an order for removal, may prohibit such person from holding judicial office in the future. The rights of an incumbent so retired to retirement benefits shall be the same as if his retirement had been voluntary.

(10) All papers filed with and proceedings before the Commission or a Master shall be confidential, unless otherwise provided by law, and the filing of

papers with, and the giving of testimony before, the Commission, Master or the Supreme Court shall be privileged, unless otherwise provided by law; provided that upon being filed in the Supreme Court the record loses its confidential character. However, the Commission may issue a public statement through its executive director or its Chairman at any time during any of its proceedings under this Section when sources other than the Commission cause notoriety concerning a Judge or the Commission itself and the Commission determines that the best interests of a Judge or of the public will be served by issuing the statement.

(11) The Supreme Court shall by rule provide for the procedure before the Commission, Masters and the Supreme Court. Such rule shall afford to any person holding an office named in Paragraph A of Subsection (6) of this Section, against whom a proceeding is instituted to cause his retirement or removal, due process of law for the procedure before the Commission, Masters and the Supreme Court in the same manner that any person whose property rights are in jeopardy in an adjudicatory proceeding is entitled to due process of law, regardless of whether or not the interest of the person holding an office named in Paragraph A of Subsection (6) of this Section in remaining in active status is considered to be a right or a privilege. Due process shall include the right to notice, counsel, hearing, confrontation of his accusers, and all such other incidents of due process as are ordinarily available in proceedings whether or not misfeasance is charged, upon proof of which a penalty may be imposed.

(12) No person holding an office named in Paragraph A of Subsection (6) of this Section shall sit as a member of the Commission in any proceeding involving his own suspension, censure, retirement or removal. A recommendation of the Commission for the suspension, censure, retirement, or removal of a Justice of the Supreme Court shall be determined by a tribunal of seven (7) Court of Civil Appeals Justices selected by lot to serve in place of the Supreme Court.

(13) This Section 1-a is alternative to and cumulative of, the methods of removal of persons holding an office named in Paragraph A of Subsection (6) of this Section provided elsewhere in this Constitution.

Adopted Nov. 2, 1948. Amended Nov. 2, 1965; Nov. 3, 1970; Nov. 8, 1977.

§ 2. Supreme Court; Justices; sections; eligibility; election; vacancies

Sec. 2. The Supreme Court shall consist of the Chief Justice and eight Justices, any five of whom shall constitute a quorum, and the concurrence of five shall be necessary to a decision of a case; provided, that when the business of the court may require, the court may sit in sections as designated by the court to hear argument of causes and to consider applications for writs of error or other

preliminary matters. No person shall be eligible to serve in the office of Chief Justice or Justice of the Supreme Court unless the person is licensed to practice law in this state and is, at the time of election, a citizen of the United States and of this state, and has attained the age of thirty-five years, and has been a practicing lawyer, or a lawyer and judge of a court of record together at least ten years. Said Justices shall be elected (three of them each two years) by the qualified voters of the state at a general election; shall hold their offices six years, or until their successors are elected and qualified; and shall each receive such compensation as shall be provided by law. In case of a vacancy in the office of the Chief Justice or any Justice of the Supreme Court, the Governor shall fill the vacancy until the next general election for state officers, and at such general election the vacancy for the unexpired term shall be filled by election by the qualified voters of the state. The Justices of the Supreme Court who may be in office at the time this amendment takes effect shall continue in office until the expiration of their term of office under the present Constitution, and until their successors are elected and qualified.

Amended Aug. 11, 1891; Aug. 25, 1945; Nov. 4, 1980, eff. Sept. 1, 1981.

§ 3. Jurisdiction of Supreme Court; writs; clerk

Sec. 3. The Supreme Court shall exercise the judicial power of the state except as otherwise provided in this Constitution. Its jurisdiction shall be coextensive with the limits of the State and its determinations shall be final except in criminal law matters. Its appellate jurisdiction shall be final and shall extend to all cases except in criminal law matters and as otherwise provided in this Constitution or by law. The Supreme Court and the Justices thereof shall have power to issue writs of habeas corpus, as may be prescribed by law, and under such regulations as may be prescribed by law, the said courts and the Justices thereof may issue the writs of mandamus, procedendo, certiorari and such other writs, as may be necessary to enforce its jurisdiction. The Legislature may confer original jurisdiction on the Supreme Court to issue writs of quo warranto and mandamus in such cases as may be specified, except as against the Governor of the State.

The Supreme Court shall also have power, upon affidavit or otherwise as by the court may be determined, to ascertain such matters of fact as may be necessary to the proper exercise of its jurisdiction.

The Supreme Court shall appoint a clerk, who shall give bond in such manner as is now or may hereafter, be required by law, and he may hold his office for four years and shall be subject to removal by said court for good cause entered of record on the minutes of said court who shall receive such compensation as the Legislature may provide.

Amended Aug. 11, 1891; Nov. 4, 1930; Nov. 4, 1980, eff. Sept. 1, 1981.

§ 3a. Sessions of Court

Sec. 3a. The Supreme Court may sit at any time during the year at the seat of government for the transaction of business and each term thereof shall begin and end with each calendar year.

Adopted Nov. 4, 1930.

§ 3-b. Appeal from order granting or denying injunction

Sec. 3-b. The Legislature shall have the power to provide by law, for an appeal direct to the Supreme Court of this State from an order of any trial court granting or denying an interlocutory or permanent injunction on the grounds of the constitutionality or unconstitutionality of any statute of this State, or on the validity or invalidity of any administrative order issued by any state agency under any statute of this State.

Adopted Nov. 5, 1940.

§ 4. Court of Criminal Appeals; Judges

Sec. 4. The Court of Criminal Appeals shall consist of eight Judges and one Presiding Judge. The Judges shall have the same qualifications and receive the same salaries as the Associate Justices of the Supreme Court, and the Presiding Judge shall have the same qualifications and receive the same salary as the Chief Justice of the Supreme Court. The Presiding Judge and the Judges shall be elected by the qualified voters of the state at a general election and shall hold their offices for a term of six years. In case of a vacancy in the office of a Judge of the Court of Criminal Appeals, the Governor shall, with the advice and consent of the Senate, fill said vacancy by appointment until the next succeeding general election.

For the purpose of hearing cases, the Court of Criminal Appeals may sit in panels of three Judges, the designation thereof to be under rules established by the court. In a panel of three Judges, two Judges shall constitute a quorum and the concurrence of two Judges shall be necessary for a decision. The Presiding Judge, under rules established by the court, shall convene the court en banc for the transaction of all other business and may convene the court en banc for the purpose of hearing cases. The court must sit en banc during proceedings involving capital punishment and other cases as required by law. When convened en banc, five Judges shall constitute a quorum and the concurrence of five Judges shall be necessary for a decision. The Court of Criminal Appeals may appoint Commissioners in aid of the Court of Criminal Appeals as provided by law.

Amended Aug. 11, 1891, proclamation Sept. 22, 1891; Nov. 8, 1966; Nov. 8, 1977.

§ 5. Jurisdiction of Court of Criminal Appeals; terms of court; clerk

Sec. 5. The Court of Criminal Appeals shall have final appellate jurisdiction coextensive with the

limits of the state, and its determinations shall be final, in all criminal cases of whatever grade, with such exceptions and under such regulations as may be provided in this Constitution or as prescribed by law.

The appeal of all cases in which the death penalty has been assessed shall be to the Court of Criminal Appeals. The appeal of all other criminal cases shall be to the Courts of Appeal as prescribed by law. In addition, the Court of Criminal Appeals may, on its own motion, review a decision of a Court of Appeals in a criminal case as provided by law. Discretionary review by the Court of Criminal Appeals is not a matter of right, but of sound judicial discretion.

Subject to such regulations as may be prescribed by law, the Court of Criminal Appeals and the Judges thereof shall have the power to issue the writ of habeas corpus, and, in criminal law matters, the writs of mandamus, procedendo, prohibition, and certiorari. The Court and the Judges thereof shall have the power to issue such other writs as may be necessary to protect its jurisdiction or enforce its judgments. The court shall have the power upon affidavit or otherwise to ascertain such matters of fact as may be necessary to the exercise of its jurisdiction.

The Court of Criminal Appeals may sit for the transaction of business at any time during the year and each term shall begin and end with each calendar year. The Court of Criminal Appeals shall appoint a clerk of the court who shall give bond in such manner as is now or may hereafter be required by law, and who shall hold his office for a term of four years unless sooner removed by the court for good cause entered of record on the minutes of said court.

The Clerk of the Court of Criminal Appeals who may be in office at the time when this Amendment takes effect shall continue in office for the term of his appointment.

Amended Aug. 11, 1891, proclamation Sept. 22, 1891; Nov. 8, 1966; Nov. 8, 1977; Nov. 4, 1980, eff. Sept. 1, 1981.

§ 6. Courts of Appeals; transfer of causes; terms of Justices

Sec. 6. The Legislature shall divide the State into such Supreme judicial districts as the population and business may require, and shall establish a Court of Appeals in each of said districts, which shall consist of a Chief Justice and at least two Associate Justices, who shall have the qualifications as herein prescribed for Justices of the Supreme Court. The Court of Appeals may sit in sections as authorized by law. The concurrence of a majority of the judges sitting in a section is necessary to decide a case. Said Court of Appeals shall have appellate jurisdiction co-extensive with the limits of their respective districts, which shall extend to all cases of which the District Courts or County Courts have original or appellate jurisdiction, under such

restrictions and regulations as may be prescribed by law. Provided, that the decision of said courts shall be conclusive on all questions of fact brought before them on appeal or error. Said courts shall have such other jurisdiction, original and appellate, as may be prescribed by law.

Each of said Courts of Appeals shall hold its sessions at a place in its district to be designated by the Legislature, and at such time as may be prescribed by law. Said Justices shall be elected by the qualified voters of their respective districts at a general election, for a term of six years and shall receive for their services the sum provided by law. Each Court of Appeals shall appoint a clerk in the same manner as the clerk of the Supreme Court which clerk shall receive such compensation as may be fixed by law.

On the effective date of this amendment, the Justices of the present Courts of Civil Appeals become the Justices of the Courts of Appeals for the term of office to which elected or appointed as Justices of the Courts of Civil Appeals, and the Supreme Judicial Districts become the Supreme Judicial Districts for the Courts of Appeals. All constitutional and statutory references to the Courts of Civil Appeals shall be construed to mean the Courts of Appeals.

Amended Aug. 11, 1891, proclamation Sept. 22, 1891; Nov. 7, 1978; Nov. 4, 1980, eff. Sept. 1, 1981.

§ 7. Judicial districts; District Judges; terms or sessions; absence, disability or disqualification of Judge

Sec. 7. The State shall be divided into as many judicial districts as may now or hereafter be provided by law, which may be increased or diminished by law. For each district there shall be elected by the qualified voters thereof, at a General Election, a Judge, who shall be a citizen of the United States and of this State, who shall be licensed to practice law in this State and shall have been a practicing lawyer or a Judge of a Court in this State, or both combined, for four (4) years next preceding his election, who shall have resided in the district in which he was elected for two (2) years next preceding his election, who shall reside in his district during his term of office, who shall hold his office for the period of four (4) years, and shall receive for his services an annual salary to be fixed by the Legislature. The Court shall conduct its proceedings at the county seat of the county in which the case is pending, except as otherwise provided by law. He shall hold the regular terms of his Court at the County Seat of each County in his district at least twice in each year in such manner as may be prescribed by law. The Legislature shall have power by General or Special Laws to make such provisions concerning the terms or sessions of each Court as it may deem necessary.

The Legislature shall also provide for the holding of District Court when the Judge thereof is absent,

or is from any cause disabled or disqualified from presiding.

The District Judges who may be in office when this Amendment takes effect shall hold their offices until their respective terms shall expire under their present election or appointment.

Amended Aug. 11, 1891; Nov. 6, 1949.

§ 8. Jurisdiction of District Court

Sec. 8. The District Court shall have original jurisdiction in all criminal cases of the grade of felony; in all suits in behalf of the State to recover penalties, forfeitures and escheats; of all cases of divorce; of all misdemeanors involving official misconduct; of all suits to recover damages for slander or defamation of character; of all suits for trial of title to land and for the enforcement of liens thereon; of all suits for the trial of the right of property levied upon by virtue of any writ of execution, sequestration or attachment when the property levied on shall be equal to or exceed in value five hundred dollars; of all suits, complaints or pleas whatever, without regard to any distinction between law and equity, when the matter in controversy shall be valued at or amount to five hundred dollars exclusive of interest; of contested elections, and said court and the judges thereof, shall have power to issue writs of habeas corpus, mandamus, injunction and certiorari, and all writs necessary to enforce their jurisdiction.

The District Court shall have appellate jurisdiction and general control in probate matters, over the County Court established in each county, for appointing guardians, granting letters testamentary and of administration, probating wills, for settling the accounts of executors, administrators and guardians, and for the transaction of all business appertaining to estates; and original jurisdiction and general control over executors, administrators, guardians and minors under such regulations as may be prescribed by law. The District Court shall have appellate jurisdiction and general supervisory control over the County Commissioners Court, with such exceptions and under such regulations as may be prescribed by law; and shall have general original jurisdiction over all causes of action whatever for which a remedy or jurisdiction is not provided by law or this Constitution, and such other jurisdiction, original and appellate, as may be provided by law.

The district court, concurrently with the county court, shall have the general jurisdiction of a probate court. It shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and of administration, settle accounts of executors, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the settlement, partition and distribution of estates of deceased persons and to apprentice minors, as provided by law. In any proceeding involving the

general jurisdiction of a probate court, including such specified proceedings, the district court shall also have all other jurisdiction conferred upon the district court by law. The legislature, however, shall have the power, by local or general law, Section 16 of Article V of this Constitution notwithstanding, to increase, diminish or eliminate the jurisdiction of either the district court or the county court in probate matters, and in cases of any such change of jurisdiction, the legislature shall also conform the jurisdiction of the other courts to such change. The legislature shall have power to adopt rules governing the filing, distribution and transfer of all such cases and proceedings as between district courts, county courts; and other courts having jurisdiction thereof, and may provide that all appeals in such matters shall be to the courts of (civil) appeals.

Amended Aug. 11, 1891, proclamation Sept. 22, 1891; Nov. 6, 1973.

§ 9. Clerk of District Court

Sec. 9. There shall be a Clerk for the District Court of each county, who shall be elected by the qualified voters for State and county officers, and who shall hold his office for four years, subject to removal by information, or by indictment of a grand jury, and conviction of a petit jury. In case of vacancy, the Judge of the District Court shall have the power to appoint a Clerk, who shall hold until the office can be filled by election.

Amended Nov. 2, 1954.

§ 10. Trial by jury

Sec. 10. In the trial of all causes in the District Courts, the plaintiff or defendant shall, upon application made in open court, have the right of trial by jury; but no jury shall be empaneled in any civil case unless demanded by a party to the case, and a jury fee be paid by the party demanding a jury, for such sum, and with such exceptions as may be prescribed by the Legislature.

§ 11. Disqualification of judges; exchange of districts; holding court for other judges

Sec. 11. No judge shall sit in any case wherein he may be interested, or where either of the parties may be connected with him, either by affinity or consanguinity, within such a degree as may be prescribed by law, or when he shall have been counsel in the case. When the Supreme Court, the Court of Criminal Appeals, the Court of Civil Appeals, or any member of either, shall be thus disqualified to hear and determine any case or cases in said court, the same shall be certified to the Governor of the State, who shall immediately commission the requisite number of persons learned in the law for the trial and determination of such cause or causes. When a judge of the District Court is disqualified by any of the causes above stated, the parties may, by consent, appoint a proper person to try said case; or upon their failing to do so, a

competent person may be appointed to try the same in the county where it is pending, in such manner as may be prescribed by law.

And the District Judges may exchange districts, or hold courts for each other when they may deem it expedient, and shall do so when required by law. This disqualification of judges of inferior tribunals shall be remedied and vacancies in their offices filled as may be prescribed by law.

Amended Aug. 11, 1891, proclamation Sept. 22, 1891.

§ 12. Judges to be conservators of the peace; style of writs and process; prosecutions in name of state; conclusion

Sec. 12. All judges of courts of this State, by virtue of their office,¹ be conservators of the peace throughout the State. The style of all writs and process shall be, "The State of Texas." All prosecutions shall be carried on in the name and by authority of the State of Texas, and shall conclude: "Against the peace and dignity of the State."

Amended Aug. 11, 1891, proclamation Sept. 22, 1891.

¹ The resolution proposing this section, Acts 1891, 22nd Leg., p. 197, read as above. It is apparent that the word "shall" should be read into the first sentence making it read: "All judges of courts of this state, by virtue of their office, shall be conservators of the peace throughout the state."

§ 13. Number of grand and petit jurors; number concurring

Sec. 13. Grand and petit juries in the District Courts shall be composed of twelve men; but nine members of a grand jury shall be a quorum to transact business and present bills. In trials of civil cases, and in trials of criminal cases below the grade of felony in the District Courts, nine members of the jury, concurring, may render a verdict, but when the verdict shall be rendered by less than the whole number, it shall be signed by every member of the jury concurring in it. When, pending the trial of any case, one or more jurors not exceeding three, may die, or be disabled from sitting, the remainder of the jury shall have the power to render the verdict; provided, that the Legislature may change or modify the rule authorizing less than the whole number of the jury to render a verdict.

§ 14. Judicial Districts and time of holding court fixed by ordinance

Sec. 14. The Judicial Districts in this State and the time of holding the Courts therein are fixed by ordinance forming part of this Constitution, until otherwise provided by law.

§ 15. County Court; County Judge

Sec. 15. There shall be established in each county in this State a County Court, which shall be a court of record; and there shall be elected in each county, by the qualified voters, a County Judge, who shall be well informed in the law of the State; shall be a conservator of the peace, and shall hold his office for four years, and until his successor

shall be elected and qualified. He shall receive as compensation for his services such fees and perquisites as may be prescribed by law.

Amended Nov. 2, 1954.

§ 16. County Courts; jurisdiction; appeals; disqualification of judge

Sec. 16. The County Court shall have original jurisdiction of all misdemeanors of which exclusive original jurisdiction is not given to the Justices Court as the same is now or may hereafter be prescribed by law, and when the fine to be imposed shall exceed \$200, and they shall have concurrent jurisdiction with the Justice Court in all civil cases when the matter in controversy shall exceed in value \$200, and not exceed \$500, exclusive of interest, unless otherwise provided by law, and concurrent jurisdiction with the District Court when the matter in controversy shall exceed \$500, and not exceed \$1,000, exclusive of interest, but shall not have jurisdiction of suits for the recovery of land. They shall have appellate jurisdiction in cases civil and criminal of which Justices Courts have original jurisdiction, but of such civil cases only when the judgment of the court appealed from shall exceed \$20, exclusive of cost, under such regulations as may be prescribed by law. In all appeals from Justices Courts there shall be a trial de novo in the County Court, and appeals may be prosecuted from the final judgment rendered in such cases by the County Court, as well as all cases civil and criminal of which the County Court has exclusive or concurrent or original jurisdiction as may be prescribed by law and this Constitution.

The County Court shall have the general jurisdiction of a Probate Court; they shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and of administration, settle accounts of executors, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the settlement, partition and distribution of estates of deceased persons and to apprentice minors, as provided by law; and the County Court, or judge thereof, shall have power to issue writs of injunctions, mandamus and all writs necessary to the enforcement of the jurisdiction of said Court, and to issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the County Court, or any other Court or tribunal inferior to said Court. The County Court shall not have criminal jurisdiction in any county where there is a Criminal District Court, unless expressly conferred by law, and in such counties appeals from Justices Courts and other inferior courts and tribunals in criminal cases shall be to the Criminal District Court, under such regulations as may be prescribed by law; and in all such cases an appeal shall lie from such District Court as may be prescribed by law and this Constitution. When the judge of the County Court is disqualified in any

case pending in the County Court the parties interested may, by consent, appoint a proper person to try said case, or upon their failing to do so a competent person may be appointed to try the same in the county where it is pending in such manner as may be prescribed by law.

Amended Aug. 11, 1891, proclamation Sept. 22, 1891; Nov. 7, 1978; Nov. 4, 1980, eff. Sept. 1, 1981.

§ 16a. Judges of statutory courts with probate jurisdiction; assignment

Sec. 16a. The legislature, by local or general law, may provide a system for judges of statutory courts with probate jurisdiction to hold court in any county in this state for any other statutory court judge with probate jurisdiction or for a judge of a constitutional county court.

Adopted Nov. 8, 1983.

§ 17. Terms of County Court; prosecutions; juries

Sec. 17. The County Court shall hold a term for civil business at least once in every two months, and shall dispose of probate business, either in term time or vacation as may be provided by law, and said court shall hold a term for criminal business once in every month as may be provided by law. Prosecutions may be commenced in said court by information filed by the county attorney, or by affidavit, as may be provided by law. Grand juries empaneled in the District Courts shall enquire into misdemeanors, and all indictments therefor returned into the District Courts shall forthwith be certified to the County Courts or other inferior courts, having jurisdiction to try them for trial; and if such indictment be quashed in the County, or other inferior court, the person charged, shall not be discharged if there is probable cause of guilt, but may be held by such court or magistrate to answer an information or affidavit. A jury in the County Court shall consist of six men; but no jury shall be empaneled to try a civil case unless demanded by one of the parties, who shall pay such jury fee therefor, in advance, as may be prescribed by law, unless he makes affidavit that he is unable to pay the same.

§ 18. Division of counties into precincts; election of constable and justice of the peace; county commissioners and county commissioners court

Sec. 18. (a) Each county in the State with a population of 30,000 or more, according to the most recent federal census, from time to time, for the convenience of the people, shall be divided into not less than four and not more than eight precincts. Each county in the State with a population of 18,000 or more but less than 30,000, according to the most recent federal census, from time to time, for the convenience of the people, shall be divided into not less than two and not more than five precincts. Each county in the State with a population of less

than 18,000, according to the most recent federal census, from time to time, for the convenience of the people, shall be designated as a single precinct or, if the Commissioners Court determines that the county needs more than one precinct, shall be divided into not more than four precincts. The division or designation shall be made by the Commissioners Court provided for by this Constitution. In each such precinct there shall be elected one Justice of the Peace and one Constable, each of whom shall hold his office for four years and until his successor shall be elected and qualified; provided that in any precinct in which there may be a city of 18,000 or more inhabitants, there shall be elected two Justices of the Peace.

(b) Each county shall, in the manner provided for justice of the peace and constable precincts, be divided into four commissioners precincts in each of which there shall be elected by the qualified voters thereof one County Commissioner, who shall hold his office for four years and until his successor shall be elected and qualified. The County Commissioners so chosen, with the County Judge as presiding officer, shall compose the County Commissioners Court, which shall exercise such powers and jurisdiction over all county business, as is conferred by this Constitution and the laws of the State, or as may be hereafter prescribed.

(c) When the boundaries of justice of the peace and constable precincts are changed, each Justice and Constable in office on the effective date of the change, or elected to a term of office beginning on or after the effective date of the change, shall serve in the precinct in which the person resides for the term to which each was elected or appointed, even though the change in boundaries places the person's residence outside the precinct for which he was elected or appointed, abolishes the precinct for which he was elected or appointed, or temporarily results in extra Justices or Constables serving in a precinct. When, as a result of a change of precinct boundaries, a vacancy occurs in the office of Justice of the Peace or Constable, the Commissioners Court shall fill the vacancy by appointment until the next general election.

(d) When the boundaries of commissioners precincts are changed, each commissioner in office on the effective date of the change, or elected to a term of office beginning on or after the effective date of the change, shall serve in the precinct to which each was elected or appointed for the entire term to which each was elected or appointed, even though the change in boundaries places the person's residence outside the precinct for which he was elected or appointed.

Amended Nov. 2, 1954; Nov. 8, 1983.

§ 19. Justices of the peace; jurisdiction; appeals; ex officio notaries public; times and places of holding court

Sec. 19. Justices of the peace shall have jurisdiction in criminal matters of all cases where the

penalty or fine to be imposed by law may not be more than for two hundred dollars, and exclusive jurisdiction in civil matters of all cases where the amount in controversy is two hundred dollars or less, exclusive of interest, unless exclusive original jurisdiction is given to the District or County Courts, and concurrent jurisdiction with the County Courts when the matter in controversy exceeds two hundred dollars and does not exceed five hundred dollars, exclusive of interest, unless exclusive jurisdiction is given to the County Courts, and, as provided by law, when the matter in controversy exceeds five hundred dollars, concurrent jurisdiction with both the County Courts and the District Courts in an amount not to exceed one thousand dollars exclusive of interest, unless exclusive jurisdiction is given to the County Courts or the District Courts; and such other jurisdiction, criminal and civil, as may be provided by law, under such regulations as may be prescribed by law; and appeals to the County Courts shall be allowed in all cases decided in Justices' Courts where the judgment is for more than twenty dollars exclusive of costs; and in all criminal cases under such regulations as may be prescribed by law. And the justices of the peace shall be ex officio notaries public. And they shall hold their courts at such times and places as may be provided by law.

Amended Nov. 7, 1978.

§ 20. County Clerk

Sec. 20. There shall be elected for each county, by the qualified voters, a County Clerk, who shall hold his office for four years, who shall be clerk of the County and Commissioners Courts and recorder of the county, whose duties, perquisites and fees of office shall be prescribed by the Legislature, and a vacancy in whose office shall be filled by the Commissioners Court, until the next general election; provided, that in counties having a population of less than 8,000 persons there may be an election of a single Clerk, who shall perform the duties of District and County Clerks.

Amended Nov. 2, 1954.

§ 21. County Attorneys; District Attorneys

Sec. 21. A County Attorney, for counties in which there is not a resident Criminal District Attorney, shall be elected by the qualified voters of each county, who shall be commissioned by the Governor, and hold his office for the term of four years. In case of vacancy the Commissioners Court of the county shall have the power to appoint a County Attorney until the next general election. The County Attorneys shall represent the State in all cases in the District and inferior courts in their respective counties; but if any county shall be included in a district in which there shall be a District Attorney, the respective duties of District Attorneys and County Attorneys shall in such counties be regulated by the Legislature. The Legislature may provide for the election of District Attorneys in such

districts, as may be deemed necessary, and make provision for the compensation of District Attorneys and County Attorneys. District Attorneys shall hold office for a term of four years, and until their successors have qualified.

Amended Nov. 2, 1954.

§ 22. Changing jurisdiction of County Courts

Sec. 22. The Legislature shall have power, by local or general law, to increase, diminish or change the civil and criminal jurisdiction of County Courts; and in cases of any such change of jurisdiction, the Legislature shall also conform the jurisdiction of the other courts to such change.

§ 23. Sheriffs

Sec. 23. There shall be elected by the qualified voters of each county a Sheriff, who shall hold his office for the term of four years, whose duties and perquisites, and fees of office, shall be prescribed by the Legislature, and vacancies in whose office shall be filled by the Commissioners Court until the next general election.

Amended Nov. 2, 1954.

§ 24. Removal of county officers

Sec. 24. County Judges, county attorneys, clerks of the District and County Courts, justices of the peace, constables, and other county officers, may be removed by the Judges of the District Courts for incompetency, official misconduct, habitual drunkenness, or other causes defined by law, upon the cause therefor being set forth in writing and the finding of its truth by a jury.

§ 25. Rules of court

Sec. 25. The Supreme Court shall have power to make and establish rules of procedure not inconsistent with the laws of the State for the government of said court and the other courts of this State to expedite the dispatch of business therein.

Amended Aug. 11, 1891, proclamation Sept. 22, 1891.

§ 26. Criminal cases; no appeal by State

Sec. 26. The State shall have no right of appeal in criminal cases.

§ 27. Transfer of cases pending at adoption of Constitution

Sec. 27. The Legislature shall, at its first session, provide for the transfer of all business, civil and criminal, pending in District Courts, over which jurisdiction is given by this Constitution to the County Courts, or other inferior courts, to such County or inferior courts, and for the trial or disposition of all such causes by such County or other inferior courts.

§ 28. Vacancies in judicial offices

Sec. 28. Vacancies in the office of judges of the Supreme Court, the Court of Criminal Appeals, the

Court of Civil Appeals and the District Courts shall be filled by the Governor until the next succeeding General Election; and vacancies in the office of County Judge and Justices of the Peace shall be filled by the Commissioners Court until the next succeeding General Election.

Amended Aug. 11, 1891, proclamation Sept. 22, 1891; Nov. 4, 1958.

§ 29. County Court; terms of court; probate business; commencement of prosecutions; jury

Sec. 29. The County Court shall hold at least four terms for both civil and criminal business annually, as may be provided by the Legislature, or by the Commissioners' Court of the county under authority of law, and such other terms each year as may be fixed by the Commissioners' Court; provided, the Commissioners' Court of any county having fixed the times and number of terms of the County Court, shall not change the same again until the expiration of one year. Said court shall dispose of probate business either in term time or vacation, under such regulation as may be prescribed by law. Prosecutions may be commenced in said courts in such manner as is or may be provided by law, and a jury therein shall consist of six men. Until otherwise provided, the terms of the County Court shall be held on the first Mondays in February, May, August and November, and may remain in session three weeks.

Adopted Aug. 14, 1883, proclamation Sept. 25, 1883.

§ 30. Judges of Courts of county-wide jurisdiction; Criminal District Attorneys

Sec. 30. The Judges of all Courts of county-wide jurisdiction heretofore or hereafter created by the Legislature of this State, and all Criminal District Attorneys now or hereafter authorized by the laws of this State, shall be elected for a term of four years, and shall serve until their successors have qualified.

Adopted Nov. 2, 1954.

**ARTICLE VI
SUFFRAGE**

Sec.

1. Classes of persons not allowed to vote.
2. Qualified elector; registration; absentee voting.
- 2a. Voting for Presidential and Vice Presidential electors and statewide offices; qualified persons except for residence requirements.
3. Municipal elections; qualifications of voters.
- 3a. Bond issues; loans of credit; expenditures; assumption of debts; qualifications of voters.
4. Elections by ballot; numbering, fraud and purity of election; registration of voters.
5. Privilege of voters from arrest.

§ 1. Classes of persons not allowed to vote

Sec. 1. The following classes of persons shall not be allowed to vote in this State, to wit:

First: Persons under twenty-one (21) years of age.

Second: Idiots and lunatics.

Third: All paupers supported by any county.

Fourth: All persons convicted of any felony, subject to such exceptions as the Legislature may make.

Amended Nov. 8, 1932; Nov. 2, 1954.

§ 2. Qualified elector; registration; absentee voting

Sec. 2. Every person subject to none of the foregoing disqualifications who shall have attained the age of twenty-one (21) years and who shall be a citizen of the United States and who shall have resided in this State one (1) year next preceding an election and the last six (6) months within the district or county in which such person offers to vote, shall be deemed a qualified elector; provided, however, that before offering to vote at an election a voter shall have registered annually, but such requirement for registration shall not be considered a qualification of an elector within the meaning of the term "qualified elector" as used in any other Article of this Constitution in respect to any matter except qualification and eligibility to vote at an election. Any legislation enacted in anticipation of the adoption of this Amendment shall not be invalid because of its anticipatory nature. The Legislature may authorize absentee voting. And this provision of the Constitution shall be self-enacting without the necessity of further legislation.

Amended Nov. 3, 1896, proclamation Dec. 18, 1896; Nov. 4, 1902, proclamation Dec. 26, 1902; July 23, 1921; Nov. 2, 1954; Nov. 8, 1966, eff. Feb. 1, 1968.

§ 2a. Voting for Presidential and Vice Presidential electors and statewide offices; qualified persons except for residence requirements

Sec. 2a. (a) Notwithstanding any other provision of this Constitution, the Legislature may enact laws and provide a method of registration, including the time of such registration, permitting any person who is qualified to vote in this State except for the residence requirements within a county or district, as set forth in Section 2 of this Article, to vote for (1) electors for President and Vice President of the United States and (2) all offices, questions or propositions to be voted on by all electors throughout this State.

(b) Notwithstanding any other provision of this Constitution, the Legislature may enact laws and provide for a method of registration, including the time for such registration, permitting any person (1) who is qualified to vote in this State except for the residence requirements of Section 2 of this Article, and (2) who shall have resided anywhere within this State at least thirty (30) days next preceding a General Election in a presidential election year, and (3) who shall have been a qualified elector in another

er state immediately prior to his removal to this State or would have been eligible to vote in such other state had he remained there until such election, to vote for electors for President and Vice President of the United States in that election.

(c) Notwithstanding any other provision of this Constitution, the Legislature may enact laws and provide for a method of registration, including the time for such registration, permitting absentee voting for electors for President and Vice President of the United States in this State by former residents of this State (1) who have removed to another state, and (2) who meet all qualifications, except residence requirements, for voting for electors for President and Vice President in this State at the time of the election, but the privileges of suffrage so granted shall be only for such period of time as would permit a former resident of this State to meet the residence requirements for voting in his new state of residence, and in no case for more than twenty-four (24) months.

Adopted Nov. 8, 1966.

§ 3. Municipal elections; qualifications of voters

Sec. 3. All qualified electors of the State, as herein described, who shall have resided for six months immediately preceding an election, within the limits of any city or corporate town, shall have the right to vote for Mayor and all other elective officers; but in all elections to determine expenditure of money or assumption of debt, only those shall be qualified to vote who pay taxes on property in said city or incorporated town; provided, that no poll tax for the payment of debts thus incurred, shall be levied upon the persons debarred from voting in relation thereto.

§ 3a. Bond issues; loans of credit; expenditures; assumption of debts; qualifications of voters

Sec. 3a. When an election is held by any county, or any number of counties, or any political sub-division of the State, or any political sub-division of a county, or any defined district now or hereafter to be described and defined within the State and which may or may not include towns, villages or municipal corporations, or any city, town or village, for the purpose of issuing bonds or otherwise lending credit, or expending money or assuming any debt, only qualified electors who own taxable property in the State, county, political sub-division, district, city, town or village where such election is held, and who have duly rendered the same for taxation, shall be qualified to vote and all electors shall vote in the election precinct of their residence.

Adopted Nov. 8, 1932.

§ 4. Elections by ballot; numbering, fraud and purity of elections; registration of voters

Sec. 4. In all elections by the people, the vote shall be by ballot, and the Legislature shall provide

for the numbering of tickets and make such other regulations as may be necessary to detect and punish fraud and preserve the purity of the ballot box; and the Legislature shall provide by law for the registration of all voters.

Amended Aug. 11, 1891, proclamation Sept. 22, 1891; Nov. 8, 1966, eff. Nov. 3, 1967.

§ 5. Privilege of voters from arrest

Sec. 5. Voters shall, in all cases, except treason, felony or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning therefrom.

ARTICLE VII

EDUCATION

THE PUBLIC FREE SCHOOLS

Sec.

1. Support and maintenance of system of public free schools.
2. Perpetual school fund.
3. Taxes for benefit of schools; school districts.
- 3a. Repealed.
- 3-b. Independent school districts and junior college districts; taxes and bonds; changes in boundaries.
4. Sale of lands; investment of proceeds.
- 4A. Applications for patent to land to School Land Board to cure defects.
5. Permanent school fund; available school fund; use of funds; distribution of available school fund.
6. County school lands; proceeds of sales; investment; available school fund.
- 6a. County agricultural or grazing school land subject to tax.
- 6b. County permanent school fund; reduction and its distribution.
7. Repealed.
8. State Board of Education.

ASYLUMS

9. Lands for benefit of asylums; permanent fund; sale and investment of proceeds.

UNIVERSITY

10. Establishment of University; agricultural and mechanical department.
11. Permanent University Fund; investment; alternate sections of railroad grant.
- 11a. Investment of Permanent University Fund.
12. Sale of lands.
13. Agricultural and Mechanical College.
14. College or Branch University for colored youths; taxes and appropriations.
15. Grant of additional lands to University.
16. Terms of office.
16. County taxation of University lands.
17. Repealed.
18. Texas A & M University System; University of Texas System; bonds or notes payable from income of Permanent University Fund.

THE PUBLIC FREE SCHOOLS

§ 1. Support and maintenance of system of public free schools

Sec. 1. A general diffusion of knowledge being essential to the preservation of the liberties and rights of the people, it shall be the duty of the Legislature of the State to establish and make suitable provision for the support and maintenance of an efficient system of public free schools.

§ 2. Perpetual school fund

Sec. 2. All funds, lands and other property heretofore set apart and appropriated for the support of public schools; all the alternate sections of land reserved by the State out of grants heretofore made or that may hereafter be made to railroads or other corporations of any nature whatsoever; one half of the public domain of the State; and all sums of money that may come to the State from the sale of any portion of the same, shall constitute a perpetual public school fund.

§ 3. Taxes for benefit of schools; school districts

Sec. 3. One-fourth of the revenue derived from the State occupation taxes and poll tax of one dollar on every inhabitant of the State, between the ages of twenty-one and sixty years, shall be set apart annually for the benefit of the public free schools; and in addition thereto, there shall be levied and collected an annual ad valorem State tax of such an amount not to exceed thirty-five cents on the one hundred (\$100.00) dollars valuation, as with the available school fund arising from all other sources, will be sufficient to maintain and support the public schools of this State for a period of not less than six months in each year, and it shall be the duty of the State Board of Education to set aside a sufficient amount out of the said tax to provide free text books for the use of children attending the public free schools of this State; provided, however, that should the limit of taxation herein named be insufficient the deficit may be met by appropriation from the general funds of the State and the Legislature may also provide for the formation of school district by general laws; and all such school districts may embrace parts of two or more counties, and the Legislature shall be authorized to pass laws for the assessment and collection of taxes in all said districts and for the management and control of the public school or schools of such districts, whether such districts are composed of territory wholly within a county or in parts of two or more counties, and the Legislature may authorize an additional ad valorem tax to be levied and collected within all school districts heretofore formed or hereafter formed, for the further maintenance of public free schools, and for the erection and equipment of school buildings therein; provided that a majority of the qualified property taxpaying voters of the district voting at an election to be held for that purpose, shall vote such tax not to exceed in any one year one (\$1.00)

dollar on the one hundred dollars valuation of the property subject to taxation in such district, but the limitation upon the amount of school district tax herein authorized shall not apply to incorporated cities or towns constituting separate and independent school districts, nor to independent or common school districts created by general or special law.

Amended Aug. 14, 1883, proclamation Sept. 25, 1883; Nov. 3, 1908, proclamation Feb. 2, 1909; Aug. 3, 1909, proclamation Sept. 24, 1909; Nov. 5, 1918; Nov. 2, 1920; Nov. 2, 1926, proclamation Jan. 20, 1927.

§ 3a. Repealed. Aug. 5, 1969**§ 3-b. Independent school districts and junior college districts; taxes and bonds; changes in boundaries**

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

involved in such annexation or consolidation shall not thereafter be issued.

Adopted Nov. 6, 1962. Amended Nov. 8, 1966.

§ 4. Sale of lands; investment of proceeds

Sec. 4. The lands herein set apart to the Public Free School fund, shall be sold under such regulations, at such times, and on such terms as may be prescribed by law; and the Legislature shall not have power to grant any relief to purchasers thereof. The Comptroller shall invest the proceeds of such sales, and of those heretofore made, as may be directed by the Board of Education herein provided for, in the bonds of the United States, the State of Texas, or counties in said State, or in such other securities, and under such restrictions as may be prescribed by law; and the State shall be responsible for all investments.

Amended Aug. 14, 1883, proclamation Sept. 25, 1883.

§ 4A. Applications for patent to land to School Land Board to cure defects

Text of section effective until January 1, 1990

Sec. 4A. (a) On application to the School Land Board, a natural person is entitled to receive a patent to land from the commissioner of the General Land Office if:

(1) the land is surveyed public free school land, either surveyed or platted according to records of the General Land Office;

(2) the land was not patentable under the law in effect immediately before adoption of this section;

(3) the person acquired the land without knowledge of the title defect out of the State of Texas or Republic of Texas and held the land under color of title, the chain of which dates from at least as early as January 1, 1932; and

(4) the person, in conjunction with his predecessors in interest:

(A) has a recorded deed on file in the respective county courthouse and has claimed the land for a continuous period of at least 50 years as of November 15, 1981; and

(B) for at least 50 years has paid taxes on the land together with all interest and penalties associated with any period of delinquency of said taxes; provided, however, that in the event that public records concerning the tax payments on the land are unavailable for any period within the past 50 years, the tax assessors-collectors of the taxing jurisdictions in which the land is located shall provide the School Land Board with a sworn certificate stating that, to the best of their knowledge, all taxes have been paid for the past 50 years and there are no outstanding taxes nor interest or penalties currently due against the property.

(b) The applicant for the patent must submit to the School Land Board certified copies of his chain of title and a survey of the land for which a patent

is sought, if requested to do so by the board. The board shall determine the qualifications of the applicant to receive a patent under this section. Upon a finding by the board that the applicant meets the requirements of Subsection (a) of this section, the commissioner of the General Land Office shall award the applicant a patent. If the applicant is denied a patent, he may file suit against the board in a district court of the county in which the land is situated with 60 days from the date of the denial of the patent under this section. The trial shall be de novo and not subject to the Administrative Procedure and Texas Register Act, and the burden of proof is on the applicant.

(c) This section does not apply to beach land, submerged land, or islands, and may not be used by an applicant to resolve a boundary dispute. This section does not apply to land that, previous to the effective date of this section, was found by a court of competent jurisdiction to be state owned or to land on which the state has given a mineral lease that on the effective date of this section was productive.

(d) Application for a patent under this section must be filed with the School Land Board within five years from the effective date of this section.

(e) This section is self-executing.

(f) This section expires on January 1, 1990.

Adopted Nov. 3, 1981.

§ 5. Permanent school fund; available school fund; use of funds; distribution of available school fund

Sec. 5. (a) The principal of all bonds and other funds, and the principal arising from the sale of the lands hereinbefore set apart to said school fund, shall be the permanent school fund, and all the interest derivable therefrom and the taxes herein authorized and levied shall be the available school fund. The available school fund shall be applied annually to the support of the public free schools. Except as provided by this section, no law shall ever be enacted appropriating any part of the permanent or available school fund to any other purpose whatever; nor shall the same, or any part thereof ever be appropriated to or used for the support of any sectarian school; and the available school fund herein provided shall be distributed to the several counties according to their scholastic population and applied in such manner as may be provided by law.

(b) The legislature by law may provide for using the permanent school fund and the income from the permanent school fund to guarantee bonds issued by school districts.

(c) The legislature may appropriate part of the available school fund for administration of the permanent school fund or of a bond guarantee program established under this section.

Amended Aug. 11, 1891, proclamation Sept. 22, 1891; Nov. 3, 1964; Nov. 8, 1983.

§ 6. County school lands; proceeds of sales; investment; available school fund

Sec. 6. All lands heretofore, or hereafter granted to the several counties of this State for educational purposes, are of right the property of said counties respectively, to which they were granted, and title thereto is vested in said counties, and no adverse possession or limitation shall ever be available against the title of any county. Each county may sell or dispose of its lands in whole or in part, in manner to be provided by the Commissioners' Court of the county. Actual settlers residing on said lands, shall be protected in the prior right of purchasing the same to the extent of their settlement, not to exceed one hundred and sixty acres, at the price fixed by said court, which price shall not include the value of existing improvements made thereon by such settlers. Said lands, and the proceeds thereof, when sold, shall be held by said counties alone as a trust for the benefit of public schools therein; said proceeds to be invested in bonds of the United States, the State of Texas, or counties in said State, or in such other securities, and under such restrictions as may be prescribed by law; and the counties shall be responsible for all investments; the interest thereon, and other revenue, except the principal shall be available fund.

Amended Aug. 14, 1883, proclamation Sept. 25, 1883.

§ 6a. County agricultural or grazing school land subject to tax

Sec. 6a. All agricultural or grazing school land mentioned in Section 6 of this article owned by any county shall be subject to taxation except for State purposes to the same extent as lands privately owned.

Adopted Nov. 2, 1926, proclamation Jan. 20, 1927.

§ 6b. County permanent school fund; reduction and its distribution

Sec. 6b. Notwithstanding the provisions of Section 6, Article VII, Constitution of the State of Texas, any county, acting through the commissioners court, may reduce the county permanent school fund of that county and may distribute the amount of the reduction to the independent and common school districts of the county on a per scholastic basis to be used solely for the purpose of reducing bonded indebtedness of those districts or for making permanent improvements. The commissioners court shall, however, retain a sufficient amount of the corpus of the county permanent school fund to pay ad valorem taxes on school lands or royalty interests owned at the time of the distribution. Nothing in this Section affects financial aid to any school district by the state.

Adopted Nov. 7, 1972.

§ 7. Repealed. Aug. 5, 1969**§ 8. State Board of Education**

Sec. 8. The Legislature shall provide by law for a State Board of Education, whose members shall be appointed or elected in such manner and by such authority and shall serve for such terms as the Legislature shall prescribe not to exceed six years. The said board shall perform such duties as may be prescribed by law.

Amended Nov. 6, 1928.

ASYLUMS**§ 9. Lands for benefit of asylums; permanent fund; sale and investment of proceeds**

Sec. 9. All lands heretofore granted for the benefit of the Lunatic, Blind, Deaf and Dumb, and Orphan Asylums, together with such donations as may have been or may hereafter be made to either of them, respectively, as indicated in the several grants, are hereby set apart to provide a permanent fund for the support, maintenance and improvement of said Asylums. And the Legislature may provide for the sale of the lands and the investment of the proceeds in manner as provided for the sale and investment of school lands in section 4 of this Article.

UNIVERSITY**§ 10. Establishment of University; agricultural and mechanical department**

Sec. 10. The Legislature shall as soon as practicable establish, organize and provide for the maintenance, support and direction of a University of the first class, to be located by a vote of the people of this State, and styled, "The University of Texas," for the promotion of literature, and the arts and sciences, including an agricultural and mechanical department.

§ 11. Permanent University Fund; investment; alternate sections of railroad grant

Sec. 11. In order to enable the Legislature to perform the duties set forth in the foregoing Section, it is hereby declared all lands and other property heretofore set apart and appropriated for the establishment and maintenance of the University of Texas, together with all the proceeds of sales of the same, heretofore made or hereafter to be made, and all grants, donations and appropriations that may hereafter be made by the State of Texas, or from any other source, except donations limited to specific purposes, shall constitute and become a Permanent University Fund. And the same as realized and received into the Treasury of the State (together with such sums belonging to the Fund, as may now be in the Treasury), shall be invested in bonds of the United States, the State of Texas, or counties of said State, or in School Bonds of municipalities,

or in bonds of any city of this State, or in bonds issued under and by virtue of the Federal Farm Loan Act approved by the President of the United States, July 17, 1916, and amendments thereto; and the interest accruing thereon shall be subject to appropriation by the Legislature to accomplish the purpose declared in the foregoing Section; provided, that the one-tenth of the alternate Section of the lands granted to railroads, reserved by the State, which were set apart and appropriated to the establishment of the University of Texas, by an Act of the Legislature of February 11, 1858, entitled, "An Act to establish the University of Texas," shall not be included in, or constitute a part of, the Permanent University Fund.

Amended Nov. 4, 1930; Nov. 8, 1932.

§ 11a. Investment of Permanent University Fund

Sec. 11a. In addition to the bonds enumerated in Section 11 of Article VII of the Constitution of the State of Texas, the Board of Regents of The University of Texas may invest the Permanent University Fund in securities, bonds or other obligations issued, insured, or guaranteed in any manner by the United States Government, or any of its agencies, and in such bonds, debentures, or obligations, and preferred and common stocks issued by corporations, associations, or other institutions as the Board of Regents of The University of Texas System may deem to be proper investments for said funds; provided, however, that not more than one per cent (1%) of said fund shall be invested in the securities of any one (1) corporation, nor shall more than five per cent (5%) of the voting stock of any one (1) corporation be owned; provided, further, that stocks eligible for purchase shall be restricted to stocks of companies incorporated within the United States which have paid dividends for five (5) consecutive years or longer immediately prior to the date of purchase and which, except for bank stocks and insurance stocks, are listed upon an exchange registered with the Securities and Exchange Commission or its successors.

In making each and all of such investments said Board of Regents shall exercise the judgment and care under the circumstances then prevailing which men of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as the probable safety of their capital.

The interest, dividends and other income accruing from the investments of the Permanent University Fund, except the portion thereof which is appropriated by the operation of Section 18 of Article VII for the payment of principal and interest on bonds or notes issued thereunder, shall be subject to appropriation by the Legislature to accomplish the purposes declared in Section 10 of Article VII of this Constitution.

This amendment shall be self-enacting, and shall become effective upon its adoption, provided, however, that the Legislature shall provide by law for full disclosure of all details concerning the investments in corporate stocks and bonds and other investments authorized herein.

Adopted Nov. 6, 1956. Amended Nov. 5, 1968.

§ 12. Sale of lands

Sec. 12. The land herein set apart to the University fund shall be sold under such regulations, at such times, and on such terms as may be provided by law; and the Legislature shall provide for the prompt collection, at maturity, of all debts due on account of University lands, heretofore sold, or that may hereafter be sold, and shall in neither event have the power to grant relief to the purchasers.

§ 13. Agricultural and Mechanical College

Sec. 13. The Agricultural and Mechanical College of Texas, established by an Act of the Legislature passed April 17th, 1871, located in the county of Brazos, is hereby made, and constituted a Branch of the University of Texas, for instruction in Agriculture, the Mechanic Arts, and the Natural Sciences connected therewith. And the Legislature shall at its next session, make an appropriation, not to exceed forty thousand dollars, for the construction and completion of the buildings and improvements, and for providing the furniture necessary to put said College in immediate and successful operation.

§ 14. College or Branch University for colored youths; taxes and appropriations

Sec. 14. The Legislature shall also when deemed practicable, establish and provide for the maintenance of a College or Branch University for the instruction of the colored youths of the State, to be located by a vote of the people: Provided, that no tax shall be levied, and no money appropriated, out of the general revenue, either for this purpose or for the establishment, and erection of the buildings of the University of Texas.

§ 15. Grant of additional lands to University

Sec. 15. In addition to the lands heretofore granted to the University of Texas, there is hereby set apart, and appropriated, for the endowment maintenance, and support of said University and its branches, one million acres of the unappropriated public domain of the State, to be designated, and surveyed as may be provided by law; and said lands shall be sold under the same regulations, and the proceeds invested in the same manner, as is provided for the sale and investment of the permanent University fund; and the Legislature shall not have power to grant any relief to the purchasers of said lands.

§ 16. Terms of office [see, also, § 16 of this Article, post]

Sec. 16. The Legislature shall fix by law the terms of all offices of the public school system and of the State institutions of higher education, inclusive, and the terms of members of the respective boards, not to exceed six years.

Adopted Nov. 6, 1928.

§ 16. County taxation of University lands [see, also, § 16 of this Article, ante]

Sec. 16. All land mentioned in Sections 11, 12 and 15 of Article VII, of the Constitution of the State of Texas, now belonging to the University of Texas shall be subject to the taxation for county purposes to the same extent as lands privately owned; provided they shall be rendered for taxation upon values fixed by the State Tax Board; and providing that the State shall remit annually to each of the counties in which said lands are located an amount equal to the tax imposed upon said land for county purposes.

Adopted Nov. 4, 1930.

§ 17. Repealed. Nov. 2, 1982

§ 18. Texas A & M University System; University of Texas System; bonds or notes payable from income of Permanent University Fund

Sec. 18. For the purpose of constructing, equipping, or acquiring buildings or other permanent improvements for the Texas A & M University System, including Texas A & M University, Prairie View Agricultural and Mechanical College of Texas at Prairie View, Tarleton State College at Stephenville, Texas Agricultural Experiment Stations, Texas Agricultural Extension Service, Texas Engineering Experiment Station at College Station, Texas Engineering Extension Service at College Station, and the Texas Forest Service, the Board of Directors is hereby authorized to issue negotiable bonds or notes not to exceed a total amount of one-third ($\frac{1}{3}$) of twenty per cent (20%) of the value of the Permanent University Fund exclusive of real estate at the time of any issuance thereof; provided, however, no building or other permanent improvement shall be acquired or constructed hereunder for use by any part of the Texas A & M University System, except at and for the use of the general academic institutions of said System, namely, Texas A & M University, Tarleton State College, and Prairie View A & M College, without the prior approval of the Legislature or of such agency as may be authorized by the Legislature to grant such approval; and for the purpose of constructing, equipping, or acquiring buildings or other permanent improvements for The University of Texas System, including The Main University of Texas at Austin, The University of Texas Medical Branch at Galveston, The University of Texas Southwestern Medical School at Dallas, The University of Texas

Dental Branch at Houston, Texas Western College of The University of Texas at El Paso, The University of Texas M. D. Anderson Hospital and Tumor Institute at Houston, The University of Texas Postgraduate School of Medicine, The University of Texas School of Public Health, McDonald Observatory at Mount Locke, and the Marine Science Institute at Port Aransas, the Board of Regents of The University of Texas is hereby authorized to issue negotiable bonds and notes not to exceed a total amount of two-thirds ($\frac{2}{3}$) of twenty per cent (20%) of the value of the Permanent University Fund exclusive of real estate at the time of any issuance thereof; provided, however, no building or other permanent improvement shall be acquired or constructed hereunder for use by any institution of The University of Texas System, except at and for the use of the general academic institutions of said System, namely, The Main University and Texas Western College, without the prior approval of the Legislature or of such agency as may be authorized by the Legislature to grant such approval. Any bonds or notes issued hereunder shall be payable solely out of the income from the Permanent University Fund. Bonds or notes so issued shall mature serially or otherwise not more than thirty (30) years from their respective dates.

The Texas A & M University System and all of the institutions constituting such System as hereinabove enumerated, and The University of Texas System, and all of the institutions constituting such System as hereinabove enumerated, shall not receive any General Revenue funds for the acquiring or constructing of buildings or other permanent improvements, except in case of fire, flood, storm, or earthquake occurring at any such institution, in which case an appropriation in an amount sufficient to replace the uninsured loss so incurred may be made by the Legislature out of General Revenue funds.

Said Boards are severally authorized to pledge the whole or any part of the respective interests of Texas A & M University and of The University of Texas in the income from the Permanent University Fund, as such interests are now apportioned by Chapter 42 of the Acts of the Regular Session of the 42nd Legislature of the State of Texas, for the purpose of securing the payment of the principal and interest of such bonds or notes. The Permanent University Fund may be invested in such bonds or notes.

All bonds or notes issued pursuant hereto shall be approved by the Attorney General of Texas and when so approved shall be incontestable. This Amendment shall be self-enacting; provided, however, that nothing herein shall be construed as impairing any obligation heretofore created by the issuance of any outstanding notes or bonds under this Section by the respective Boards prior to the adoption of this Amendment but any such outstanding notes or bonds shall be paid in full, both princi-

pal and interest, in accordance with the terms of such contracts.

Adopted Aug. 23, 1947. Amended Nov. 6, 1956; Nov. 8, 1966.

ARTICLE VIII TAXATION AND REVENUE

Sec.

1. Equality and uniformity; tax in proportion to value; occupation taxes; income tax; exemption of household goods and personal property homestead.
- 1-a. No State ad valorem tax levy; county levy for roads and flood control; tax donations.
- 1-b. Residence homestead exemption.
- 1-c. Effectiveness of Resolution.
- 1-d. Assessment of lands designated for agricultural use.
- 1-d-1. Open-space land.
- 1-e. Abolition of ad valorem property taxes.
- 1-f. Ad valorem tax relief.
- 1-g. Development or redevelopment of property; ad valorem tax relief and issuance of bonds and notes.
2. Occupation taxes; equality and uniformity; exemptions from taxation.
3. General laws; public purposes.
4. Surrender or suspension of taxing power.
5. Railroad property; liability to municipal taxation.
6. Withdrawal of money from Treasury; duration of appropriation.
7. Borrowing, withholding or diverting special funds.
- 7-a. Revenues from motor vehicle registration fees and taxes on motor fuels and lubricants; purposes for which used.
8. Railroad companies; assessment and collection of taxes.
9. Maximum state tax; county, city and town levies; county funds; local road laws.
10. Release from payment of taxes.
11. Place of assessment; value of property not rendered by owner.
12. Repealed.
13. Sales of lands and other property for taxes; redemption.
14. Assessor and collector of taxes.
15. Lien of assessment; seizure and sale of property.
16. Sheriff to be Assessor and Collector of Taxes; counties having 10,000 or more inhabitants.
- 16a. Assessor-Collector of Taxes; counties having less than 10,000 inhabitants.
17. Specification of subjects not limitation of Legislature's power.
18. Equalization of valuations; classification of lands; single appraisal and single board of equalization.
19. Farm products, livestock, poultry, and family supplies; exemption.
- 19a. Implements of husbandry, exemption.
20. Fair cash market value not to be exceeded; discounts for advance payment.
21. Increase in total property taxes; notice and hearing; calculation.
22. Appropriations from state tax revenues; rate of growth.
23. Statewide appraisal of real property; enforcement of uniform standards and procedures for appraisal.

§ 1. Equality and uniformity; tax in proportion to value; occupation taxes; income tax; exemption of household goods and personal property homestead

Section 1. Taxation shall be equal and uniform. All real property and tangible personal property in this State, whether owned by natural persons or corporations, other than municipal, shall be taxed in proportion to its value, which shall be ascertained as may be provided by law. The Legislature may provide for the taxation of intangible property and may also impose occupation taxes, both upon natural persons and upon corporations, other than municipal, doing any business in this State. It may also tax incomes of both natural persons and corporations other than municipal, except that persons engaged in mechanical and agricultural pursuits shall never be required to pay an occupation tax. The Legislature by general law shall exempt household goods not held or used for the production of income and personal effects not held or used for the production of income, and the Legislature by general law may exempt all or part of the personal property homestead of a family or single adult, "personal property homestead" meaning that personal property exempt by law from forced sale for debt, from ad valorem taxation. The occupation tax levied by any county, city or town for any year on persons or corporations pursuing any profession or business, shall not exceed one half of the tax levied by the State for the same period on such profession or business.

Amended Nov. 7, 1978, eff. Jan. 1, 1979.

§ 1-a. No State ad valorem tax levy; county levy for roads and flood control; tax donations

Sec. 1-a. From and after January 1, 1951, no State ad valorem tax shall be levied upon any property within this State for general revenue purposes. From and after January 1, 1951, the several counties of the State are authorized to levy ad valorem taxes upon all property within their respective boundaries for county purposes, except the first Three Thousand Dollars (\$3,000) value of residential homesteads of married or unmarried adults, male or female, including those living alone, not to exceed thirty cents (30¢) on each One Hundred Dollars (\$100) valuation, in addition to all other ad valorem taxes authorized by the Constitution of this State, provided the revenue derived therefrom shall be used for construction and maintenance of Farm to Market Roads or for Flood Control, except as herein otherwise provided.

Provided that in those counties or political subdivisions or areas of the State from which tax donations have heretofore been granted, the State Automatic Tax Board shall continue to levy the full amount of the State ad valorem tax for the duration of such donation, or until all legal obligations heretofore authorized by the law granting such donation or donations shall have been fully discharged, whichever shall first occur; provided that if such

donation to any such county or political subdivision is for less than the full amount of State ad valorem taxes so levied, the portion of such taxes remaining over and above such donation shall be retained by said county or subdivision.

Adopted Nov. 8, 1932. Amended Aug. 26, 1933; Nov. 2, 1948; Nov. 6, 1973.

§ 1-b. Residence homestead exemption

Sec. 1-b. (a) Three Thousand Dollars (\$3,000) of the assessed taxable value of all residence homesteads of married or unmarried adults, male or female, including those living alone, shall be exempt from all taxation for all State purposes.

(b) From and after January 1, 1973, the governing body of any county, city, town, school district, or other political subdivision of the State may exempt by its own action not less than Three Thousand Dollars (\$3,000) of the market value of residence homesteads of persons, married or unmarried, including those living alone, who are under a disability for purposes of payment of disability insurance benefits under Federal Old-Age, Survivors, and Disability Insurance or its successor or of married or unmarried persons sixty-five (65) years of age or older, including those living alone, from all ad valorem taxes thereafter levied by the political subdivision. As an alternative, upon receipt of a petition signed by twenty percent (20%) of the voters who voted in the last preceding election held by the political subdivision, the governing body of the subdivision shall call an election to determine by majority vote whether an amount not less than Three Thousand Dollars (\$3,000) as provided in the petition, of the market value of residence homesteads of disabled persons or of persons sixty-five (65) years of age or over shall be exempt from ad valorem taxes thereafter levied by the political subdivision. An eligible disabled person who is sixty-five (65) years of age or older may not receive both exemptions from the same political subdivision in the same year but may choose either if the subdivision has adopted both. Where any ad valorem tax has theretofore been pledged for the payment of any debt, the taxing officers of the political subdivision shall have authority to continue to levy and collect the tax against the homestead property at the same rate as the tax so pledged until the debt is discharged, if the cessation of the levy would impair the obligation of the contract by which the debt was created. An exemption adopted under this subsection based on assessed value is increased, effective January 1, 1979, to an amount that, when converted to market value, provides the same reduction in taxes, except that the market value exemption shall be rounded to the nearest \$100.

(c) Five Thousand Dollars (\$5,000) of the market value of the residence homestead of a married or unmarried adult, including one living alone, is exempt from ad valorem taxation for general elementary and secondary public school purposes. In addition to this exemption, the legislature by general

law may exempt an amount not to exceed Ten Thousand Dollars (\$10,000) of the market value of the residence homestead of a person who is disabled as defined in Subsection (b) of this section and of a person sixty-five (65) years of age or older from ad valorem taxation for general elementary and secondary public school purposes. The legislature by general law may base the amount of and condition eligibility for the additional exemption authorized by this subsection for disabled persons and for persons sixty-five (65) years of age or older on economic need. An eligible disabled person who is sixty-five (65) years of age or older may not receive both exemptions from a school district but may choose either. An eligible person is entitled to receive both the exemption required by this subsection for all residence homesteads and any exemption adopted pursuant to Subsection (b) of this section, but the legislature shall provide by general law whether an eligible disabled or elderly person may receive both the additional exemption for the elderly and disabled authorized by this subsection and any exemption for the elderly or disabled adopted pursuant to Subsection (b) of this section. Where ad valorem tax has previously been pledged for the payment of debt, the taxing officers of a school district may continue to levy and collect the tax against the value of homesteads exempted under this subsection until the debt is discharged if the cessation of the levy would impair the obligation of the contract by which the debt was created. The legislature shall provide for formulas to protect school districts against all or part of the revenue loss incurred by the implementation of Article VIII, Sections 1-b(c), 1-b(d), and 1-d-1, of this constitution. The legislature by general law may define residence homestead for purposes of this section.

(d) Except as otherwise provided by this subsection, if a person receives the residence homestead exemption prescribed by Subsection (c) of this section for homesteads of persons sixty-five (65) years of age or older, the total amount of ad valorem taxes imposed on that homestead for general elementary and secondary public school purposes may not be increased while it remains the residence homestead of that person or that person's spouse who receives the exemption. However, those taxes may be increased to the extent the value of the homestead is increased by improvements other than repairs or improvements made to comply with governmental requirements.

(e) The governing body of a political subdivision may exempt from ad valorem taxation a percentage of the market value of the residence homestead of a married or unmarried adult, including one living alone. The percentage may not exceed forty percent (40%) for the years 1982 through 1984, thirty percent (30%) for the years 1985 through 1987, and twenty percent (20%) in 1988 and each subsequent year. However, the amount of an exemption authorized pursuant to this subsection may not be less than Five Thousand Dollars (\$5,000) unless the leg-

islature by general law prescribes other monetary restrictions on the amount of the exemption. An eligible adult is entitled to receive other applicable exemptions provided by law. Where ad valorem tax has previously been pledged for the payment of debt, the governing body of a political subdivision may continue to levy and collect the tax against the value of the homesteads exempted under this subsection until the debt is discharged if the cessation of the levy would impair the obligation of the contract by which the debt was created. The legislature by general law may prescribe procedures for the administration of residence homestead exemptions.

(e-1) Expired.

Adopted Nov. 2, 1948. Amended Nov. 7, 1972; Nov. 6, 1973; Nov. 7, 1978, eff. Jan. 1, 1979; Nov. 3, 1981, eff. Jan. 1, 1982.

§ 1-c. Effectiveness of Resolution

Sec. 1-c. Provided, however, the terms of this Resolution¹ shall not be effective unless House Joint Resolution No. 24² is adopted by the people and in no event shall this Resolution go into effect until January 1, 1951.

Adopted Nov. 2, 1948.

¹ Acts 1947, 50th Leg., p. 1192, H.J.R. No. 35, proposing addition of this section and § 1-b to this Article.

² Proposing amendment of § 1-a of this Article, which was adopted Nov. 2, 1948.

§ 1-d. Assessment of lands designated for agricultural use

Sec. 1-d. (a) All land owned by natural persons which is designated for agricultural use in accordance with the provisions of this Section shall be assessed for all tax purposes on the consideration of only those factors relative to such agricultural use. "Agricultural use" means the raising of livestock or growing of crops, fruit, flowers, and other products of the soil under natural conditions as a business venture for profit, which business is the primary occupation and source of income of the owner.

(b) For each assessment year the owner wishes to qualify his land under provisions of this Section as designated for agricultural use he shall file with the local tax assessor a sworn statement in writing describing the use to which the land is devoted.

(c) Upon receipt of the sworn statement in writing the local tax assessor shall determine whether or not such land qualifies for the designation as to agricultural use as defined herein and in the event it so qualifies he shall designate such land as being for agricultural use and assess the land accordingly.

(d) Such local tax assessor may inspect the land and require such evidence of use and source of income as may be necessary or useful in determining whether or not the agricultural use provision of this article applies.

(e) No land may qualify for the designation provided for in this Act unless for at least three (3)

successive years immediately preceding the assessment date the land has been devoted exclusively for agricultural use, or unless the land has been continuously developed for agriculture during such time.

(f) Each year during which the land is designated for agricultural use, the local tax assessor shall note on his records the valuation which would have been made had the land not qualified for such designation under this Section. If designated land is subsequently diverted to a purpose other than that of agricultural use, or is sold, the land shall be subject to an additional tax. The additional tax shall equal the difference between taxes paid or payable, hereunder, and the amount of tax payable for the preceding three years had the land been otherwise assessed. Until paid, there shall be a lien for additional taxes and interest on land assessed under the provisions of this Section.

(g) The valuation and assessment of any minerals or subsurface rights to minerals shall not come within the provisions of this Section.

Adopted Nov. 8, 1966.

§ 1-d-1. Open-space land

Sec. 1-d-1. (a) To promote the preservation of open-space land, the legislature shall provide by general law for taxation of open-space land devoted to farm or ranch purposes on the basis of its productive capacity and may provide by general law for taxation of open-space land devoted to timber production on the basis of its productive capacity. The legislature by general law may provide eligibility limitations under this section and may impose sanctions in furtherance of the taxation policy of this section.

(b) If a property owner qualifies his land for designation for agricultural use under Section 1-d of this article, the land is subject to the provisions of Section 1-d for the year in which the designation is effective and is not subject to a law enacted under this Section 1-d-1 in that year.

Adopted Nov. 7, 1978, eff. Jan. 1, 1979.

§ 1-e. Abolition of ad valorem property taxes

Sec. 1-e. 1. No State ad valorem taxes shall be levied upon any property within this State.

2. All receipts from previously authorized State ad valorem taxes that are collected on or after the effective date of the 1982 amendment to this section shall be deposited to the credit of the general fund of the county collecting the taxes and may be expended for county purposes. Receipts from taxes collected before that date shall be distributed by the legislature among institutions eligible to receive distributions under prior law. Those receipts and receipts distributed under prior law may be expended for the purposes provided under prior law or for repair and renovation of existing permanent improvements.

Adopted Nov. 5, 1968. Amended Nov. 2, 1982.

§ 1-f. Ad valorem tax relief

Sec. 1-f. The legislature by law may provide for the preservation of cultural, historical, or natural history resources by:

(1) granting exemptions or other relief from state ad valorem taxes on appropriate property so designated in the manner prescribed by law; and

(2) authorizing political subdivisions to grant exemptions or other relief from ad valorem taxes on appropriate property so designated by the political subdivision in the manner prescribed by general law.

Adopted Nov. 8, 1977.

§ 1-g. Development or redevelopment of property; ad valorem tax relief and issuance of bonds and notes

Sec. 1-g. (a) The legislature by general law may authorize cities, towns, and other taxing units to grant exemptions or other relief from ad valorem taxes on property located in a reinvestment zone for the purpose of encouraging development or redevelopment and improvement of the property.

(b) The legislature by general law may authorize an incorporated city or town to issue bonds or notes to finance the development or redevelopment of an unproductive, underdeveloped, or blighted area within the city or town and to pledge for repayment of those bonds or notes increases in ad valorem tax revenues imposed on property in the area by the city or town and other political subdivisions.

Adopted Nov. 3, 1981.

§ 2. Occupation taxes; equality and uniformity; exemptions from taxation

Sec. 2. (a) All occupation taxes shall be equal and uniform upon the same class of subjects within the limits of the authority levying the tax; but the legislature may, by general laws, exempt from taxation public property used for public purposes; actual places of religious worship, also any property owned by a church or by a strictly religious society for the exclusive use as a dwelling place for the ministry of such church or religious society, and which yields no revenue whatever to such church or religious society; provided that such exemption shall not extend to more property than is reasonably necessary for a dwelling place and in no event more than one acre of land; places of burial not held for private or corporate profit; solar or wind-powered energy devices; all buildings used exclusively and owned by persons or associations of persons for school purposes and the necessary furniture of all schools and property used exclusively and reasonably necessary in conducting any association engaged in promoting the religious, educational and physical development of boys, girls, young men or young women operating under a State or National organization of like character; also the endowment funds of such institutions of learning and religion

not used with a view to profit; and when the same are invested in bonds or mortgages, or in land or other property which has been and shall hereafter be bought in by such institutions under foreclosure sales made to satisfy or protect such bonds or mortgages, that such exemption of such land and property shall continue only for two years after the purchase of the same at such sale by such institutions and no longer, and institutions of purely public charity; and all laws exempting property from taxation other than the property mentioned in this Section shall be null and void.

(b) The Legislature may, by general law, exempt property owned by a disabled veteran or by the surviving spouse and surviving minor children of a disabled veteran. A disabled veteran is a veteran of the armed services of the United States who is classified as disabled by the Veterans' Administration or by a successor to that agency; or the military service in which he served. A veteran who is certified as having a disability of less than 10 percent is not entitled to an exemption. A veteran having a disability rating of not less than 10 percent nor more than 30 percent may be granted an exemption from taxation for property valued at up to \$1,500. A veteran having a disability rating of more than 30 percent but not more than 50 percent may be granted an exemption from taxation for property valued at up to \$2,000. A veteran having a disability rating of more than 50 percent but not more than 70 percent may be granted an exemption from taxation for property valued at up to \$2,500. A veteran who has a disability rating of more than 70 percent, or a veteran who has a disability rating of not less than 10 percent and has attained the age of 65, or a disabled veteran whose disability consists of the loss or loss of use of one or more limbs, total blindness in one or both eyes, or paraplegia, may be granted an exemption from taxation for property valued at up to \$3,000. The spouse and children of any member of the United States Armed Forces who loses his life while on active duty will be granted an exemption from taxation for property valued at up to \$2,500. A deceased disabled veteran's surviving spouse and children may be granted an exemption which in the aggregate is equal to the exemption to which the decedent was entitled at the time he died.

Amended Nov. 6, 1906, proclamation Jan. 7, 1907; Nov. 6, 1928; Nov. 7, 1972; Nov. 7, 1978.

§ 3. General laws; public purposes

Sec. 3. Taxes shall be levied and collected by general laws and for public purposes only.

§ 4. Surrender or suspension of taxing power

Sec. 4. The power to tax corporations and corporate property shall not be surrendered or suspended by act of the Legislature, by any contract or grant to which the State shall be a party.

§ 5. Railroad property; liability to municipal taxation

Sec. 5. All property of railroad companies, of whatever description, lying or being within the limits of any city or incorporated town within this State, shall bear its proportionate share of municipal taxation, and if any such property shall not have been heretofore rendered, the authorities of the city or town within which it lies, shall have power to require its rendition, and collect the usual municipal tax thereon, as on other property lying within said municipality.

§ 6. Withdrawal of money from Treasury; duration of appropriation

Sec. 6. No money shall be drawn from the Treasury but in pursuance of specific appropriations made by law; nor shall any appropriation of money be made for a longer term than two years, except by the first Legislature to assemble under this Constitution, which may make the necessary appropriations to carry on the government until the assemblage of the sixteenth Legislature.

§ 7. Borrowing, withholding or diverting special funds

Sec. 7. The Legislature shall not have power to borrow, or in any manner divert from its purpose, any special fund that may, or ought to, come into the Treasury; and shall make it penal for any person or persons to borrow, withhold or in any manner to divert from its purpose any special fund, or any part thereof.

§ 7-a. Revenues from motor vehicle registration fees and taxes on motor fuels and lubricants; purposes for which used

Sec. 7-a. Subject to legislative appropriation, allocation and direction, all net revenues remaining after payment of all refunds allowed by law and expenses of collection derived from motor vehicle registration fees, and all taxes, except gross production and ad valorem taxes, on motor fuels and lubricants used to propel motor vehicles over public roadways, shall be used for the sole purpose of acquiring rights-of-way, constructing, maintaining, and policing such public roadways, and for the administration of such laws as may be prescribed by the Legislature pertaining to the supervision of traffic and safety on such roads; and for the payment of the principal and interest on county and road district bonds or warrants voted or issued prior to January 2, 1939, and declared eligible prior to January 2, 1945, for payment out of the County and Road District Highway Fund under existing law; provided, however, that one-fourth (1/4) of such net revenue from the motor fuel tax shall be allocated to the Available School Fund; and, provided, however, that the net revenue derived by counties from motor vehicle registration fees shall never be less than the maximum amounts allowed to be retained by each County and the percentage allowed to be

retained by each County under the laws in effect on January 1, 1945. Nothing contained herein shall be construed as authorizing the pledging of the State's credit for any purpose.

Adopted Nov. 5, 1946.

§ 8. Railroad companies; assessment and collection of taxes

Sec. 8. All property of railroad companies shall be assessed, and the taxes collected in the several counties in which said property is situated, including so much of the roadbed and fixtures as shall be in each county. The rolling stock may be assessed in gross in the county where the principal office of the company is located, and the county tax paid upon it, shall be apportioned by the Comptroller, in proportion to the distance such road may run through any such county, among the several counties through which the road passes, as a part of their tax assets.

§ 9. Maximum state tax; county, city and town levies; county funds; local road laws

Sec. 9. The State tax on property, exclusive of the tax necessary to pay the public debt, and of the taxes provided for the benefit of the public free schools, shall never exceed Thirty-five Cents (35¢) on the One Hundred Dollars (\$100) valuation; and no county, city or town shall levy a tax rate in excess of Eighty Cents (80¢) on the One Hundred Dollars (\$100) valuation in any one (1) year for general fund, permanent improvement fund, road and bridge fund and jury fund purposes; provided further that at the time the Commissioners Court meets to levy the annual tax rate for each county it shall levy whatever tax rate may be needed for the four (4) constitutional purposes; namely, general fund, permanent improvement fund, road and bridge fund and jury fund so long as the Court does not impair any outstanding bonds or other obligations and so long as the total of the foregoing tax levies does not exceed Eighty Cents (80¢) on the One Hundred Dollars (\$100) valuation in any one (1) year. Once the Court has levied the annual tax rate, the same shall remain in force and effect during that taxable year; and the Legislature may also authorize an additional annual ad valorem tax to be levied and collected for the further maintenance of the public roads; provided, that a majority of the qualified property taxpaying voters of the county voting at an election to be held for that purpose shall vote such tax, not to exceed Fifteen Cents (15¢) on the One Hundred Dollars (\$100) valuation of the property subject to taxation in such county. Any county may put all tax money collected by the county into one general fund, without regard to the purpose or source of each tax. And the Legislature may pass local laws for the maintenance of the public roads and highways, without the local notice required for special or local laws. This Section shall not be construed as a limitation of

powers delegated to counties, cities or towns by any other Section or Sections of this Constitution.

Amended Aug. 14, 1883, proclamation Sept. 25, 1883; Nov. 4, 1890, proclamation Dec. 19, 1890; Nov. 6, 1906, proclamation Jan. 7, 1907; Nov. 7, 1944; Nov. 6, 1956; Nov. 11, 1967.

§ 10. Release from payment of taxes

Sec. 10. The Legislature shall have no power to release the inhabitants of, or property in, any county, city or town from the payment of taxes levied for State or county purposes, unless in case of great public calamity in any such county, city or town, when such release may be made by a vote of two-thirds of each House of the Legislature.

§ 11. Place of assessment; value of property not rendered by owner

Sec. 11. All property, whether owned by persons or corporations shall be assessed for taxation, and the taxes paid in the county where situated, but the Legislature may, by a two-thirds vote, authorize the payment of taxes of non-residents of counties to be made at the office of the Comptroller of Public Accounts. And all lands and other property not rendered for taxation by the owner thereof shall be assessed at its fair value by the proper officer.

§ 12. Repealed. Aug. 5, 1969

§ 13. Sales of lands and other property for taxes; redemption

Sec. 13. Provision shall be made by the first Legislature for the speedy sale, without the necessity of a suit in Court, of a sufficient portion of all lands and other property for the taxes due thereon, and every year thereafter for the sale in like manner of all lands and other property upon which the taxes have not been paid; and the deed of conveyance to the purchaser for all lands and other property thus sold shall be held to vest a good and perfect title in the purchaser thereof, subject to be impeached only for actual fraud; provided, that the former owner shall within two years from date of the filing for record of the Purchaser's Deed have the right to redeem the land on the following basis:

(1) Within the first year of the redemption period upon the payment of the amount of money paid for the land, including One (\$1.00) Dollar Tax Deed Recording Fee and all taxes, penalties, interest and costs paid plus not exceeding twenty-five (25%) percent of the aggregate total;

(2) Within the last year of the redemption period upon the payment of the amount of money paid for the land, including One (\$1.00) Dollar Tax Deed Recording Fee and all taxes, penalties, interest and costs paid plus not exceeding fifty (50%) percent of the aggregate total.

Amended Nov. 8, 1932.

§ 14. Assessor and collector of taxes

Sec. 14. Except as provided in Section 16 of this Article, there shall be elected by the qualified voters of each county, an Assessor and Collector of Taxes, who shall hold his office for four years and until his successor is elected and qualified; and such Assessor and Collector of Taxes shall perform all the duties with respect to assessing property for the purpose of taxation and of collecting taxes, as may be prescribed by the Legislature.

Amended Nov. 8, 1932; Nov. 2, 1954.

§ 15. Lien of assessment; seizure and sale of property

Sec. 15. The annual assessment made upon landed property shall be a special lien thereon; and all property, both real and personal, belonging to any delinquent taxpayer shall be liable to seizure and sale for the payment of all the taxes and penalties due by such delinquent; and such property may be sold for the payment of the taxes and penalties due by such delinquent, under such regulations as the Legislature may provide.

§ 16. Sheriff to be Assessor and Collector of Taxes; counties having 10,000 or more inhabitants

Sec. 16. The Sheriff of each county, in addition to his other duties, shall be the Assessor and Collector of Taxes therefor; but, in counties having 10,000 or more inhabitants, to be determined by the last preceding census of the United States, an Assessor and Collector of Taxes shall be elected as provided in Section 14 of this Article, and shall hold office for four years and until his successor shall be elected and qualified.

Amended Nov. 8, 1932; Nov. 2, 1954.

§ 16a. Assessor-Collector of Taxes; counties having less than 10,000 inhabitants

Sec. 16a. In any county having a population of less than ten thousand (10,000) inhabitants, as determined by the last preceding census of the United States, the Commissioners Court may submit to the qualified property taxpaying voters of such county at an election the question of adding an Assessor-Collector of Taxes to the list of authorized county officials. If a majority of such voters voting in such election shall approve of adding an Assessor-Collector of Taxes to such list, then such official shall be elected at the next General Election for such Constitutional term of office as is provided for other Tax Assessor-Collectors in this State.

Adopted Nov. 2, 1954.

§ 17. Specification of subjects not limitation of Legislature's power

Sec. 17. The specification of the objects and subjects of taxation shall not deprive the Legislature of the power to require other subjects or objects to be

taxed in such manner as may be consistent with the principles of taxation fixed in this Constitution.

§ 18. Equalization of valuations; classification of lands; single appraisal and single board of equalization

Sec. 18. (a) The Legislature shall provide for equalizing, as near as may be, the valuation of all property subject to or rendered for taxation, and may also provide for the classification of all lands with reference to their value in the several counties.

(b) A single appraisal within each county of all property subject to ad valorem taxation by the county and all other taxing units located therein shall be provided by general law. The Legislature, by general law, may authorize appraisals outside a county when political subdivisions are situated in more than one county or when two or more counties elect to consolidate appraisal services.

(c) The Legislature, by general law, shall provide for a single board of equalization for each appraisal entity consisting of qualified persons residing within the territory appraised by that entity. Members of the board of equalization may not be elected officials of the county or of the governing body of a taxing unit.

(d) The Legislature shall prescribe by general law the methods, timing, and administrative process for implementing the requirements of this section.

Amended Nov. 4, 1980.

§ 19. Farm products, livestock, poultry, and family supplies; exemption

Sec. 19. Farm products, livestock, and poultry in the hands of the producer, and family supplies for home and farm use, are exempt from all taxation until otherwise directed by a two-thirds vote of all the members elect to both houses of the Legislature.

Adopted Sept. 2, 1879, proclamation Oct. 14, 1879. Amended Nov. 3, 1981.

§ 19a. Implements of husbandry, exemption

Sec. 19a. Implements of husbandry that are used in the production of farm or ranch products are exempt from ad valorem taxation.

Adopted Nov. 2, 1982.

§ 20. Fair cash market value not to be exceeded; discounts for advance payment

Sec. 20. No property of any kind in this State shall ever be assessed for ad valorem taxes at a greater value than its fair cash market value nor shall any Board of Equalization of any governmental or political subdivision or taxing district within this State fix the value of any property for tax purposes at more than its fair cash market value; provided that in order to encourage the prompt payment of taxes, the Legislature shall have the power to provide that the taxpayer shall be allowed

by the State and all governmental and political subdivisions and taxing districts of the State a three per cent (3%) discount on ad valorem taxes due the State or due any governmental or political subdivision or taxing district of the State if such taxes are paid ninety (90) days before the date when they would otherwise become delinquent; and the taxpayer shall be allowed a two per cent (2%) discount on said taxes if paid sixty (60) days before said taxes would become delinquent; and the taxpayer shall be allowed a one per cent (1%) discount if said taxes are paid thirty (30) days before they would otherwise become delinquent. This amendment shall be effective January 1, 1939. The Legislature shall pass necessary laws for the proper administration of this Section.

Adopted Aug. 23, 1937.

§ 21. Increase in total property taxes; notice and hearing; calculation

Sec. 21. (a) Subject to any exceptions prescribed by general law, the total amount of property taxes imposed by a political subdivision in any year may not exceed the total amount of property taxes imposed by that subdivision in the preceding year unless the governing body of the subdivision gives notice of its intent to consider an increase in taxes and holds a public hearing on the proposed increase before it increases those total taxes. The legislature shall prescribe by law the form, content, timing, and methods of giving the notice and the rules for the conduct of the hearing.

(b) In calculating the total amount of taxes imposed in the current year for the purposes of Subsection (a) of this section, the taxes on property in territory added to the political subdivision since the preceding year and on new improvements that were not taxable in the preceding year are excluded. In calculating the total amount of taxes imposed in the preceding year for the purposes of Subsection (a) of this section, the taxes imposed on real property that is not taxable by the subdivision in the current year are excluded.

(c) The legislature by general law shall require that, subject to reasonable exceptions, a property owner be given notice of a revaluation of his property and a reasonable estimate of the amount of taxes that would be imposed on his property if the total amount of property taxes for the subdivision were not increased according to any law enacted pursuant to Subsection (a) of this section. The notice must be given before the procedures required in Subsection (a) are instituted.

Adopted Nov. 7, 1978, eff. Jan. 1, 1979. Amended Nov. 3, 1981.

§ 22. Appropriations from state tax revenues; rate of growth

Sec. 22. (a) In no biennium shall the rate of growth of appropriations from state tax revenues not dedicated by this constitution exceed the esti-

mated rate of growth of the state's economy. The legislature shall provide by general law procedures to implement this subsection.

(b) If the legislature by adoption of a resolution approved by a record vote of a majority of the members of each house finds that an emergency exists and identifies the nature of the emergency, the legislature may provide for appropriations in excess of the amount authorized by Subsection (a) of this section. The excess authorized under this subsection may not exceed the amount specified in the resolution.

(c) In no case shall appropriations exceed revenues as provided in Article III, Section 49a, of this constitution. Nothing in this section shall be construed to alter, amend, or repeal Article III, Section 49a, of this constitution.

Adopted Nov. 7, 1978, eff. Jan. 1, 1979.

§ 23. Statewide appraisal of real property; enforcement of uniform standards and procedures for appraisal

Sec. 23. (a) There shall be no statewide appraisal of real property for ad valorem tax purposes; however, this shall not preclude formula distribution of tax revenues to political subdivisions of the state.

(b) Administrative and judicial enforcement of uniform standards and procedures for appraisal of property for ad valorem tax purposes, as prescribed by general law, shall originate in the county where the tax is imposed, except that the legislature may provide by general law for political subdivisions with boundaries extending outside the county.

Adopted Nov. 7, 1978, eff. Jan. 1, 1979.

**ARTICLE IX
COUNTIES**

Sec.

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

COUNTY SEATS

2. Removal of county seats.

HOME RULE CHARTERS

3. Repealed.

HOSPITAL DISTRICTS

4. County-wide Hospital Districts.
5. City of Amarillo; Wichita County; Jefferson County; creation of hospital districts.
6. Lamar County Hospital District; abolition; transfer of assets.
7. Hidalgo County; Hospital District; creation; tax rate.
8. County Commissioners, Precinct No. 4 of Comanche County; Hospital District; creation; tax rate.
9. Hospital districts; creation, operation, powers, duties and dissolution.

Sec.

10. Blank.
11. Hospital districts; Ochiltree, Castro, Hansford and Hopkins Counties; creation; taxes.
12. Airport Authorities.
13. Participation of municipalities and other political subdivisions in establishment of mental health, mental retardation or public health services.

§ 1. Creation of counties

Section 1. The Legislature shall have power to create counties for the convenience of the people subject to the following provisions:

First. In the territory of the State exterior to all counties now existing, no new counties shall be created with a less area than nine hundred square miles, in a square form, unless prevented by pre-existing boundary lines. Should the State lines render this impracticable in border counties, the area may be less. The territory referred to may, at any time, in whole or in part, be divided into counties in advance of population and attached, for judicial and land surveying purposes, to the most convenient organized county or counties.

Second. Within the territory of any county or counties now existing, no new county shall be created with a less area than seven hundred square miles, nor shall any such county now existing be reduced to a less area than seven hundred square miles. No new counties shall be created so as to approach nearer than twelve miles of the county seat of any county from which it may in whole or in part be taken. Counties of a less area than nine hundred, but of seven hundred or more square miles, within counties now existing, may be created by a two-thirds vote of each House of the Legislature, taken by yeas and nays and entered on the journals. Any county now existing may be reduced to an area of not less than seven hundred square miles by a like two-thirds vote. When any part of a county is stricken off and attached to, or created into another county, the part stricken off shall be holden for and obliged to pay its proportion of all the liabilities then existing, of the county from which it was taken, in such manner as may be prescribed by law.

Third. No part of any existing county shall be detached from it and attached to another existing county until the proposition for such change shall have been submitted, in such manner as may be provided by law, to a vote of the electors of both counties, and shall have received a majority of those voting on the question in each.

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

Sec. 1-A. The Legislature may authorize the governing body of any county bordering on the Gulf of Mexico or the tidewater limits thereof to regulate and restrict the speed, parking and travel of motor

vehicles on beaches available to the public by virtue of public right and the littering of such beaches.

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

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

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

Adopted Nov. 6, 1962.

COUNTY SEATS

§ 2. Removal of county seats

Sec. 2. The Legislature shall pass laws regulating the manner of removing county seats, but no county seat situated within five miles of the geographical centre of the county shall be removed, except by a vote of two-thirds of all the electors voting on the subject. A majority of such electors, however, voting at such election, may remove a county seat from a point more than five miles from the geographical centre of the county to a point within five miles of such centre, in either case the centre to be determined by a certificate from the Commissioner of the General Land Office.

HOME RULE CHARTERS

§ 3. Repealed. Aug. 5, 1969

HOSPITAL DISTRICTS

§ 4. County-wide Hospital Districts

Sec. 4. The Legislature may by law authorize the creation of county-wide Hospital Districts in counties having a population in excess of 190,000 and in Galveston County, with power to issue bonds for the purchase, acquisition, construction, maintenance and operation of any county owned hospital, or where the hospital system is jointly operated by a county and city within the county, and to provide for the transfer to the county-wide Hospital District of the title to any land, buildings or equipment, jointly or separately owned, and for the assumption by the district of any outstanding bonded indebtedness theretofore issued by any county or city for the establishment of hospitals or hospital facilities; to levy a tax not to exceed seventy-five (\$.75) cents on the One Hundred (\$100.00) Dollars valuation of all taxable property within such district, provided, however, that such district shall be approved at an election held for that purpose, and that only qualified, property taxpaying voters in such county shall vote therein; provided further, that such Hospital District shall assume full responsibility for provid-

ing medical and hospital care to needy inhabitants of the county, and thereafter such county and cities therein shall not levy any other tax for hospital purposes; and provided further that should such Hospital District construct, maintain and support a hospital or hospital system, that the same shall never become a charge against the State of Texas, nor shall any direct appropriation ever be made by the Legislature for the construction, maintenance or improvement of the said hospital or hospitals. Should the Legislature enact enabling laws in anticipation of the adoption of this amendment, such Acts shall not be invalid because of their anticipatory character.

Adopted Nov. 2, 1954.

§ 5. City of Amarillo; Wichita County; Jefferson County; creation of hospital districts

Sec. 5. (a) The Legislature may by law authorize the creation of two hospital districts, one to be coextensive with and have the same boundaries as the incorporated City of Amarillo, as such boundaries now exist or as they may hereafter be lawfully extended, and the other to be coextensive with Wichita County.

If such district or districts are created, they may be authorized to levy a tax not to exceed Seventy-five Cents (75¢) on the One Hundred Dollars (\$100.00) valuation of taxable property within the district; provided, however, no tax may be levied until approved by a majority vote of the participating resident qualified property taxpaying voters who have duly rendered their property for taxation. The maximum rate of tax may be changed at subsequent elections so long as obligations are not impaired, and not to exceed the maximum limit of Seventy-five Cents (75¢) per One Hundred Dollars (\$100.00) valuation, and no election shall be required by subsequent changes in the boundaries of the City of Amarillo.

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

(b) The Legislature may by law permit the County of Potter (in which the City of Amarillo is partial-

ly located) to render financial aid to that district by paying a part of the expenses of operating and maintaining the system and paying a part of the debts of the district (whether assumed or created by the district) and may authorize the levy of a tax not to exceed Ten Cents (10¢) per One Hundred Dollars (\$100.00) valuation (in addition to other taxes permitted by this Constitution) upon all property within the county but without the City of Amarillo at the time such levy is made for such purposes. If such tax is authorized, the district shall by resolution assume the responsibilities, obligations, and liabilities of the county in the manner and to the extent hereinabove provided for political subdivisions having boundaries coextensive with the district, and the county shall not thereafter levy taxes (other than herein provided) for hospital purposes nor for providing hospital care for needy individuals of the county.

(c) The Legislature may by law authorize the creation of a hospital district within Jefferson County, the boundaries of which shall include only the area comprising the Jefferson County Drainage District No. 7 and the Port Arthur Independent School District, as such boundaries existed on the first day of January, 1957, with the power to issue bonds for the sole purpose of purchasing a site for, and the construction and initial equipping of, a hospital system, and with the power to levy a tax of not to exceed Seventy-five Cents (75¢) on the One Hundred Dollars (\$100.00) valuation of property therein for the purpose of paying the principal and interest on such bonds.

The creation of such hospital district shall not be final until approved at an election by a majority of the resident property taxpaying voters voting at said election who have duly rendered their property for taxation upon the tax rolls of either said Drainage or said School District, nor shall such bonds be issued or such tax be levied until so approved by such voters.

The district shall not have the power to levy any tax for maintenance or operation of the hospital or facilities, but shall contract with other political subdivisions of the state or private individuals, associations, or corporations for such purposes.

If the district hereinabove authorized is finally created, no other hospital district may be created embracing any part of the territory within its boundaries, but the Legislature by law may authorize the creation of a hospital district incorporating therein the remainder of Jefferson County, having the powers and duties and with the limitations presently provided by Article IX, Section 4, of the Constitution of Texas, except that such district shall be confirmed at an election wherein the resident qualified property taxpaying voters who have duly rendered their property within such proposed district for taxation on the county rolls, shall be authorized to vote. A majority of those participating in the election voting in favor of the district shall be

necessary for its confirmation and for bonds to be issued.

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

Adopted Nov. 4, 1958.

§ 6. Lamar County Hospital District; abolition; transfer of assets

Sec. 6. On the effective date of this Amendment, the Lamar County Hospital District is abolished. The Commissioners Court of Lamar County may provide for the transfer or for the disposition of the assets of the Lamar County Hospital District.

Adopted Nov. 8, 1960. Amended Nov. 7, 1972.

§ 7. Hidalgo County; Hospital District; creation; tax rate

Sec. 7. The Legislature may by law authorize the creation of a Hospital District co-extensive with Hidalgo County, having the powers and duties and with the limitations presently provided in Article IX, Section 5(a), of the Constitution of Texas, as it applies to Hidalgo County, except that the maximum rate of tax that the said Hidalgo County Hospital District may be authorized to levy shall be ten cents (10¢) per One Hundred Dollars (\$100) valuation of taxable property within the District subject to district taxation.

Adopted Nov. 8, 1960.

§ 8. County Commissioners Precinct No. 4 of Comanche County; Hospital District; creation; tax rate

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

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

If such tax is authorized, no political subdivision or municipality within or having the same boundaries as the District may levy a tax for medical or hospital care for needy individuals, nor shall they maintain or erect hospital facilities, but the District shall by resolution assume all such responsibilities

and shall assume all of the liabilities and obligations (including bonds and warrants) of such subdivisions or municipalities or both. The maximum tax rate submitted shall be sufficient to discharge such obligations, liabilities, and responsibilities, and to maintain and operate the hospital system, and the Legislature may authorize the District to issue tax bonds for the purpose of the purchase, construction, acquisition, repair or renovation of improvements and initially equipping the same, and such bonds shall be payable from said seventy-five cent (75¢) tax. The Legislature shall provide for transfer of title to properties to the District.

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

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

Adopted Nov. 8, 1960.

§ 9. Hospital districts; creation, operation, powers, duties and dissolution

Sec. 9. The Legislature may by law provide for the creation, establishment, maintenance and operation of hospital districts composed of one or more counties or all or any part of one or more counties with power to issue bonds for the purchase, construction, acquisition, repair or renovation of buildings and improvements and equipping same, for hospital purposes; providing for the transfer to the hospital district of the title to any land, buildings, improvements and equipment located wholly within the district which may be jointly or separately owned by any city, town or county, providing that any district so created shall assume full responsibility for providing medical and hospital care for its needy inhabitants and assume the outstanding indebtedness incurred by cities, towns and counties for hospital purposes prior to the creation of the district, if same are located wholly within its boundaries, and a pro rata portion of such indebtedness based upon the then last approved tax assessment

rolls of the included cities, towns and counties if less than all the territory thereof is included within the district boundaries; providing that after its creation no other municipality or political subdivision shall have the power to levy taxes or issue bonds or other obligations for hospital purposes or for providing medical care within the boundaries of the district; providing for the levy of annual taxes at a rate not to exceed seventy-five cents (75¢) on the One Hundred Dollar valuation of all taxable property within such district for the purpose of meeting the requirements of the district's bonds, the indebtedness assumed by it and its maintenance and operating expenses, providing that such district shall not be created or such tax authorized unless approved by a majority of the qualified property taxpaying electors thereof voting at an election called for the purpose; and providing further that the support and maintenance of the district's hospital system shall never become a charge against or obligation of the State of Texas nor shall any direct appropriation be made by the Legislature for the construction, maintenance or improvement of any of the facilities of such district.

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

The Legislature may also provide for the dissolution of hospital districts provided that a process is afforded by statute for:

(1) determining the desire of a majority of the qualified voters within the district to dissolve it;

(2) disposing of or transferring the assets, if any, of the district; and

(3) satisfying the debts and bond obligations, if any, of the district, in such manner as to protect the interests of the citizens within the district, including their collective property rights in the assets and property of the district, provided, however, that any grant from federal funds, however dispensed, shall be considered an obligation to be repaid in satisfaction and provided that no election to dissolve shall be held more often than once each year. In such connection, the statute shall provide against disposal or transfer of the assets of the district except for due compensation unless such assets are transferred to another governmental agency, such as a county, embracing such district and using such transferred assets in such a way as to benefit citizens formerly within the district.

Adopted Nov. 6, 1962. Amended Nov. 8, 1966.

§ 10. Blank

§ 11. Hospital districts; Ochiltree, Castro, Hansford and Hopkins Counties; creation; taxes

Sec. 11. The Legislature may by law authorize the creation of hospital districts in Ochiltree, Castro,

Hansford and Hopkins Counties; each district to be coextensive with the limits of such county.

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

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

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

Adopted Nov. 6, 1962.

§ 12. Airport Authorities

Sec. 12. The Legislature may by law provide for the creation, establishment, maintenance and operation of Airport Authorities composed of one or more counties, with power to issue general obligation bonds, revenue bonds, either or both of them, for the purchase, acquisition by the exercise of the power of eminent domain or otherwise, construction, reconstruction, repair or renovation of any airport or airports, landing fields and runways, airport buildings, hangars, facilities, equipment, fixtures, and any and all property, real or personal, necessary to operate, equip and maintain an airport; shall provide for the option by the governing body of the city or cities whose airport facilities are served by certificated airlines and whose facility or some interest therein, is proposed to be or has been acquired by the Authority, to either appoint or elect a Board of Directors of said Authority; if the Directors are appointed such appointment shall be made by the County Commissioners Court after consultation with and consent of the governing body

or bodies of such city or cities, and if the Board of Directors is elected they shall be elected by the qualified taxpaying voters of the county which chooses to elect the Directors to represent that county, such Directors shall serve without compensation for a term fixed by the Legislature not to exceed six (6) years, and shall be selected on the basis of the proportionate population of each county based upon the last preceding Federal Census, and shall be a resident or residents of such county; provide that no county shall have less than one (1) member on the Board of Directors; provide for the holding of an election in each county proposing the creation of an Authority to be called by the Commissioners Court or Commissioners Courts, as the case may be, upon petition of five per cent (5%) of the qualified taxpaying voters within the county or counties, said elections to be held on the same day if more than one county is included, provided that no more than one (1) such election may be called in a county until after the expiration of one (1) year; in the event such an election has failed, and thereafter only upon a petition of ten per cent (10%) of the qualified taxpaying voters being presented to the Commissioners Court or Commissioners Courts of the county or counties in which such an election has failed, and in the event that two or more counties vote on the proposition of the creation of an Authority therein, the proposition shall not be deemed to carry unless the majority of the qualified taxpaying voters in each county voting thereon vote in favor thereof; provided, however, that an Airport Authority may be created and be composed of the county or counties that vote in favor of its creation if separate propositions are submitted to the voters of each county so that they may vote for a two or more county Authority or a single county Authority; provide for the appointment by the Board of Directors of an Assessor and Collector of Taxes in the Authority, whether constituted of one or more counties, whose duty it shall be to assess all taxable property, both real and personal, and collect the taxes thereon, based upon the tax rolls approved by the Board of Directors, the tax to be levied not to exceed Seventy-Five Cents (75¢) per One Hundred Dollars (\$100) assessed valuation of the property, provided, however, that the property of state regulated common carriers required by law to pay a tax upon intangible assets shall not be subject to taxation by the Authority, said taxable property shall be assessed on a valuation not to exceed the market value and shall be equal and uniform throughout the Authority as is otherwise provided by the Constitution; the Legislature shall authorize the purchase or acquisition by the Authority of any existing airport facility publicly owned and financed and served by certificated airlines, in fee or of any interest therein, or to enter into any lease agreement therefor, upon such terms and conditions as may be mutually agreeable to the Authority and the owner of such facilities, or authorize the acquisition of same through the exercise of the power of eminent domain, and in the event of such acquisition, if

there are any general obligation bonds that the owner of the publicly owned airport facility has outstanding, the same shall be fully assumed by the Authority and sufficient taxes levied by the Authority to discharge said outstanding indebtedness; and likewise any city or owner that has outstanding revenue bonds where the revenues of the airport have been pledged or said bonds constitute a lien against the airport facilities, the Authority shall assume and discharge all the obligations of the city under the ordinances and bond indentures under which said revenue bonds have been issued and sold. Any city which owns airport facilities not serving certificated airlines which are not purchased or acquired or taken over as herein provided by such Authority, shall have the power to operate the same under the existing laws or as the same may hereafter be amended. Any such Authority when created may be granted the power and authority to promulgate, adopt and enforce appropriate zoning regulations to protect the airport from hazards and obstructions which would interfere with the use of the airport and its facilities for landing and take-off; an additional county or counties may be added to an existing Authority if a petition of five per cent (5%) of the qualified taxpaying voters is filed with and an election is called by the Commissioners Court of the county or counties seeking admission to an Authority and the vote is favorable, then admission may be granted to such county or counties by the Board of Directors of the then existing Authority upon such terms and conditions as they may agree upon and evidenced by a resolution approved by two-thirds ($\frac{2}{3}$ rds) of the then existing Board of Directors, provided, however, the county or counties that may be so added to the then existing Authority shall be given representation on the Board of Directors by adding additional directors in proportion to their population according to the last preceding Federal census.

Adopted Nov. 8, 1966.

§ 13. Participation of municipalities and other political subdivisions in establishment of mental health, mental retardation or public health services

Sec. 13. Notwithstanding any other section of this article, the Legislature in providing for the creation, establishment, maintenance and operation of a hospital district, shall not be required to provide that such district shall assume full responsibility for the establishment, maintenance, support, or operation of mental health services or mental retardation services including the operation of any community mental health centers, community mental retardation centers or community mental health and mental retardation centers which may exist or be thereafter established within the boundaries of such district, nor shall the Legislature be required to provide that such district shall assume full responsibility of public health department units and clinics and related public health activities or services, and the Legislature shall not be required to restrict the

power of any municipality or political subdivision to levy taxes or issue bonds or other obligations or to expend public moneys for the establishment, maintenance, support, or operation of mental health services, mental retardation services, public health units or clinics or related public health activities or services or the operation of such community mental health or mental retardation centers within the boundaries of the hospital districts; and unless a statute creating a hospital district shall expressly prohibit participation by any entity other than the hospital district in the establishment, maintenance, or support of mental health services, mental retardation services, public health units or clinics or related public health activities within or partly within the boundaries of any hospital district, any municipality or any other political subdivision or state-supported entity within the hospital district may participate in the establishment, maintenance, and support of mental health services, mental retardation services, public health units and clinics and related public health activities and may levy taxes, issue bonds or other obligations, and expend public moneys for such purposes as provided by law.

Adopted Nov. 11, 1967.

**ARTICLE X
RAILROADS**

Sec.

1. Repealed.
2. Public highways; common carriers; regulation of tariffs, correction of abuses and prevention of discrimination and extortion; means and agencies.
- 3 to 9. Repealed.

§ 1. Repealed. Aug. 5, 1969

§ 2. **Public highways; common carriers; regulation of tariffs, correction of abuses and prevention of discrimination and extortion; means and agencies**

Sec. 2. Railroads heretofore constructed or which may hereafter be constructed in this state are hereby declared public highways, and railroad companies, common carriers. The Legislature shall pass laws to regulate railroad, freight and passenger tariffs, to correct abuses and prevent unjust discrimination and extortion in the rates of freight and passenger tariffs on the different railroads in this state, and enforce the same by adequate penalties; and to the further accomplishment of these objects and purposes, may provide and establish all requisite means and agencies invested with such powers as may be deemed adequate and advisable.

Amended Nov. 4, 1890, proclamation Dec. 19, 1890.

§§ 3 to 9. Repealed. Aug. 5, 1969

**ARTICLE XI
MUNICIPAL CORPORATIONS**

Sec.

1. Counties as legal subdivisions.
2. Jails, court-houses, bridges and roads.

Sec.

3. Subscriptions to corporate capital; donations; loan of credit.
4. Cities and towns with population of 5,000 or less; chartered by general law; taxes; fines, forfeitures and penalties.
5. Cities of 5000 or more population; adoption or amendment of charters; taxes; debt restrictions.
6. Taxes to pay interest and create sinking fund to satisfy indebtedness.
7. Counties and cities on Gulf of Mexico; tax for sea walls, breakwaters and sanitation; bonds; condemnation of right of way.
8. Donation of portion of public domain to aid in construction of sea walls or breakwaters.
9. Property exempt from forced sale and from taxation.
10. Repealed.
11. Term of office exceeding two years in home rule and general law cities; vacancies.
12. Expenditures for relocation or replacement of sanitation sewer laterals on private property.

§ 1. Counties as legal subdivisions

Section 1. The several counties of this State are hereby recognized as legal subdivisions of the State.

§ 2. Jails, court-houses, bridges and roads

Sec. 2. The construction of jails, court-houses and bridges and the establishment of county poor houses and farms, and the laying out, construction and repairing of county roads shall be provided for by general laws.

§ 3. Subscriptions to corporate capital; donations; loan of credit

Sec. 3. No county, city, or other municipal corporation shall hereafter become a subscriber to the capital of any private corporation or association, or make any appropriation or donation to the same, or in anywise loan its credit; but this shall not be construed to in any way affect any obligation heretofore undertaken pursuant to law.

§ 4. Cities and towns with population of 5,000 or less; chartered by general law; taxes; fines, forfeitures and penalties

Sec. 4. Cities and towns having a population of five thousand or less may be chartered alone by general law. They may levy, assess and collect such taxes as may be authorized by law, but no tax for any purpose shall ever be lawful for any one year which shall exceed one and one-half per cent of the taxable property of such city; and all taxes shall be collectible only in current money, and all licenses and occupation taxes levied, and all fines, forfeitures and penalties accruing to said cities and towns shall be collectible only in current money.

Amended Aug. 3, 1909, proclamation Sept. 24, 1909; Nov. 2, 1920.

§ 5. Cities of 5000 or more population; adoption or amendment of charters; taxes; debt restrictions

Sec. 5. Cities having more than five thousand (5000) inhabitants may, by a majority vote of the qualified voters of said city, at an election held for that purpose, adopt or amend their charters, subject to such limitations as may be prescribed by the Legislature, and providing that no charter or any ordinance passed under said charter shall contain any provision inconsistent with the Constitution of the State, or of the general laws enacted by the Legislature of this State; said cities may levy, assess and collect such taxes as may be authorized by law or by their charters; but no tax for any purpose shall ever be lawful for any one year, which shall exceed two and one-half per cent. of the taxable property of such city, and no debt shall ever be created by any city, unless at the same time provision be made to assess and collect annually a sufficient sum to pay the interest thereon and creating a sinking fund of at least two per cent. thereon; and provided further, that no city charter shall be altered, amended or repealed oftener than every two years.

Amended Aug. 3, 1909, proclamation Sept. 24, 1909; Nov. 5, 1912, proclamation Dec. 30, 1912.

§ 6. Taxes to pay interest and create sinking fund to satisfy indebtedness

Sec. 6. Counties, cities and towns are authorized in such mode as may now or may hereafter be provided by law, to levy, assess and collect the taxes necessary to pay the interest and provide a sinking fund to satisfy any indebtedness heretofore legally made and undertaken; but all such taxes shall be assessed and collected separately from that levied, assessed and collected for current expenses of municipal government, and shall when levied specify in the act of levying the purpose therefor, and such taxes may be paid in the coupons, bonds or other indebtedness for the payment of which such tax may have been levied.

§ 7. Counties and cities on Gulf of Mexico; tax for sea walls, breakwaters and sanitation; bonds; condemnation of right of way

Sec. 7. All counties and cities bordering on the coast of the Gulf of Mexico are hereby authorized upon a vote of the majority of the resident property taxpayers voting thereon at an election called for such purpose to levy and collect such tax for construction of sea walls, breakwaters, or sanitary purposes, as may now or may hereafter be authorized by law, and may create a debt for such works and issue bonds in evidence thereof. But no debt for any purpose shall ever be incurred in any manner by any city or county unless provision is made, at the time of creating the same, for levying and collecting a sufficient tax to pay the interest thereon and provide at least two per cent (2%) as a sinking fund; and the condemnation of the right of

way for the erection of such works shall be fully provided for.

Amended Nov. 8, 1932; Nov. 6, 1973.

§ 8. Donation of portion of public domain to aid in construction of sea walls or breakwaters

Sec. 8. The counties and cities on the Gulf Coast being subject to calamitous overflows, and a very large proportion of the general revenue being derived from those otherwise prosperous localities, the Legislature is especially authorized to aid by donation of such portion of the public domain as may be deemed proper, and in such mode as may be provided by law, the construction of sea walls, or breakwaters, such aid to be proportioned to the extent and value of the works constructed, or to be constructed, in any locality.

§ 9. Property exempt from forced sale and from taxation

Sec. 9. The property of counties, cities and towns, owned and held only for public purposes, such as public buildings and the sites therefor, fire engines and the furniture thereof, and all property used, or intended for extinguishing fires, public grounds and all other property devoted exclusively to the use and benefit of the public shall be exempt from forced sale and from taxation, provided, nothing herein shall prevent the enforcement of the vendors lien, the mechanics or builders lien, or other liens now existing.

§ 10. Repealed. Aug. 5, 1969

§ 11. Term of office exceeding two years in home rule and general law cities; vacancies

Sec. 11. A Home Rule City may provide by charter or charter amendment, and a city, town or village operating under the general laws may provide by majority vote of the qualified voters voting at an election called for that purpose, for a longer term of office than two (2) years for its officers, either elective or appointive, or both, but not to exceed four (4) years; provided, however, that tenure under Civil Service shall not be affected hereby.

Provided, however, if any of such officers, elective or appointive, shall announce their candidacy, or shall in fact become a candidate, in any general, special or primary election, for any office of profit or trust under the laws of this State or the United States other than the office then held, at any time when the unexpired term of the office then held shall exceed one (1) year, such announcement or such candidacy shall constitute an automatic resignation of the office then held, and the vacancy thereby created shall be filled pursuant to law in the same manner as other vacancies for such office are filled.

A municipality so providing a term exceeding two (2) years but not exceeding four (4) years for any of

its non-civil service officers must elect all of the members of its governing body by majority vote of the qualified voters in such municipality, and any vacancy or vacancies occurring on such governing body shall not be filled by appointment but must be filled by majority vote of the qualified voters at a special election called for such purpose within one hundred and twenty (120) days after such vacancy or vacancies occur.

Adopted Nov. 4, 1958.

§ 12. Expenditures for relocation or replacement of sanitation sewer laterals on private property

Sec. 12. The legislature by general law may authorize a city or town to expend public funds for the relocation or replacement of sanitation sewer laterals on private property if the relocation or replacement is done in conjunction with or immediately following the replacement or relocation of sanitation sewer mains serving the property. The law must authorize the city or town to affix, with the consent of the owner of the private property, a lien on the property for the cost of relocating or replacing the sewer laterals on the property and must provide that the cost shall be assessed against the property with repayment by the property owner to be amortized over a period not to exceed five years at a rate of interest to be set as provided by the law. The lien may not be enforced until after five years have expired since the date the lien was affixed.

Adopted Nov. 8, 1983.

ARTICLE XII

PRIVATE CORPORATIONS

Sec.

1. Creation by general laws.
2. General laws to be enacted; protection of public and stockholders.
- 3 to 5. Repealed.
6. Consideration for stock or bonds; fictitious increase.
7. Repealed.

§ 1. Creation by general laws

Section 1. No private corporation shall be created except by general laws.

§ 2. General laws to be enacted; protection of public and stockholders

Sec. 2. General laws shall be enacted providing for the creation of private corporations, and shall therein provide fully for the adequate protection of the public and of the individual stockholders.

§§ 3 to 5. Repealed. Aug. 5, 1969

§ 6. Consideration for stock or bonds; fictitious increase

Sec. 6. No corporation shall issue stock or bonds except for money paid, labor done or property actually received, and all fictitious increase of stock or indebtedness shall be void.

§ 7. Repealed. Aug. 5, 1969

ARTICLE XIII

SPANISH AND MEXICAN LAND TITLES

§§ 1 to 7. Repealed. Aug. 5, 1969

ARTICLE XIV

PUBLIC LANDS AND LAND OFFICE

Sec.

1. General Land Office.
- 2 to 8. Repealed.

§ 1. General Land Office

Section 1. There shall be one General Land Office in the State, which shall be at the seat of government, where all land titles which have emanated or may hereafter emanate from the State shall be registered, except those titles the registration of which may be prohibited by this Constitution. It shall be the duty of the Legislature at the earliest practicable time to make the Land Office self sustaining, and from time to time, the Legislature may establish such subordinate offices as may be deemed necessary.

§§ 2 to 8. Repealed. Aug. 5, 1969

**ARTICLE XV
IMPEACHMENT**

Sec.

1. Power of impeachment.
2. Trial of impeachment of certain officers by Senate.
3. Oath or affirmation of Senators; concurrence of two-thirds required.
4. Judgment; indictment, trial and punishment.
5. Suspension pending impeachment; provisional appointments.
6. Judges of District Court; removal by Supreme Court.
7. Removal of officers when mode not provided in Constitution.

ADDRESS

8. Removal of judges by Governor on address of two-thirds of each House of Legislature.
9. Removal of public officers by governor; special session to consider removal.

§ 1. Power of impeachment

Section 1. The power of impeachment shall be vested in the House of Representatives.

§ 2. Trial of impeachment of certain officers by Senate

Sec. 2. Impeachment of the Governor, Lieutenant Governor, Attorney General, Treasurer, Commissioner of the General Land Office, Comptroller and the Judges of the Supreme Court, Court of Appeals and District Court shall be tried by the Senate.

§ 3. Oath or affirmation of Senators; concurrence of two-thirds required

Sec. 3. When the Senate is sitting as a Court of Impeachment, the Senators shall be on oath, or affirmation impartially to try the party impeached,

and no person shall be convicted without the concurrence of two-thirds of the Senators present.

§ 4. Judgment; indictment, trial and punishment

Sec. 4. Judgment in cases of impeachment shall extend only to removal from office, and disqualification from holding any office of honor, trust or profit under this State. A party convicted on impeachment shall also be subject to indictment, trial and punishment according to law.

§ 5. Suspension pending impeachment; provisional appointments

Sec. 5. All officers against whom articles of impeachment may be preferred shall be suspended from the exercise of the duties of their office, during the pendency of such impeachment. The Governor may make a provisional appointment to fill the vacancy occasioned by the suspension of an officer until the decision on the impeachment.

§ 6. Judges of District Court; removal by Supreme Court

Sec. 6. Any judge of the District Courts of the State who is incompetent to discharge the duties of his office, or who shall be guilty of partiality, or oppression, or other official misconduct, or whose habits and conduct are such as to render him unfit to hold such office, or who shall negligently fail to perform his duties as judge, or who shall fail to execute in a reasonable measure the business in his courts, may be removed by the Supreme Court. The Supreme Court shall have original jurisdiction to hear and determine the causes aforesaid when presented in writing upon the oaths taken before some judge of a court of record of not less than ten lawyers, practicing in the courts held by such judge, and licensed to practice in the Supreme Court; said presentment to be founded either upon the knowledge of the persons making it or upon the written oaths as to the facts of creditable witnesses. The Supreme Court may issue all needful process and prescribe all needful rules to give effect to this section. Causes of this kind shall have precedence and be tried as soon as practicable.

§ 7. Removal of officers when mode not provided in Constitution

Sec. 7. The Legislature shall provide by law for the trial and removal from office of all officers of this State, the modes for which have not been provided in this Constitution.

ADDRESS

§ 8. Removal of judges by Governor on address of two-thirds of each House of Legislature

Sec. 8. The Judges of the Supreme Court, Court of Appeals and District Courts, shall be removed by the Governor on the address of two-thirds of each House of the Legislature, for wilful neglect of duty,

incompetency, habitual drunkenness, oppression in office, or other reasonable cause which shall not be sufficient ground for impeachment; provided, however, that the cause or causes for which such removal shall be required, shall be stated at length in such address and entered on the journals of each House; and provided further, that the cause or causes shall be notified to the judge so intended to be removed, and he shall be admitted to a hearing in his own defense before any vote for such address shall pass, and in all such cases, the vote shall be taken by yeas and nays and entered on the journals of each House respectively.

§ 9. Removal of public officers by governor; special session to consider removal

Sec. 9. (a) In addition to the other procedures provided by law for removal of public officers, the governor who appoints an officer may remove the officer with the advice and consent of two-thirds of the members of the senate present.

(b) If the legislature is not in session when the governor desires to remove an officer, the governor shall call a special session of the senate for consideration of the proposed removal. The session may not exceed two days in duration.

Adopted Nov. 4, 1980.

**ARTICLE XVI
GENERAL PROVISIONS**

- Sec.
1. Official Oath.
 2. Exclusions from office, jury service and right of service; protection of right of service.
 - 3; 4. Repealed.
 5. Disqualification to hold office by giving or offering bribe.
 6. Appropriations for private purposes; state participation in programs financed with private or federal funds for rehabilitation of blind, crippled, physically or mentally handicapped persons.
 7. Repealed.
 8. County Poor House and Farm.
 9. Forfeiture of residence by absence on public business.
 10. Deductions from salary for neglect of duty.
 11. Usury; rate of interest in absence of legislation.
 12. Members of congress; officers of United States or foreign power; ineligibility to hold office.
 13. Repealed.
 14. Civil officers; residence; location of offices.
 15. Separate and community property of husband and wife.
 16. Corporations with banking and discounting privileges.
 17. Officers to serve until successors qualified.
 18. Existing rights of property and of action; rights or actions not revived.
 19. Qualifications of jurors.
 20. Alcoholic beverages; Mixed Beverage Law; regulation; local option.
 21. Public printing and binding; repairs and furnishings; contracts.
 22. Fence laws.

- Sec.
23. Regulation of live stock; protection of stock raisers; inspections; brands.
 24. Roads and bridges.
 25. Drawbacks and rebatement to carriers, shippers, merchants, etc.
 26. Homicide; liability in damages.
 27. Vacancies filled for unexpired term.
 28. Garnishment of wages.
 29. Repealed.
 30. Duration of offices; Railroad Commission.
 - 30-a. Members of boards; terms of office.
 - 30-b. Civil Service Offices; Duration.
 31. Practitioners of Medicine.
 32. Repealed.
 33. Salary or compensation payments to persons holding more than one office.
 - 34 to 36. Repealed.
 37. Liens of mechanics, artisans and material men.
 38. Repealed.
 39. Appropriations for historical memorials.
 40. Holding more than one office; exceptions; right to vote.
 41. Bribery and acceptance of bribes.
 42. Repealed.
 43. Exemptions from public duty or service.
 44. County treasurer and county surveyor.
 - 45, 46. Repealed.
 47. Conscientious scruples as to bearing arms.
 48. Existing laws to continue in force.
 49. Protection of personal property from forced sale.
 50. Homestead; protection from forced sale; mortgages, trust deeds and liens.
 51. Amount and value of homestead; uses.
 52. Descent and distribution of homestead; restrictions on partition.
 53. Process and writs not executed or returned at adoption of Constitution.
 - 54, 55. Repealed.
 56. Appropriations for development and dissemination of information concerning Texas resources.
 - 57, 58. Repealed.
 59. Conservation and development of natural resources; conservation and reclamation districts.
 60. Repealed.
 61. Compensation of district, county and precinct officers; salary or fee basis; disposition of fees.
 - 62, 63. Repealed.
 64. Terms of office, certain offices.
 65. Transition from two year to four year terms of office.
 66. Texas Rangers; retirement and disability pension system for Rangers ineligible for membership in Employees Retirement System.
 67. State and local retirement systems.
 68. Associations of agricultural producers; assessments on product sales to finance programs of marketing, promotion, research and education.

§ 1. Official Oath

Section 1. Members of the Legislature, and all other elected officers, before they enter upon the duties of their offices, shall take the following Oath or Affirmation:

"I, _____, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of _____ of the State of Texas, and will to the best of my ability preserve, protect, and defend the Consti-

tution and laws of the United States and of this State; and I furthermore solemnly swear (or affirm), that I have not directly nor indirectly paid, offered, or promised to pay, contributed, nor promised to contribute any money, or valuable thing, or promised any public office or employment, as a reward for the giving or withholding a vote at the election at which I was elected. So help me God."

The Secretary of State, and all other appointed officers, before they enter upon the duties of their offices, shall take the following Oath or Affirmation:

"I, _____, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of _____ of the State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this State; and I furthermore solemnly swear (or affirm), that I have not directly nor indirectly paid, offered, or promised to pay, contributed, nor promised to contribute any money, or valuable thing, or promised any public office or employment, as a reward to secure my appointment or the confirmation thereof. So help me God."

Amended Nov. 8, 1938; Nov. 6, 1956.

§ 2. Exclusions from office, jury service and right of service; protection of right of service

Sec. 2. Laws shall be made to exclude from office, serving on juries, and from the right of suffrage, those who may have been or shall hereafter be convicted of bribery, perjury, forgery, or other high crimes. The privilege of free suffrage shall be protected by laws regulating elections and prohibiting under adequate penalties all undue influence therein from power, bribery, tumult or other improper practice.

§§ 3, 4. Repealed. Aug. 5, 1969

§ 5. Disqualification to hold office by giving or offering bribe

Sec. 5. Every person shall be disqualified from holding any office of profit, or trust, in this State, who shall have been convicted of having given or offered a bribe to procure his election or appointment.

§ 6. Appropriations for private purposes; state participation in programs financed with private or federal funds for rehabilitation of blind, crippled, physically or mentally handicapped persons

Sec. 6. (a) No appropriation for private or individual purposes shall be made, unless authorized by this Constitution. A regular statement, under oath, and an account of the receipts and expenditures of all public money shall be published annually, in such manner as shall be prescribed by law.

(b) State agencies charged with the responsibility of providing services to those who are blind, crippled,

or otherwise physically or mentally handicapped may accept money from private or federal sources, designated by the private or federal source as money to be used in and establishing and equipping facilities for assisting those who are blind, crippled, or otherwise physically or mentally handicapped in becoming gainfully employed, in rehabilitating and restoring the handicapped, and in providing other services determined by the state agency to be essential for the better care and treatment of the handicapped. Money accepted under this subsection is state money. State agencies may spend money accepted under this subsection, and no other money, for specific programs and projects to be conducted by local level or other private, nonsectarian associations, groups, and nonprofit organizations, in establishing and equipping facilities for assisting those who are blind, crippled, or otherwise physically or mentally handicapped in becoming gainfully employed, in rehabilitating and restoring the handicapped, and in providing other services determined by the state agency to be essential for the better care or treatment of the handicapped.

The state agencies may deposit money accepted under this subsection either in the state treasury or in other secure depositories. The money may not be expended for any purpose other than the purpose for which it was given. Notwithstanding any other provision of this Constitution, the state agencies may expend money accepted under this subsection without the necessity of an appropriation, unless the Legislature, by law, requires that the money be expended only on appropriation. The Legislature may prohibit state agencies from accepting money under this subsection or may regulate the amount of money accepted, the way the acceptance and expenditure of the money is administered, and the purposes for which the state agencies may expend the money. Money accepted under this subsection for a purpose prohibited by the Legislature shall be returned to the entity that gave the money.

This subsection does not prohibit state agencies authorized to render services to the handicapped from contracting with privately-owned or local facilities for necessary and essential services, subject to such conditions, standards, and procedures as may be prescribed by law.

Amended Nov. 8, 1966.

§ 7. Repealed. Aug. 5, 1969

§ 8. County Poor House and Farm

Sec. 8. Each county in the State may provide, in such manner as may be prescribed by law, a Manual Labor Poor House and Farm, for taking care of, managing, employing and supplying the wants of its indigent and poor inhabitants.

§ 9. Forfeiture of residence by absence on public business

Sec. 9. Absence on business of the State, or of the United States, shall not forfeit a residence once

obtained, so as to deprive any one of the right of suffrage, or of being elected or appointed to any office under the exceptions contained in this Constitution.

§ 10. Deductions from salary for neglect of duty

Sec. 10. The Legislature shall provide for deductions from the salaries of public officers who may neglect the performance of any duty that may be assigned them by law.

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

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

Amended Aug. 11, 1891, proclamation Sept. 22, 1891; Nov. 8, 1960.

§ 12. Members of Congress; officers of United States or foreign power; ineligibility to hold office

Sec. 12. No member of Congress, nor person holding or exercising any office of profit or trust, under the United States, or either of them, or under any foreign power, shall be eligible as a member of the Legislature, or hold or exercise any office of profit or trust under this State.

§ 13. Repealed. Aug. 5, 1969

§ 14. Civil officers; residence; location of offices

Sec. 14. All civil officers shall reside within the State; and all district or county officers within their districts or counties, and shall keep their offices at such places as may be required by law; and failure to comply with this condition shall vacate the office so held.

§ 15. Separate and community property of husband and wife

Sec. 15. All property, both real and personal, of a spouse owned or claimed before marriage, and that acquired afterward by gift, devise or descent, shall be the separate property of that spouse; and laws shall be passed more clearly defining the rights of the spouses, in relation to separate and community property; provided that persons about

to marry and spouses, without the intention to defraud pre-existing creditors, may by written instrument from time to time partition between themselves all or part of their property, then existing or to be acquired, or exchange between themselves the community interest of one spouse or future spouse in any property for the community interest of the other spouse or future spouse in other community property then existing or to be acquired, whereupon the portion or interest set aside to each spouse shall be and constitute a part of the separate property and estate of such spouse or future spouse; and the spouses may from time to time, by written instrument, agree between themselves that the income or property from all or part of the separate property then owned by one of them, or which thereafter might be acquired, shall be the separate property of that spouse; and if one spouse makes a gift of property to the other that gift is presumed to include all the income or property which might arise from that gift of property.

Amended Nov. 2, 1948; Nov. 4, 1980.

§ 16. Corporations with banking and discounting privileges

Sec. 16. (a) The Legislature shall by general laws, authorize the incorporation of corporate bodies with banking and discounting privileges, and shall provide for a system of State supervision, regulation and control of such bodies which will adequately protect and secure the depositors and creditors thereof.

No such corporate body shall be chartered until all of the authorized capital stock has been subscribed and paid in full in cash. Except as may be permitted by the Legislature pursuant to Subsection (b) of this Section 16, such body corporate shall not be authorized to engage in business at more than one place which shall be designated in its charter.

No foreign corporation, other than the national banks of the United States domiciled in this State, shall be permitted to exercise banking or discounting privileges in this State.

(b) If it finds that the convenience of the public will be served thereby, the Legislature may authorize State and national banks to establish and operate unmanned teller machines within the county or city of their domicile. Such machines may perform all banking functions. Banks which are domiciled within a city lying in two or more counties may be permitted to establish and operate unmanned teller machines within both the city and the county of their domicile. The Legislature shall provide that a bank shall have the right to share in the use of these teller machines, not situated at a banking house, which are located within the county or the city of the bank's domicile, on a reasonable, nondiscriminatory basis, consistent with anti-trust laws. Banks may share the use of such machines within the county or city of their domicile with savings and

loan associations and credit unions which are domiciled in the same county or city.

Amended Nov. 8, 1904; Aug. 23, 1937; Nov. 4, 1980.

§ 17. Officers to serve until successors qualified

Sec. 17. All officers within this State shall continue to perform the duties of their offices until their successors shall be duly qualified.

§ 18. Existing rights of property and of action; rights or actions not revived

Sec. 18. The rights of property and of action, which have been acquired under the Constitution and laws of the Republic and State, shall not be divested; nor shall any rights or actions which have been divested, barred or declared null and void by the Constitution of the Republic and State, be re-invested, renewed, or re-instated by this Constitution; but the same shall remain precisely in the situation which they were before the adoption of this Constitution, unless otherwise herein provided; and provided further, that no cause of action heretofore barred shall be revived.

§ 19. Qualifications of jurors

Sec. 19. The Legislature shall prescribe by law the qualifications of grand and petit jurors; provided that neither the right nor the duty to serve on grand and petit juries shall be denied or abridged by reason of sex. Whenever in the Constitution the term "men" is used in reference to grand or petit juries, such term shall include persons of the female as well as the male sex.

Amended Nov. 2, 1954.

§ 20. Alcoholic beverages; Mixed Beverage Law; regulation; local option

Sec. 20. (a) The Legislature shall have the power to enact a Mixed Beverage Law regulating the sale of mixed alcoholic beverages on a local option election basis. The Legislature shall also have the power to regulate the manufacture, sale, possession and transportation of intoxicating liquors, including the power to establish a State Monopoly on the sale of distilled liquors.

Should the Legislature enact any enabling laws in anticipation of this amendment, no such law shall be void by reason of its anticipatory nature.

(b) The Legislature shall enact a law or laws whereby the qualified voters of any county, justice's precinct or incorporated town or city, may, by a majority vote of those voting, determine from time to time whether the sale of intoxicating liquors for beverage purposes shall be prohibited or legalized within the prescribed limits; and such laws shall contain provisions for voting on the sale of intoxicating liquors of various types and various alcoholic content.

(c) In all counties, justice's precincts or incorporated towns or cities wherein the sale of intoxicat-

ing liquors had been prohibited by local option elections held under the laws of the State of Texas and in force at the time of the taking effect of Section 20, Article XVI of the Constitution of Texas, it shall continue to be unlawful to manufacture, sell, barter or exchange in any such county, justice's precinct or incorporated town or city, any spirituous, vinous or malt liquors or medicated bitters capable of producing intoxication or any other intoxicants whatsoever, for beverage purposes, unless and until a majority of the qualified voters in such county or political subdivision thereof voting in an election held for such purpose shall determine such to be lawful; provided that this subsection shall not prohibit the sale of alcoholic beverages containing not more than 3.2 per cent alcohol by weight in cities, counties or political subdivisions thereof in which the qualified voters have voted to legalize such sale under the provisions of Chapter 116, Acts of the Regular Session of the 43rd Legislature.

Amended Aug. 11, 1891, proclamation Sept. 22, 1891; May 24, 1919; Aug. 26, 1933; Aug. 24, 1935; Nov. 3, 1970.

§ 21. Public printing and binding; repairs and furnishings; contracts

Sec. 21. All stationery, printing, fuel used in the legislature and departments of the government other than the judicial department, printing and binding of the laws, journals, and department reports, and all other printing and binding and the repairing and furnishing of the halls and rooms used during meetings of the legislature and in committees, except proclamations and such products and services as may be done by handicapped individuals employed in nonprofit rehabilitation facilities providing sheltered employment to the handicapped in Texas, shall be performed under contract, to be given to the lowest responsible bidder, below such maximum price and under such regulations as shall be prescribed by law. No member or officer of any department of the government shall in any way have a financial interest in such contracts, and all such contracts or programs involving the state use of the products and services of handicapped individuals shall be subject to such requirements as might be established by the legislature.

Amended Nov. 7, 1978.

§ 22. Fence laws

Sec. 22. The Legislature shall have the power to pass such fence laws, applicable to any sub-division of the State, or counties, as may be needed to meet the wants of the people.

§ 23. Regulation of live stock; protection of stock raisers; inspections; brands

Sec. 23. The Legislature may pass laws for the regulation of live stock and the protection of stock raisers in the stock raising portion of the State, and exempt from the operation of such laws other portions, sections, or counties; and shall have power to pass general and special laws for the inspection of

cattle, stock and hides and for the regulation of brands; provided, that any local law thus passed shall be submitted to the freeholders of the section to be affected thereby, and approved by them, before it shall go into effect.

§ 24. Roads and bridges

Sec. 24. The Legislature shall make provision for laying out and working public roads, for the building of bridges, and for utilizing fines, forfeitures, and convict labor to all these purposes.

§ 25. Drawbacks and rebatement to carriers, shippers, merchants, etc.

Sec. 25. That all drawbacks and rebatement of insurance, freight, transportation, carriage, wharfage, storage, compressing, baling, repairing, or for any other kind of labor or service of, or to any cotton, grain, or any other produce or article of commerce in this State, paid or allowed or contracted for, to any common carrier, shipper, merchant, commission merchant, factor, agent, or middleman of any kind, not the true and absolute owner thereof, are forever prohibited, and it shall be the duty of the Legislature to pass effective laws punishing all persons in this State who pay, receive or contract for, or respecting the same.

§ 26. Homicide; liability in damages

Sec. 26. Every person, corporation, or company, that may commit a homicide, through wilful act, or omission, or gross neglect, shall be responsible, in exemplary damages, to the surviving husband, widow, heirs of his or her body, or such of them as there may be, without regard to any criminal proceeding that may or may not be had in relation to the homicide.

§ 27. Vacancies filled for unexpired term

Sec. 27. In all elections to fill vacancies of office in this State, it shall be to fill the unexpired term only.

§ 28. Garnishment of wages

Sec. 28. No current wages for personal service shall ever be subject to garnishment, except for the enforcement of court-ordered child support payments.

Amended Nov. 8, 1983.

§ 29. Repealed. Aug. 5, 1969

§ 30. Duration of offices; Railroad Commission

Sec. 30. (a) The duration of all offices not fixed by this Constitution shall never exceed two years.

(b) When a Railroad Commission is created by law it shall be composed of three Commissioners who shall be elected by the people at a general election for State officers, and their terms of office shall be six years. Railroad Commissioners first elected after this amendment goes into effect shall hold office as follows: One shall serve two years,

and one four years, and one six years; their terms to be decided by lot immediately after they shall have qualified. And one Railroad Commissioner shall be elected every two years thereafter. In case of vacancy in said office the Governor of the State shall fill said vacancy by appointment until the next general election.

(c) The Legislature may provide that members of the governing board of a district or authority created by authority of Article III, Section 52(b)(1) or (2), or Article XVI, Section 59, of this Constitution serve terms not to exceed four years.

Adopted Feb. 15, 1876. Amended Nov. 6, 1894, proclamation Dec. 21, 1894; Nov. 2, 1982.

§ 30a. Members of boards; terms of office

Sec. 30a. The Legislature may provide by law that the members of the Board of Regents of the State University and boards of trustees or managers of the educational, eleemosynary, and penal institutions of the State, and such boards as have been, or may hereafter be established by law, may hold their respective offices for the term of six (6) years, one-third of the members of such boards to be elected or appointed every two (2) years in such manner as the Legislature may determine; vacancies in such offices to be filled as may be provided by law, and the Legislature shall enact suitable laws to give effect to this section.

Adopted Nov. 5, 1912, proclamation, Dec. 30, 1912.

§ 30b. Civil Service offices; duration

Sec. 30b. Wherever by virtue of Statute or charter provisions appointive offices of any municipality are placed under the terms and provisions of Civil Service and rules are set up governing appointment to and removal from such offices, the provisions of Article 16, Section 30, of the Texas Constitution limiting the duration of all offices not fixed by the Constitution to two (2) years shall not apply, but the duration of such offices shall be governed by the provisions of the Civil Service law or charter provisions applicable thereto.

Adopted Nov. 5, 1940.

§ 31. Practitioners of medicine

Sec. 31. The Legislature may pass laws prescribing the qualifications of practitioners of medicine in this State, and to punish persons for malpractice, but no preference shall ever be given by law to any schools of medicine.

§ 32. Repealed. Aug. 5, 1969

§ 33. Salary or compensation payments to persons holding more than one office

Sec. 33. The accounting officers in this State shall neither draw nor pay a warrant or check on funds of the State of Texas, whether in the treasury or otherwise, to any person for salary or compensa-

tion who holds at the same time more than one civil office of emolument, in violation of Section 40. Amended Nov. 2, 1926; proclamation Jan. 20, 1927; Nov. 8, 1932; Nov. 11, 1967; Nov. 7, 1972.

§§ 34 to 36. Repealed. Aug. 5, 1969

§ 37. Liens of mechanics, artisans and material men

Sec. 37. Mechanics, artisans and material men, of every class, shall have a lien upon the buildings and articles made or repaired by them for the value of their labor done thereon, or material furnished therefor; and the Legislature shall provide by law for the speedy and efficient enforcement of said liens.

§ 38. Repealed. Aug. 5, 1969

§ 39. Appropriations for historical memorials

Sec. 39. The Legislature may, from time to time, make appropriations for preserving and perpetuating memorials of the history of Texas, by means of monuments, statues, paintings and documents of historical value.

§ 40. Holding more than one office; exceptions; right to vote

Sec. 40. No person shall hold or exercise at the same time, more than one civil office of emolument, except that of Justice of the Peace, County Commissioner, Notary Public and Postmaster, Officer of the National Guard, the National Guard Reserve, and the Officers Reserve Corps of the United States and enlisted men of the National Guard, the National Guard Reserve, and the Organized Reserves of the United States, and retired officers of the United States Army, Air Force, Navy, Marine Corps, and Coast Guard, and retired warrant officers, and retired enlisted men of the United States Army, Air Force, Navy, Marine Corps, and Coast Guard, and the officers and directors of soil and water conservation districts, unless otherwise specially provided herein. Provided, that nothing in this Constitution shall be construed to prohibit an officer or enlisted man of the National Guard, and the National Guard Reserve, or an officer in the Officers Reserve Corps of the United States, or an enlisted man in the Organized Reserves of the United States, or retired officers of the United States Army, Air Force, Navy, Marine Corps, and Coast Guard, and retired warrant officers, and retired enlisted men of the United States Army, Air Force, Navy, Marine Corps, and Coast Guard, and officers of the State soil and water conservation districts, from holding at the same time any other office or position of honor, trust or profit, under this State or the United States, or from voting at any election, general, special or primary in this State when otherwise qualified. State employees or other individuals who receive all or part of their compensation either directly or indirectly from funds of the State of Texas and who are not State officers, shall not be barred from serving as members of the governing

bodies of school districts, cities, towns, or other local governmental districts; provided, however; that such State employees or other individuals shall receive no salary for serving as members of such governing bodies. It is further provided that a nonelective State officer may hold other nonelective offices under the State or the United States, if the other office is of benefit to the State of Texas or is required by the State or Federal law, and there is no conflict with the original office for which he receives salary or compensation. No member of the Legislature of this State may hold any other office or position of profit under this State, or the United States, except as a notary public if qualified by law.

Amended Nov. 2, 1926, proclamation Jan. 20, 1927; Nov. 8, 1932; Nov. 7, 1972.

§ 41. Bribery and acceptance of bribes

Sec. 41. Any person who shall, directly or indirectly, offer, give, or promise, any money or thing of value, testimonial, privilege or personal advantage, to any executive or judicial officer or member of the Legislature to influence him in the performance of any of his public or official duties, shall be guilty of bribery, and be punished in such manner as shall be provided by law. And any member of the Legislature or executive or judicial officer who shall solicit, demand or receive, or consent to receive, directly or indirectly, for himself, or for another, from any company, corporation or person, any money, appointment, employment, testimonial, reward, thing of value or employment, or of personal advantage or promise thereof, for his vote or official influence, or for withholding the same, or with any understanding, expressed or implied, that his vote or official action shall be in any way influenced thereby, or who shall solicit, demand and receive any such money or other advantage, matter or thing aforesaid for another, as the consideration of his vote or official influence, in consideration of the payment or promise of such money, advantage, matter or thing to another, shall be held guilty of bribery, within the meaning of the Constitution, and shall incur the disabilities provided for said offenses, with a forfeiture of the office they may hold, and such other additional punishment as is or shall be provided by law.

§ 42. Repealed. Aug. 5, 1969

§ 43. Exemptions from public duty or service

Sec. 43. No man, or set of men, shall ever be exempted, relieved or discharged, from the performance of any public duty or service imposed by general law, by any special law. Exemptions from the performance of such public duty or service shall only be made by general law.

§ 44. County treasurer and county surveyor

Sec. 44. (a) Except as provided by Subsection (b) of this section, the Legislature shall prescribe the duties and provide for the election by the qualified voters of each county in this State, of a County

Treasurer and a County Surveyor, who shall have an office at the county seat, and hold their office for four years, and until their successors are qualified; and shall have such compensation as may be provided by law.

(b) The office of County Treasurer in the counties of Tarrant and Bee is abolished and all the powers, duties, and functions of the office in each of these counties are transferred to the County Auditor or to the officer who succeeds to the auditor's functions.

(c) Provided however, that the office of County Treasurer shall be abolished in the above counties only after a local election has been held in each county and the proposition "to abolish the elective office of county treasurer" has passed by a majority of those persons voting in said election.

Amended Nov. 2, 1954; Nov. 2, 1982.

§§ 45, 46. Repealed. Aug. 5, 1969

§ 47. Conscientious scruples as to bearing arms

Sec. 47. Any person who conscientiously scruples to bear arms, shall not be compelled to do so, but shall pay an equivalent for personal service.

§ 48. Existing laws to continue in force

Sec. 48. All laws and parts of laws now in force in the State of Texas, which are not repugnant to the Constitution of the United States, or to this Constitution, shall continue and remain in force as the laws of this State, until they expire by their own limitation or shall be amended or repealed by the Legislature.

§ 49. Protection of personal property from forced sale

Sec. 49. The Legislature shall have power, and it shall be its duty, to protect by law from forced sale a certain portion of the personal property of all heads of families, and also of unmarried adults, male and female.

§ 50. Homestead; protection from forced sale; mortgages, trust deeds and liens

Sec. 50. The homestead of a family, or of a single adult person, shall be, and is hereby protected from forced sale, for the payment of all debts except for the purchase money thereof, or a part of such purchase money, the taxes due thereon, or for work and material used in constructing improvements thereon, and in this last case only when the work and material are contracted for in writing, with the consent of both spouses, in the case of a family homestead, given in the same manner as is required in making a sale and conveyance of the homestead; nor may the owner or claimant of the property claimed as homestead, if married, sell or abandon the homestead without the consent of the other spouse, given in such manner as may be prescribed by law. No mortgage, trust deed, or other lien on the homestead shall ever be valid, except for the purchase money therefor, or improve-

ments made thereon, as hereinbefore provided, whether such mortgage, or trust deed, or other lien, shall have been created by the owner alone, or together with his or her spouse, in case the owner is married. All pretended sales of the homestead involving any condition of defeasance shall be void. This amendment shall become effective upon its adoption.

Amended Nov. 6, 1973.

§ 51. Amount and value of homestead; uses

Sec. 51. The homestead, not in a town or city, shall consist of not more than two hundred acres of land, which may be in one or more parcels, with the improvements thereon; the homestead in a city, town or village, shall consist of lot or lots amounting to not more than one acre of land, together with any improvements on the land; provided, that the same shall be used for the purposes of a home, or as a place to exercise the calling or business of the homestead claimant, whether a single adult person, or the head of a family; provided also, that any temporary renting of the homestead shall not change the character of the same, when no other homestead has been acquired.

Amended Nov. 3, 1970; Nov. 6, 1973; Nov. 8, 1983.

§ 52. Descent and distribution of homestead; restrictions on partition

Sec. 52. On the death of the husband or wife, or both, the homestead shall descend and vest in like manner as other real property of the deceased, and shall be governed by the same laws of descent and distribution, but it shall not be partitioned among the heirs of the deceased during the lifetime of the surviving husband or wife, or so long as the survivor may elect to use or occupy the same as a homestead, or so long as the guardian of the minor children of the deceased may be permitted, under the order of the proper court having the jurisdiction, to use and occupy the same.

§ 53. Process and writs not executed or returned at adoption of Constitution

Sec. 53. That no inconvenience may arise from the adoption of this Constitution, it is declared that all process and writs of all kinds which have been or may be issued and not returned or executed when this Constitution is adopted, shall remain valid, and shall not be, in any way, affected by the adoption of this Constitution.

§§ 54, 55. Repealed. Aug. 5, 1969

§ 56. Appropriations for development and dissemination of information concerning Texas resources

Sec. 56. The Legislature of the State of Texas shall have the power to appropriate money and establish the procedure necessary to expend such money for the purpose of developing information about the historical, natural, agricultural, industrial,

educational, marketing, recreational and living resources of Texas, and for the purpose of informing persons and corporations of other states through advertising in periodicals having national circulation, and the dissemination of factual information about the advantages and economic resources offered by the State of Texas; providing, however, that neither the name nor the picture of any living state official shall ever be used in any of said advertising, and providing that the Legislature may require that any sum of money appropriated hereunder shall be matched by an equal sum paid into the State Treasury from private sources before any of said money may be expended.

Amended Nov. 4, 1958.

§§ 57, 58. Repealed. Aug. 5, 1969

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

Sec. 59. (a) The conservation and development of all of the natural resources of this State, including the control, storing, preservation and distribution of its storm and flood waters, the waters of its rivers and streams, for irrigation, power and all other useful purposes, the reclamation and irrigation of its arid, semi-arid and other lands needing irrigation, the reclamation and drainage of its overflowed lands, and other lands needing drainage, the conservation and development of its forests, water and hydro-electric power, the navigation of its inland and coastal waters, and the preservation and conservation of all such natural resources of the State are each and all hereby declared public rights and duties; and the Legislature shall pass all such laws as may be appropriate thereto.

(b) There may be created within the State of Texas, or the State may be divided into, such number of conservation and reclamation districts as may be determined to be essential to the accomplishment of the purposes of this amendment to the constitution, which districts shall be governmental agencies and bodies politic and corporate with such powers of government and with the authority to exercise such rights, privileges and functions concerning the subject matter of this amendment as may be conferred by law.

(c) The Legislature shall authorize all such indebtedness as may be necessary to provide all improvements and the maintenance thereof requisite to the achievement of the purposes of this amendment, and all such indebtedness may be evidenced by bonds of such conservation and reclamation districts, to be issued under such regulations as may [may] be prescribed by law and shall also, authorize the levy and collection within such districts of all such taxes, equitably distributed, as may be necessary for the payment of the interest and the creation of a sinking fund for the payment of such bonds; and also for the maintenance of such districts and improvements, and such indebtedness

shall be a lien upon the property assessed for the payment thereof; provided the Legislature shall not authorize the issuance of any bonds or provide for any indebtedness against any reclamation district unless such proposition shall first be submitted to the qualified property tax-paying voters of such district and the proposition adopted.

(d) No law creating a conservation and reclamation district shall be passed unless notice of the intention to introduce such a bill setting forth the general substance of the contemplated law shall have been published at least thirty (30) days and not more than ninety (90) days prior to the introduction thereof in a newspaper or newspapers having general circulation in the county or counties in which said district or any part thereof is or will be located and by delivering a copy of such notice and such bill to the Governor who shall submit such notice and bill to the Texas Water Commission, or its successor, which shall file its recommendation as to such bill with the Governor, Lieutenant Governor and Speaker of the House of Representatives within thirty (30) days from date notice was received by the Texas Water Commission. Such notice and copy of bill shall also be given of the introduction of any bill amending a law creating or governing a particular conservation and reclamation district if such bill (1) adds additional land to the district, (2) alters the taxing authority of the district, (3) alters the authority of the district with respect to the issuance of bonds, or (4) alters the qualifications or terms of office of the members of the governing body of the district.

(e) No law creating a conservation and reclamation district shall be passed unless, at the time notice of the intention to introduce a bill is published as provided in Subsection (d) of this section, a copy of the proposed bill is delivered to the commissioners court of each county in which said district or any part thereof is or will be located and to the governing body of each incorporated city or town in whose jurisdiction said district or any part thereof is or will be located. Each such commissioners court and governing body may file its written consent or opposition to the creation of the proposed district with the governor, lieutenant governor, and speaker of the house of representatives. Each special law creating a conservation and reclamation district shall comply with the provisions of the general laws then in effect relating to consent by political subdivisions to the creation of conservation and reclamation districts and to the inclusion of land within the district.

(f) A conservation and reclamation district created under this section to perform any or all of the purposes of this section may engage in fire-fighting activities and may issue bonds or other indebtedness for fire-fighting purposes as provided by law and this constitution.

Adopted Aug. 21, 1917, proclamation Oct. 2, 1917. Amended Nov. 3, 1964; Nov. 6, 1973; Nov. 7, 1978.

§ 60. Repealed. Aug. 5, 1969

§ 61. Compensation of district, county and precinct officers; salary or fee basis; disposition of fees

Sec. 61. All district officers in the State of Texas and all county officers in counties having a population of twenty thousand (20,000) or more, according to the then last preceding Federal Census, shall be compensated on a salary basis. In all counties in this State, the Commissioners Courts shall be authorized to determine whether precinct officers shall be compensated on a fee basis or on a salary basis, with the exception that it shall be mandatory upon the Commissioners Courts, to compensate all justices of the peace, constables, deputy constables and precinct law enforcement officers on a salary basis beginning January 1, 1973; and in counties having a population of less than twenty thousand (20,000), according to the then last preceding Federal Census, the Commissioners Courts shall also have the authority to determine whether county officers shall be compensated on a fee basis or on a salary basis, with the exception that it shall be mandatory upon the Commissioners Courts to compensate all sheriffs, deputy sheriffs, county law enforcement officers including sheriffs who also perform the duties of assessor and collector of taxes, and their deputies, on a salary basis beginning January 1, 1949.

All fees earned by district, county and precinct officers shall be paid into the county treasury where earned for the account of the proper fund, provided that fees incurred by the State, county and any municipality, or in case where a pauper's oath is filed, shall be paid into the county treasury when collected and provided that where any officer is compensated wholly on a fee basis such fees may be retained by such officer or paid into the treasury of the county as the Commissioners Court may direct. All Notaries Public, county surveyors and public weighers shall continue to be compensated on a fee basis.

Adopted Aug. 24, 1935. Amended Nov. 2, 1948; Nov. 7, 1972.

§§ 62, 63. Repealed. April 22, 1975

§ 64. Terms of office, certain offices

Sec. 64. The office of Inspector of Hides and Animals, the elective district, county and precinct offices which have heretofore had terms of two years, shall hereafter have terms of four years; and the holders of such offices shall serve until their successors are qualified.

Adopted Nov. 2, 1954.

§ 65. Transition from two year to four year terms of office

Sec. 65. Staggering Terms of Office—The following officers elected at the General Election in

November, 1954, and thereafter, shall serve for the full terms provided in this Constitution:

(a) District Clerks; (b) County Clerks; (c) County Judges; (d) Judges of the County Courts at Law, County Criminal Courts, County Probate Courts and County Domestic Relations Courts; (e) County Treasurers; (f) Criminal District Attorneys; (g) County Surveyors; (h) Inspectors of Hides and Animals; (i) County Commissioners for Precincts Two and Four; (j) Justices of the Peace.

Notwithstanding other provisions of this Constitution, the following officers elected at the General Election in November, 1954, shall serve only for terms of two (2) years: (a) Sheriffs; (b) Assessors and Collectors of Taxes; (c) District Attorneys; (d) County Attorneys; (e) Public Weighers; (f) County Commissioners for Precincts One and Three; (g) Constables. At subsequent elections, such officers shall be elected for the full terms provided in this Constitution.

In any district, county or precinct where any of the aforementioned offices is of such nature that two (2) or more persons hold such office, with the result that candidates file for "Place No. 1," "Place No. 2," etc., the officers elected at the General Election in November, 1954, shall serve for a term of two (2) years if the designation of their office is an uneven number, and for a term of four (4) years if the designation of their office is an even number. Thereafter, all such officers shall be elected for the terms provided in this Constitution.

Provided, however, if any of the officers named herein shall announce their candidacy, or shall in fact become a candidate, in any General, Special or Primary Election, for any office of profit or trust under the laws of this State or the United States other than the office then held, at any time when the unexpired term of the office then held shall exceed one (1) year, such announcement or such candidacy shall constitute an automatic resignation of the office then held, and the vacancy thereby created shall be filled pursuant to law in the same manner as other vacancies for such office are filled.

Adopted Nov. 2, 1954. Amended Nov. 4, 1958.

§ 66. Texas Rangers; retirement and disability pension system for Rangers ineligible for membership in Employees Retirement System

Sec. 66. The Legislature shall have authority to provide for a system of retirement and disability pensions for retiring Texas Rangers who have not been eligible at any time for membership in the Employees Retirement System of Texas as that retirement system was established by Chapter 352, Acts of the Fiftieth Legislature, Regular Session, 1947, and who have had as much as two (2) years service as a Texas Ranger, and to their widows; providing that no pension shall exceed Eighty Dollars (\$80) per month to any such Texas Ranger or his widow, provided that such widow was legally

married prior to January 1, 1957, to a Texas Ranger qualifying for such pension.

These pensions may be paid only from the special fund created by Section 17, Article VII for a payment of pensions for services in the Confederate army and navy, frontier organizations, and the militia of the State of Texas, and for widows of such soldiers serving in said armies, navies, organizations or militia.

Adopted Nov. 4, 1958.

§ 67. State and local retirement systems

Sec. 67. (a) General Provisions. (1) The legislature may enact general laws establishing systems and programs of retirement and related disability and death benefits for public employees and officers. Financing of benefits must be based on sound actuarial principles. The assets of a system are held in trust for the benefit of members and may not be diverted.

(2) A person may not receive benefits from more than one system for the same service, but the legislature may provide by law that a person with service covered by more than one system or program is entitled to a fractional benefit from each system or program based on service rendered under each system or program calculated as to amount upon the benefit formula used in that system or program. Transfer of service credit between the Employees Retirement System of Texas and the Teacher Retirement System of Texas also may be authorized by law.

(3) Each statewide benefit system must have a board of trustees to administer the system and to invest the funds of the system in such securities as the board may consider prudent investments. In making investments, a board shall exercise the judgment and care under the circumstances then prevailing that persons of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as the probable safety of their capital. The legislature by law may further restrict the investment discretion of a board.

(4) General laws establishing retirement systems and optional retirement programs for public employees and officers in effect at the time of the adoption of this section remain in effect, subject to the general powers of the legislature established in this subsection.

(b) State Retirement Systems. (1) The legislature shall establish by law a Teacher Retirement System of Texas to provide benefits for persons employed in the public schools, colleges, and universities supported wholly or partly by the state. Other employees may be included under the system by law.

(2) The legislature shall establish by law an Employees Retirement System of Texas to provide ben-

efits for officers and employees of the state and such state-compensated officers and employees of appellate courts and judicial districts as may be included under the system by law.

(3) The amount contributed by a person participating in the Employees Retirement System of Texas or the Teacher Retirement System of Texas shall be established by the legislature but may not be less than six percent of current compensation. The amount contributed by the state may not be less than six percent nor more than 10 percent of the aggregate compensation paid to individuals participating in the system. In an emergency, as determined by the governor, the legislature may appropriate such additional sums as are actuarially determined to be required to fund benefits authorized by law.

(c) Local Retirement Systems. (1) The legislature shall provide by law for:

(A) the creation by any city or county of a system of benefits for its officers and employees;

(B) a statewide system of benefits for the officers and employees of counties or other political subdivisions of the state in which counties or other political subdivisions may voluntarily participate; and

(C) a statewide system of benefits for officers and employees of cities in which cities may voluntarily participate.

(2) Benefits under these systems must be reasonably related to participant tenure and contributions.

(d) Judicial Retirement System. (1) Notwithstanding any other provision of this section, the system of retirement, disability, and survivors' benefits heretofore established in the constitution or by law for justices, judges, and commissioners of the appellate courts and judges of the district and criminal district courts is continued in effect. Contributions required and benefits payable are to be as provided by law.

(2) General administration of the Judicial Retirement System of Texas is by the Board of Trustees of the Employees Retirement System of Texas under such regulations as may be provided by law.

(e) Anticipatory Legislation. Legislation enacted in anticipation of this amendment is not void because it is anticipatory.

Adopted April 22, 1975.

§ 68. Associations of agricultural producers; assessments on product sales to finance programs of marketing, promotion, research and education

Sec. 68. The legislature may provide for the advancement of food and fiber in this state by providing representative associations of agricultural producers with authority to collect such refundable assessments on their product sales as may be approved by referendum of producers. All revenue collected shall be used solely to finance programs of

marketing, promotion, research, and education relating to that commodity.

Adopted Nov. 8, 1983.

ARTICLE XVII

MODE OF AMENDING THE CONSTITUTION OF THIS STATE

Sec.

1. Proposed amendments; submission to voters; adoption.
2. Constitutional revision commission; establishment; report; 1974 constitutional convention.

§ 1. Proposed amendments; submission to voters; adoption

Section 1. The Legislature, at any regular session, or at any special session when the matter is included within the purposes for which the session is convened, may propose amendments revising the Constitution, to be voted upon by the qualified electors for statewide offices and propositions, as defined in the Constitution and statutes of this State. The date of the elections shall be specified by the Legislature. The proposal for submission must be approved by a vote of two-thirds of all the members elected to each House, entered by yeas and nays on the journals.

A brief explanatory statement of the nature of a proposed amendment, together with the date of the election and the wording of the proposition as it is to appear on the ballot, shall be published twice in each newspaper in the State which meets requirements set by the Legislature for the publication of official notices of officers and departments of the state government. The explanatory statement shall be prepared by the Secretary of State and shall be approved by the Attorney General. The Secretary of State shall send a full and complete copy of the proposed amendment or amendments to each county clerk who shall post the same in a public place in the courthouse at least 30 days prior to the election on said amendment. The first notice shall be published not more than 60 days nor less than 50 days before the date of the election, and the second notice shall be published on the same day in the succeeding week. The Legislature shall fix the standards for the rate of charge for the publication, which may not be higher than the newspaper's published national rate for advertising per column inch.

The election shall be held in accordance with procedures prescribed by the Legislature, and the returning officer in each county shall make returns to the Secretary of State of the number of legal votes cast at the election for and against each amendment. If it appears from the returns that a majority of the votes cast have been cast in favor of an amendment, it shall become a part of this Constitution, and proclamation thereof shall be made by the Governor.

Amended Nov. 7, 1972.

§ 2. Constitutional revision commission; establishment; report; 1974 constitutional convention

Sec. 2. (a) When the legislature convenes in regular session in January, 1973, it shall provide by concurrent resolution for the establishment of a constitutional revision commission. The legislature shall appropriate money to provide an adequate staff, office space, equipment, and supplies for the commission.

(b) The commission shall study the need for constitutional change and shall report its recommendations to the members of the legislature not later than November 1, 1973.

(c) The members of the 63rd Legislature shall be convened as a constitutional convention at noon on the second Tuesday in January, 1974. The lieutenant governor shall preside until a chairman of the convention is elected. The convention shall elect other officers it deems necessary, adopt temporary and permanent rules, and publish a journal of its proceedings. A person elected to fill a vacancy in the 63rd Legislature before dissolution of the convention becomes a member of the convention on taking office as a member of the legislature.

(d) Members of the convention shall receive compensation, mileage, per diem as determined by a five member committee, to be composed of the Governor, Lieutenant Governor, Speaker of the House, Chief Justice of the Supreme Court, and Chief Justice of the Court of Criminal Appeals. This shall not be held in conflict with Article XVI, Section 33 of the Texas Constitution. The convention may provide for the expenses of its members and for the employment of a staff for the convention, and for these purposes may by resolution appropriate money from the general revenue fund of the state treasury. Warrants shall be drawn pursuant to vouchers signed by the chairman or by a person authorized by him in writing to sign them.

(e) The convention, by resolution adopted on the vote of at least two-thirds of its members, may submit for a vote of the qualified electors of this state a new constitution which may contain alternative articles or sections, or may submit revisions of the existing constitution which may contain alternative articles or sections. Each resolution shall specify the date of the election, the form of the ballots, and the method of publicizing the proposals to be voted on. To be adopted, each proposal must receive the favorable vote of the majority of those voting on the proposal. The conduct of the election, the canvassing of the votes, and the reporting of the returns shall be as provided for elections under Section 1 of this article.

(f) The convention may be dissolved by resolution adopted on the vote of at least two-thirds of its members; but it is automatically dissolved at 11:59 p.m. on May 31, 1974, unless its duration is extended for a period not to exceed 60 days by resolution

adopted on the vote of at least two-thirds of its members.

(g) The Bill of Rights of the present Texas Constitution shall be retained in full.
Adopted Nov. 7, 1972.

INDEX TO CONSTITUTION OF TEXAS

ABSENTEE VOTING

Generally, Art. 6, § 2.

ACCOUNTS AND ACCOUNTING

Executive officers, state finances, Art. 4, § 24.

Governor, account of public monies to legislature, Art. 4, § 9.

Jurisdiction of courts, executors, administrators and guardians accounts, Art. 5, § 8.

ACTIONS AND PROCEEDINGS

Appeals and Writs of Error, generally, this index.

Habeas Corpus, generally, this index.

Nonrevivable actions, Art. 16, § 18.

Number of jurors, Art. 4, § 13.

Patent applications, public free school lands, defects in title, Art. 7, § 4A.

Special laws, Art. 3, § 56.

ADDRESS

Removal of judges, Art. 15, § 8.

ADMINISTRATORS

Executors and Administrators, generally, this index.

ADOPTION OF CHILDREN

Local and special laws, Art. 3, § 56.

AFFIRMATIONS

Oaths and Affirmations, generally, this index.

AGE

Governor, requirement of office, Art. 4, § 4.

House of representative members, qualifications, Art. 3, § 7.

Local and special laws, declaring person of age, Art. 3, § 56.

Senators, qualifications, Art. 3, § 6.

Supreme court justices, qualification of office, Art. 5, § 2.

Voting restrictions, underage persons, Art. 6, § 1.

AGED PERSONS

Assistance care, Art. 3, § 51-a.

Residents homestead tax exemption, Art. 8, § 1-b.

Tax exemptions, residents homestead, Art. 8, § 1-b.

AGENTS AND AGENCIES

Indebtedness, state acceptance, toll road or turnpike construction, Art. 3, § 52-b.

AGREEMENTS

Contracts, generally, this index.

AGRICULTURAL INFORMATION

Appropriations, development and dissemination, Art. 16, § 56.

AGRICULTURAL LANDS

Fence laws, Art. 16, § 22.

Open space land, taxation, Art. 8, § 1-d-1.

Taxes and taxation, Art. 8, § 1-d.

Assessments, Art. 8, § 1-d.

AGRICULTURAL PRODUCTS

Assessments,

Refundable assessments, Art. 16, § 68.

Associations and societies,

Refundable assessments, Art. 16, § 68.

Marketing programs, refundable assessments, producers associations, Art. 16, § 68.

Research,

Refundable assessments, producer associations, Art. 16, § 68.

AGRICULTURAL USE

Defined,

Taxation, Art. 8, § 1-d.

AGRICULTURE

Bonds, farm and ranch loan security, Art. 3, § 50c.

County agricultural school land, taxation, Art. 7, § 6a.

Farm and ranch loan security, Art. 3, § 50c.

Lands. Agricultural Lands, generally, this index.

Livestock, generally, this index.

Products. Agricultural Products, generally, this index.

Tax assessments, agricultural land, Art. 8, § 1-d.

Tax exemptions, farm products and family supplies, Art. 8, § 19.

AIR NATIONAL GUARD

Compensation and salaries, dual office holding, Art. 16, § 33.

AIRPORT AUTHORITIES

Generally, Art. 9, § 12.

ALDERMEN

Local and special laws, Art. 3, § 56.

AMARILLO, CITY OF

Hospital district, Art. 9, § 5.

ANIMALS

Hides and animals, inspector of, term of office, Art. 16, § 64.

Livestock, generally, this index.

APPEALS AND WRITS OF ERROR

Court of Criminal Appeals, generally, this index.

Criminal appeals. Court of Criminal Appeals, generally, this index.

Death penalty, jurisdiction, Art. 5, § 5.

Injunctions,

Granting or denying, appeal to supreme court, Art. 5, § 3-b.

Order granting or dissolving, Direct to supreme court, Art. 5, § 3-b.

Judges, disciplinary proceedings, Art. 5, § 1-a.

Jurisdiction,

County courts, Art. 5, § 16.

District courts, Art. 5, § 8.

Supreme court, Art. 5, § 3.

Multiple convictions, bail denial, Art. 1, § 11a.

APPOINTMENTS

Absence on public business, forfeiture of residence, Art. 16, § 9.

Forfeiture of residence, absence on public business, Art. 16, § 9.

Governor, this index.

Oaths and affirmations, appointed officials, Art. 16, § 1.

Provisional appointments, state officers and employees, suspension pending impeachment, Art. 15, § 5.

APPRAISALS AND APPRAISERS

Tax assessments, Art. 8, § 18.

APPROPRIATIONS

Disapproval of items, governor, Art. 4, § 14.

Duration, Art. 8, § 6.

Emergency appropriations, Art. 3, § 5.

Exceeding cash and anticipated revenue, Art. 3, § 49.

Historical memorials, Art. 16, § 39.

Information concerning state resources, development and dissemination, Art. 16, § 56.

Legislature, this index.

Maximum, Art. 8, § 22.

Private or individual purposes, Art. 16, § 6.

Religious purposes, Art. 1, § 7.

ARBITRATION AND AWARD

Local and special laws, Art. 3, § 56.

ARMED FORCES

Civil authority, subordination due, Art. 1, § 24.

Commander-in-chief, governors power, Art. 4, § 7.

Confederate soldiers and sailors,

Grants of public money, Art. 3, § 51.

ARMED FORCES—Cont'd

Conscientious objectors, Art. 16, § 47.
 Crimes and offenses, indictment, rights of accused, Art. 1, § 10.
 Elections,
 Right to vote, officers holding more than one office, Art. 16, § 40.
 Holding more than one office, Art. 16, § 40.
 Private homes, quartering soldiers, Art. 1, § 25.
 Quartering in citizens homes, Art. 1, § 25.
 Subordination, civil authority, Art. 1, § 24.
 Veterans, generally, this index.
 Voting, officers holding more than one office, Art. 16, § 40.

ARMS

Right to keep and bear, Art. 1, § 23.

ARREST

Bail and Recognizances, generally, this index.
 Legislature, privilege from, Art. 3, § 14.
 Privileges and immunities,
 Legislators,
 Privilege from arrest, Art. 3, § 14.
 Voters, Art. 6, § 5.
 Warrant of arrest,
 Searches and seizures, guaranty against, Art. 1, § 9.

ART AND ARTISANS

Liens and incumbrances, Art. 16, § 37.

ARTISANS LIEN

Generally, Art. 16, § 37.

ASSEMBLY

Right of assembly, Art. 1, § 27.

ASSESSMENTS

Taxes and Taxation, this index.

ASSESSORS

Tax Assessors and Collectors, generally, this index.

ASYLUM

Permanent funds, Art. 7, § 9.

ATTACHMENT

Jurisdiction,
 Enforcement of writ, Art. 5, § 8.

ATTAINDER

Generally, Art. 1, § 16.

ATTORNEY GENERAL

Generally, Art. 4, § 22.
 Compensation and salaries, minimum salary, Art. 3, § 61.
 Elections, Art. 4, § 2 et seq.
 Executive department, basic officer, Art. 4, § 1.
 Legislative office, ineligibility, Art. 3, § 19.
 Legislative redistricting board, membership, Art. 3, § 28.
 Minimum salary, Art. 3, § 61.

ATTORNEYS

Attorney General, generally, this index.
 Commitment, persons of unsound mind, attorney ad litem appointment, Art. 1, § 15-a.
 Crimes and offenses,
 Rights of accused, Art. 1, § 10.
 Criminal District Attorneys, generally, this index.
 District Attorneys, generally, this index.
 District judges, license to practice law, qualification, Art. 5, § 7.
 Right to counsel, Art. 1, § 10.
 Supreme court justices, attorneys licenses, qualification, Art. 5, § 2.

AUTHORITIES

Airport authorities, Art. 9, § 12.

AUTOMOBILES

Motor Vehicles, generally, this index.

BAIL AND RECOGNIZANCES

Appeals and writs of error,
 Multiple convictions, Art. 1, § 11a.
 Denial, multiple convictions, Art. 1, § 11a.
 Excessive bail,
 Prohibition, Art. 1, § 13.
 Multiple convictions, rights, Art. 1, § 11a.
 Right to bail, Art. 1, § 11.

BALANCED BUDGET

Generally, Art. 8, § 22.

BANKS AND TRUST COMPANIES

Corporations,
 Banking privileges, Art. 16, § 16.
 Privileges and immunities, Art. 16, § 16.
 Teller machines, Art. 16, § 16.
 Unmanned teller machines, Art. 16, § 16.

BEACHES

Motor vehicles,
 Counties bordering on Gulf of Mexico, Art. 9, § 1-A.

BEE COUNTY

See, also, Counties, generally, this index.
 County auditor, transfer of powers and duties from county treasurer, Art. 16, § 44.
 County treasurer, transfer of powers and duties to county auditor, Art. 16, § 44.
 Elections,
 County treasurer, abolition of office, Art. 16, § 44.

BIDS

State contracts, Art. 16, § 21.

BILL OF RIGHTS

Generally, Art. 1, § 1 et seq.
 Appeal and review, bail denial, Art. 1, § 11a.
 Appropriations, religious purposes, Art. 1, § 7.

BILL OF RIGHTS—Cont'd

Armed forces,
 Quartering soldiers, private homes, Art. 1, § 25.
 Rights of accused, Art. 1, § 10.
 Subordination, civil authority, Art. 1, § 24.
 Arms, right to keep and bear, Art. 1, § 23.
 Assembly, rights, Art. 1, § 27.
 Attainder bills, Art. 1, § 16.
 Attorneys, right to counsel, Art. 1, § 10.
 Bail and recognizances, Art. 1, § 11.
 Excessive bail, Art. 1, § 13.
 Multiple convictions, denial, Art. 1, § 11a.
 Bills of attainder, Art. 1, § 16.
 Compensation, property taking, Art. 1, § 17.
 Confession, treason, Art. 1, § 22.
 Corruption of blood, Art. 1, § 21.
 Crimes and offenses,
 Double jeopardy, Art. 1, § 14.
 Habeas corpus, Art. 1, § 12.
 Jury trial, Art. 1, § 15.
 Rights of accused, Art. 1, § 10.
 Cruel and unusual punishment, Art. 1, § 13.
 Debtors, imprisonment, Art. 1, § 18.
 Depositions, rights of accused, Art. 1, § 10.
 Deprivation of life and liberty, Art. 1, § 19.
 Double jeopardy, Art. 1, § 14.
 Due course of law, Art. 1, § 19.
 Eminent domain, Art. 1, § 17.
 Entailments, Art. 1, § 26.
 Equal rights, Art. 1, § 3.
 Estates, forfeiture, Art. 1, § 21.
 Ex post facto, Art. 1, § 16.
 Fines and penalties, excessive, Art. 1, § 13.
 Firearms, right to keep and bear, Art. 1, § 23.
 Forfeiture, estates, Art. 1, § 21.
 Form of government, Art. 1, § 2.
 Freedom of speech, Art. 1, § 8.
 Freedom of the press, Art. 1, § 8.
 Grievances, redress, Art. 1, § 27.
 Habeas corpus, Art. 1, § 12.
 Impeachment, criminal accused, rights, Art. 1, § 10.
 Imprisonment, debts, Art. 1, § 18.
 Indictment, rights of accused, Art. 1, § 10.
 Inviolability, Art. 1, § 29.
 Jury,
 Libel case, Art. 1, § 8.
 Rights of accused, Art. 1, §§ 10, 15.
 Libel, Art. 1, § 8.
 Mentally deficient and mentally ill persons, Art. 1, §§ 15, 15-a.
 Monopolies and unfair trade, Art. 1, § 26.
 Multiple convictions, bail denial, Art. 1, § 11a.
 Oaths and affirmations, Art. 1, § 5.
 Search or seizure warrants, Art. 1, § 9.

BILL OF RIGHTS—Cont'd

Offenses. Crimes and offenses, generally, ante.
 Outlawry, Art. 1, § 20.
 Perjury, witnesses, Art. 1, § 5.
 Perpetuities, Art. 1, § 26.
 Press, freedom of press, Art. 1, § 8.
 Primogeniture, Art. 1, § 26.
 Private homes, quartering soldiers, Art. 1, § 25.
 Privileges and immunities, Art. 1, § 17.
 Probable cause, searches and seizures, Art. 1, § 9.
 Probate proceedings, suicide estates, Art. 1, § 21.
 Process, rights of accused, Art. 1, § 10.
 Quartering soldiers, private homes, Art. 1, § 25.
 Religion,
 Appropriations, Art. 1, § 7.
 Freedom of worship, Art. 1, § 6.
 Tests, Art. 1, § 4.
 Retroactive laws, Art. 1, § 16.
 Right of assembly, Art. 1, § 27.
 Searches and seizures, Art. 1, § 9.
 Self-incrimination, Art. 1, § 10.
 Special privileges or immunities, Art. 1, § 17.
 Speech, freedom of speech, Art. 1, § 8.
 Speedy trial, Art. 1, § 10.
 State, Art. 1, § 1.
 Laws, suspension, Art. 1, § 28.
 Suicides, descent and distribution, Art. 1, § 21.
 Taken, property, Art. 1, § 17.
 Transportation, convicts, Art. 1, § 20.
 Treason, Art. 1, § 22.
 Trial, speedy trial, Art. 1, § 10.
 Unusual or cruel punishment, Art. 1, § 13.
 Weapons, right to keep and bear, Art. 1, § 23.
 Witnesses,
 Criminal accused, right to confront, Art. 1, § 10.
 Treason, Art. 1, § 22.

BILLS OF ATTAINDER

Prohibition, Art. 1, § 16.

BINDING

Laws, journals and reports, contract, Art. 16, § 21.

BINGO

Legislative regulation, Art. 3, § 47.

BLIND PERSONS

Asylums, permanent fund, Art. 7, § 9.
 Medical care and assistance grants, Art. 3, § 51-a.
 Rehabilitation,
 State agencies, financing, Art. 16, § 6.

BLOOD

Corruption of blood, Art. 1, § 21.
 Prohibition, Art. 1, § 21.

BOARDS AND COMMISSIONS

Airport authorities, boards and directors, Art. 9, § 12.

BOARDS AND COMMISSIONS

—Cont'd

Constitutional revision committee, Art. 17, § 2.
 Criminal appeals court, commissioners appointment, Art. 5, § 4.
 General Land Office, this index.
 Judicial conduct commission, Art. 5, § 1-a.
 Judicial qualifications commission,
 Change of name to commission on judicial conduct, Art. 5, § 1-a.
 Legislative redistricting board, apportionment of legislature, Art. 3, § 28.
 Medical education board, Art. 3, § 50a.
 Railroad Commission, generally, this index.
 Terms of office, Art. 16, § 30a.
 Veterans Land Board, generally, this index.

BONDS

Airport authorities, Art. 9, § 12.
 Breakwaters construction,
 Counties and cities bordering Gulf of Mexico, Art. 11, § 7.
 Cities, Towns and Villages, generally, this index.
 Colleges and Universities, this index.
 Consideration, private corporations, Art. 12, § 6.
 Counties, this index.
 Dallas county,
 Roads and turnpikes, Art. 3, § 52e.
 Elections,
 Voter property qualifications, Art. 6, § 3a.
 Farm and ranch loan security bonds, Art. 3, § 50c.
 Gulf of Mexico, counties and cities bordering on, construction, Art. 11, § 7.
 Health and sanitation, construction, counties and cities bordering Gulf of Mexico, Art. 11, § 7.
 Hospital districts, Art. 9, § 9.
 Interest,
 Public bonds, Art. 3, § 65.
 Motor vehicle taxes and registration fees, disposition of revenues, Art. 8, § 7-a.
 Reinvestment zone,
 Cities, towns and villages, Art. 8, § 1-g.
 Veterans land board, Art. 3, §§ 49-b, 49-b-1.

BONDS (OFFICERS AND FIDUCIARIES)

Criminal appeals court clerks, Art. 5, § 5.
 Supreme court clerks, Art. 5, § 3.

BOOKS AND PAPERS

Historical documents, appropriations, Art. 16, § 39.

BORROWING

Loans, generally, this index.

BOSTON, CITY OF

Seat of government, Art. 3, § 58.

BOUNDARIES

Junior college districts, boundary changes, taxes and bonds, Art. 7, § 3-b.

BREACH OF THE PEACE

Arrest,
 Privilege exception, voters, Art. 6, § 5.

BRIBERY AND CORRUPTION

Disqualification to office, Art. 16, § 5.
 Exclusions from office, convicted criminals, Art. 16, § 2.

BRIDGES

Generally, Art. 16, § 24.
 Construction, Art. 11, § 2.
 Harris county, annual tax, election, Art. 3, § 52-d.
 Local and special laws, Art. 3, § 56.
 Special and local laws, Art. 3, § 56.

BUILDINGS

Liens and incumbrances, mechanics, artisans and materialmen, Art. 16, § 37.

BUSINESS AND COMMERCE

Antitrust cases, deposition evidence, rights of accused, Art. 1, § 10.
 Drawbacks, Art. 16, § 25.
 Local and special laws, Art. 3, § 56.
 Rebates, Art. 16, § 25.

CAPITAL OFFENSES

Appeals and writs of error,
 Jurisdiction, Art. 5, § 5.
 Death sentence,
 Appeal and review,
 Jurisdiction, Art. 5, § 5.
 Criminal appeals court, en banc proceedings, Art. 5, § 4.

CAPITAL PUNISHMENT

Criminal appeals court, en banc proceedings, Art. 5, § 4.

CARRIERS

Airport authorities tax, exemption, Art. 9, § 12.
 Drawbacks, Art. 16, § 25.
 Rebates, Art. 16, § 24.

CARS

Motor Vehicles, generally, this index.

CASTRO COUNTY

Hospital districts, Art. 9, § 11.

CEMETERIES AND DEAD BODIES

Local and special laws, Art. 3, § 56.

CENSURE

Judges, Art. 5, § 1-a.

CERTIFICATES AND CERTIFICATION

Appropriations within estimated available amounts, Art. 3, § 49a.

CERTIORARI

Criminal appeals court, powers, Art. 5, § 5.
 Supreme court,
 Jurisdiction, Art. 5, § 3.

CHARITABLE ORGANIZATIONS AND SOCIETIES

Board of trustees, terms of office, Art. 16, § 30a.
 Terms of office, trustees, board members, Art. 16, § 30a.

CHARTERS

Cities of 5,000 or more population, Art. 11, § 5.

CHILDREN AND MINORS

Disabled veterans, surviving children, tax exemption, Art. 8, § 2.
 Estates, local and special laws, Art. 3, § 56.
 Homicide, damage liability, surviving children, Art. 16, § 26.
 Legitimation or adoption, local or special laws, Art. 3, § 56.
 Local and special laws, adoption or legitimation, Art. 3, § 56.
 Medical attendance and treatment, Art. 3, § 51-a.
 Special and local laws, adoption or legitimation, Art. 3, § 56.
 Surviving children,
 Homicide, damages, Art. 16, § 26.

CITIES, TOWNS AND VILLAGES

Bonds,
 Construction, cities bordering Gulf of Mexico, Art. 11, § 7.
 Interest and sinking funds,
 Sea wall construction, Art. 11, § 7.
 Issuance, Art. 3, § 52.
 Reinvestment zones, Art. 8, § 1-g.
 Borrowing,
 Credit, private corporations, Art. 11, § 3.
 Breakwaters,
 Construction, cities bordering Gulf of Mexico, Art. 11, § 7.
 Charters,
 Changes, local and special laws, Art. 3, § 56.
 Population of 5,000 or less, Art. 11, § 4.
 Civil service offices, duration, Art. 16, § 30b.
 Compensation and salaries,
 Officers and employees, Art. 3, § 53.
 Continuity of government operations, enemy attack disasters, Art. 3, § 62.
 Credit,
 Lending, Art. 3, § 52.
 State, loans or pledges, Art. 3, § 50.
 Debts,
 Release or extinguishment, Art. 3, § 55.
 Taxation,
 Pay debts, Art. 11, § 6.
 Delinquent taxes, release or extinguishment, Art. 3, § 55.

CITIES, TOWNS AND VILLAGES

—Cont'd
 Donations, private corporations, Art. 11, § 3.
 Elections, this index.
 Employees. Officers and employees, generally, post.
 Enemy attack disasters, continuity of government operations, Art. 3, § 62.
 Extra compensation, officers and employees, Art. 3, § 53.
 Fines and penalties,
 Population of 5,000 or less, Art. 11, § 4.
 Forced sales,
 Exemption, city property, Art. 11, § 9.
 Granting public money, Art. 3, § 52.
 Homestead,
 Amount in value, Art. 16, § 51.
 Homestead tax exemption, Art. 8, § 1-b.
 Lending credit, Art. 3, § 52.
 Liens and incumbrances,
 City property, Art. 11, § 9.
 Local or special laws, Art. 3, § 56.
 Local retirement systems, Art. 16, § 67.
 Maximum tax, Art. 8, § 9.
 Notice,
 Conservation and reclamation districts creation, Art. 16, § 59.
 Officers and employees,
 Compensation and salaries, extra compensation, Art. 3, § 53.
 Extra compensation, Art. 3, § 53.
 Religious tests, Art. 1, § 4.
 Temporary succession, enemy attack disasters, Art. 3, § 62.
 Terms of office,
 Exceeding two years, Art. 11, § 11.
 Test, religious tests, Art. 1, § 4.
 Workers' compensation, Art. 3, § 61.
 Private corporations, subscriptions, donations or loans of credit, Art. 11, § 3.
 Railroads,
 Taxation, Art. 8, § 5.
 Reinvestment zones,
 Tax abatement, Art. 8, § 1-g.
 Release, tax payment, Art. 8, § 10.
 Seawalls,
 Construction and maintenance,
 Cities bordering Gulf of Mexico, Art. 11, § 7.
 Special and local laws, Art. 3, § 56.
 Subscriptions, private corporate capital, Art. 11, § 3.
 Taxes and taxation,
 Population of 5,000 or less, Art. 11, § 4.
 Population of 5,000 or more, Art. 11, § 5.
 Railroad property, Art. 8, § 5.
 Term of office,
 Civil service offices, Art. 16, § 30b.
 Exceeding two years, Art. 11, § 11.
 Workers' compensation, Art. 3, § 61.

CITIZENS AND CITIZENSHIP

Governor, United States citizenship, qualification requirements, Art. 4, § 4.

CITIZENS AND CITIZENSHIP—Cont'd

House of representative members, Art. 3, § 7.
 Senators, Art. 3, § 6.
 Supreme court justices, qualifications, Art. 5, § 2.
 Voting qualifications, Art. 6, § 2.

CIVIL APPEALS COURT

Courts of Appeals, generally, this index.

CIVIL SERVICE

Terms of office, Art. 16, § 30b.

CLERKS

Clerks of Courts, generally, this index.
 County Clerks, generally, this index.
 District Court Clerks, generally, this index.

CLERKS OF COURTS

Generally, Art. 5, § 9.
 District of county courts, removal from office, Art. 5, § 24.
 Legislative office, ineligibility, Art. 3, § 19.

COLLECTORS

Tax Assessors and Collectors, generally, this index.

COLLEGES AND UNIVERSITIES

Generally, Art. 7, § 10 et seq.
 Agricultural and mechanical departments, University of Texas, Art. 7, § 10.
 Agricultural and mechanical university system, permanent improvements, Art. 7, § 18.
 Annexation,
 Junior college districts, taxation and bonds, Art. 7, § 3-b.
 Appropriations, Art. 7, § 14.
 Bonds, Art. 7, § 17.
 College student loan bonds, Art. 3, §§ 50b, 50b-1.
 Junior college districts, boundary changes, Art. 7, § 3-b.
 Permanent improvements, Art. 7, § 18.
 Securing with delinquent taxes, Art. 8, § 1-e.
 Buildings and grounds,
 Sales,
 Permanent university fund, Art. 7, § 12.
 Commercial paper, Art. 7, § 17.
 Permanent improvements, Art. 7, § 18.
 Community colleges and districts,
 Bonds,
 Boundary changes, Art. 7, § 3-b.
 Boundaries,
 Change,
 Taxes and bonds, Art. 7, § 3-b.
 Taxes and taxation,
 Boundary changes, Art. 7, § 3-b.
 County taxation, university land, Art. 7, § 16.

COLLEGES AND UNIVERSITIES

—Cont'd

- Debts, payment from proceeds of sale of lands, permanent university fund, Art. 7, § 12.
- Delinquent taxes, securing of permanent improvement bonds, Art. 8, § 1-e.
- Earthquakes, repair of damaged facilities, Art. 7, § 18.
- Fires and fire protection, repair of damaged facilities, Art. 7, § 18.
- Floods and flood control, repair of damaged facilities, Art. 7, § 18.
- Grants,
 - State lands, Art. 7, § 15.
- Investments,
 - Permanent university fund, Art. 7, §§ 11, 11a.
- Loans,
 - Bonds, Art. 3, §§ 50b, 50b-1.
- Medical schools,
 - Grants, loans or scholarships, medical education board and fund, Art. 3, § 50a.
 - State preference, Art. 16, § 31.
- Merger and consolidation, junior college district boundaries, taxes and bonds, Art. 7, § 3-b.
- Officers and employees,
 - Terms of office, Art. 7, § 16.
- Regents,
 - Terms of office, Art. 16, § 30a.
 - State lands, grants, Art. 7, § 15.
 - Taxes and taxation, Art. 7, § 14.
 - Junior college districts, boundary changes, Art. 7, § 3-b.
 - Land, Art. 7, § 16.
 - University land, county taxes, Art. 7, § 16.
- Terms of office,
 - Officers, Art. 7, § 16.
 - Regents, state university, Art. 16, § 30a.
- Texas A & M University, Art. 7, § 13.
- Permanent improvements, Art. 7, § 18.
- University of Texas system,
 - Establishment, Art. 7, § 10.
 - Permanent university fund,
 - Investments, Art. 7, §§ 11, 11a.
 - Sale of lands, Art. 7, § 12.

COLOR

Discrimination, Art. 1, § 3a.

COMANCHE COUNTY

Hospital district, county commissioners precinct no. 4, Art. 9, § 8.

COMMERCE

Business and Commerce, generally, this index.

COMMERCIAL PAPER

Reinvestment zones, cities, towns and villages, Art. 8, § 1-g.

COMMISSIONERS COURTS

Powers and duties, vesting, Art. 5, § 1.

WTSC Civil Statutes—3

COMMISSIONS

Boards and Commissions, generally, this index.

COMMUNITY COLLEGES AND DISTRICTS

Colleges and Universities, this index.

COMMUNITY PROPERTY

Generally, Art. 16, § 15.

COMPELLING ATTENDANCE

Legislature, absent members, Art. 3, § 10.

COMPENSATION AND SALARIES

- Child support, garnishment of wages, Art. 16, § 28.
- Constitutional convention methods, Art. 17, § 2.
- Deductions,
 - Neglect of duty, public officers, Art. 16, § 10.
- Eminent domain, adequate compensation, Art. 1, § 17.
- Extra compensation, Art. 3, § 53.
- Holding more than one office, Art. 16, § 33.
- Improperly fined or imprisoned persons, Art. 3, § 51-c.
- Judicial conduct, commission, Art. 5, § 1-a.
- Legislature, this index.
- Lieutenant governor, Art. 4, § 17.
- Minimum salary, state officers and employees, Art. 3, § 61.
- Officers and employees,
 - Extra compensation, Art. 3, § 53.
 - Holding more than one office, Art. 16, § 33.
- Political subdivision officers and employees, Art. 16, § 61.
- President of senate, Art. 4, § 17.
- Veterans land board, citizen members, Art. 3, § 49-b.
- Workers' Compensation, generally, this index.

COMPTRROLLER OF PUBLIC ACCOUNTS

- Generally, Art. 4, § 23.
- Compensation and salaries,
 - Minimum salary, Art. 3, § 61.
- Elections, Art. 4, § 2 et seq.
- Executive departments, basic officer, Art. 4, § 1.
- Legislative redistricting board, membership, Art. 3, § 28.
- Minimum salary, Art. 3, § 61.
- Statements,
 - Legislature, financial condition of treasury, Art. 3, § 49a.

CONFEDERATE SOLDIERS AND SAILORS

Grants of public money, Art. 3, § 51.

CONFEDERATE VETERANSPensions and retirement,

- Widows, Art. 8, § 1-e.

CONFESSIONTreason,

- Convictions, Art. 1, § 22.

CONFIDENTIAL AND PRIVILEGED INFORMATION

Judges, disciplinary proceedings, Art. 5, § 1-a.

CONFLICT OF INTERESTLegislature,

- Disclosure in voting, Art. 3, § 22.
- State or county contracts, Art. 3, § 18.

CONGRESS OF UNITED STATES

Ineligibility, state office or legislative post, congressmen, Art. 16, § 12.

CONSCIENTIOUS OBJECTORS

Generally, Art. 16, § 47.

CONSENT

Homestead, sale, consent of other spouse, Art. 16, § 50.

CONSERVATION

Generally, Art. 16, § 59.

CONSERVATION AND RECLAMATION DISTRICTS

- Generally, Art. 16, § 59.
- Bonds, Art. 16, § 59.
- Notice,
 - Creation, Art. 16, § 59.
- Water development bonds, Art. 3, § 49-c et seq.

CONSOLIDATION

Merger and Consolidation, generally, this index.

CONSTABLES

- Local and special laws, Art. 3, § 56.
- Medical expenses, injury in line of duty, payment by county, Art. 3, § 52e.

CONSTITUTIONAL CONVENTIONS

Generally, Art. 17, § 2.

CONSTITUTIONAL REVISION

Generally, Art. 17, § 2.

CONTRACTS

- Consolidation of government funds, contracts between political subdivisions, Art. 3, §§ 63, 64.
- Impairing obligations of contracts, prohibition, Art. 1, § 16.
- Interest, usury and rate in absence of legislation, Art. 16, § 11.
- Obligations, impairment, Art. 1, § 16.
- Rates and charges, interest, Art. 16, § 11.
- Usury, Art. 16, § 11.

CONVEYANCES

- Informal or invalid deeds, giving effect, local and special laws, Art. 3, § 56.
- Tax sales, Art. 8, § 13.

CONVICTIONS

General land office, public lands, Art. 14, § 1.

CORPORATIONS

Generally, Art. 12, § 1 et seq.
 Actions and proceedings,
 State actions, prevention of over reaching, Art. 4, § 22.
 Banking privileges, Art. 16, § 16.
 Bonds,
 Consideration, Art. 12, § 6.
 Capital subscriptions, municipal corporations, Art. 11, § 3.
 Charters,
 Banking or discounting privileges, Art. 16, § 16.
 Forfeitures, Art. 4, § 22.
 Consideration, stocks and bonds, Art. 12, § 6.
 Creation, Art. 12, §§ 1, 2.
 Credit of state loans or pledges, Art. 3, § 50.
 Debts,
 State acceptance, toll road and turnpike construction, Art. 3, § 52-b.
 Discounting privileges, Art. 16, § 16.
 Donations, municipal corporations, Art. 11, § 3.
 Income tax, Art. 8, § 1.
 Loans,
 Credit, municipal corporations, Art. 11, § 3.
 Occupation taxes, Art. 8, § 1.
 Taxes and taxation, Art. 8, § 1.
 Surrender or suspension of power, Art. 8, § 4.

CORRECTIONAL INSTITUTIONS

Board of managers, terms of office, Art. 16, § 30a.
 Compensation and salaries, improperly imprisoned, Art. 3, § 51-c.
 Debtors, imprisonment prohibited, Art. 1, § 18.
 Improperly imprisoned, compensation, Art. 3, § 51-c.
 Legislature, disrespectful or disorderly conduct, imprisonment of perpetrator, Art. 3, § 15.
 Managers board, terms of office, Art. 16, § 30a.
 Outlawry, transporting, Art. 1, § 20.
 Real estate,
 Purchase by veterans land fund, Art. 3, § 49-b.
 Roads and highways,
 Use of convict labor, Art. 16, § 24.
 Terms of office, board of managers, Art. 16, § 30a.
 Transporting, convicts, Art. 1, § 20.

COUNSEL

Attorneys, generally, this index.

COUNTIES

Generally, Art. 9, § 1 et seq.; Art. 11, § 1.
 Adverse possession,
 School lands, Art. 7, § 6.
 Airport authorities, Art. 9, § 11.

COUNTIES—Cont'd

Assessors and collectors, taxes and taxation,
 Counties of less than 10,000, optional creation of office, Art. 8, § 16a.
 Attorneys. County Attorneys, generally, this index.
 Auditors. County Auditors, generally, this index.
 Beaches,
 Bordering on Gulf of Mexico, regulation, Art. 9, § 1-A.
 Motor vehicle use and littering, Art. 9, § 1-A.
 Bee County, generally, this index.
 Boards and commissions,
 Elections, Art. 5, § 18.
 Bonds,
 Construction, counties bordering Gulf of Mexico, Art. 11, § 7.
 Motor vehicle taxes and registration fees, disposition of revenues, Art. 8, § 7-a.
 Permissible persons, Art. 3, § 52.
 Breakwaters, construction, counties bordering Gulf of Mexico, Art. 11, § 7.
 Clerks. County Clerks, generally, this index.
 Colleges and universities, taxation of land, Art. 7, § 16.
 Commissioners court. County Commissioners Court, generally, this index.
 Compensation and salaries,
 Extra compensation, Art. 3, § 53.
 Consolidation of government offices and functions, Art. 3, § 64.
 Constables, election, Art. 5, § 18.
 Contracts,
 Legislators, conflict of interest, Art. 3, § 18.
 County seats,
 Local and special laws, locating or changing, Art. 3, § 56.
 Removal, Art. 9, § 2.
 Courts. County Courts, generally, this index.
 Creation, Art. 9, § 1.
 Credit, lending, Art. 3, § 52.
 Debts,
 Release or extinguishment, Art. 3, § 55.
 Taxation to pay debts, Art. 11, § 6.
 Delinquent taxes, release or extinguishment, Art. 3, § 55.
 Division, Art. 9, § 1.
 Precincts, Art. 5, § 18.
 Eminent domain,
 Gulf of Mexico, counties bordering, construction, Art. 11, § 7.
 Enemy attack disasters, continuity of government operations, Art. 3, § 62.
 Extra compensation, officers and employees, Art. 3, § 53.
 Farm-to-market and lateral roads, Art. 8, § 1-a.
 Finances. County Finances, generally, this index.
 Floods and flood control,
 Taxation, Art. 8, § 1-a.

COUNTIES—Cont'd

Forced sales, exemptions, county property, Art. 11, § 9.
 General fund,
 Maximum tax, Art. 8, § 9.
 Gifts,
 Livestock protection fund, Art. 11, § 3.
 Grants, Art. 3, § 52.
 Gulf of Mexico,
 Counties bordering on,
 Beach regulations, motor vehicles and littering, Art. 9, § 1-A.
 Construction, Art. 11, § 7.
 Health and sanitation,
 Construction, counties bordering Gulf of Mexico, Art. 11, § 7.
 Homestead tax exemption, Art. 8, § 1-b.
 Hospital districts, Art. 9, § 4 et seq.
 Judges. County Judges, generally, this index.
 Jury fund, maximum tax, Art. 8, § 9.
 Justices of the peace, election, Art. 5, § 18.
 Law enforcement officers,
 Medical expenses, injury in line of duty, Art. 3, § 52e.
 Legal subdivisions, Art. 11, § 1.
 Lending credit, Art. 3, § 52.
 Liens and incumbrances,
 County property, Art. 11, § 9.
 Litter,
 Beaches, Art. 9, § 1-A.
 Loans,
 Credit, private corporations, Art. 11, § 3.
 Local and special laws, Art. 3, § 56.
 County seats, Art. 3, § 56.
 Local retirement systems, Art. 16, § 67.
 Manual labor poorhouse and farm, Art. 16, § 8.
 Maximum area, Art. 9, § 1.
 Maximum tax, Art. 8, § 9.
 Ochiltree County, generally, this index.
 Officers and employees. County Officers and Employees, generally, this index.
 Permanent improvement fund,
 Maximum tax, Art. 8, § 9.
 Precincts,
 Division of precincts, Art. 5, § 18.
 Private corporations, subscriptions to capital, donations or loans of credit, Art. 11, § 3.
 Reinvestment zones,
 Taxation, Art. 8, § 1-g.
 Release, tax payment, Art. 8, § 10.
 Removal, county seats, Art. 9, § 2.
 Residents homestead exemption, taxation, Art. 8, § 1-b.
 Road and bridge fund, maximum tax, Art. 8, § 9.
 Roads and highways,
 Construction and maintenance, Art. 11, § 2.
 Sales,
 School lands, Art. 7, § 6.

COUNTIES—Cont'd

Seawalls,
 Construction,
 Counties bordering Gulf of Mexico,
 Art. 11, § 7.
 Special and local laws, Art. 3, § 56.
 Subscriptions, private corporate capital,
 Art. 11, § 3.
 Surveyors. County Surveyors, generally,
 this index.
 Tarrant County, generally, this index.
 Tax assessments, railroads, Art. 8, § 8.
 Treasurer. County Treasurer, generally,
 this index.
 Workmen's compensation, county officers
 and employees, Art. 3, § 60.

COUNTIES OF 5,000 OR LESS

Private roads, construction or mainte-
 nance, Art. 3, § 52f.

COUNTIES OF LESS THAN 10,000

Assessor and collector of taxes, option of
 creating office, Art. 8, § 16a.

COUNTIES OF 10,000 OR MORE

Assessor and collector of taxes, election,
 Art. 8, § 16.

COUNTIES OF 190,000 OR MORE

Hospital districts, Art. 9, § 4.

COUNTIES OF 1,200,000 OR MORE

Consolidation of government functions,
 Art. 3, § 63.

COUNTY ATTORNEYS

Generally, Art. 5, § 21.
 Removal from office, Art. 5, § 24.
 Resignation, running for other offices,
 Art. 16, § 65.
 Term of office, Art. 5, § 21; Art. 16,
 § 65.
 Unexpired terms, running for other of-
 fices, Art. 16, § 65.
 Vacancies in office, running for other
 offices, Art. 16, § 65.

COUNTY AUDITORS

Bee county, transfer of powers and
 duties from county treasurer, Art.
 16, § 44.
 Elections,
 Tarrant and Bee counties, abolition of
 county treasurer office, Art. 16,
 § 44.
 Tarrant county, transfer of powers and
 duties from county treasurer, Art.
 16, § 44.

COUNTY CLERKS

Generally, Art. 5, § 20.
 Elections, Art. 5, § 21.
 Resignation, running for other offices,
 Art. 16, § 65.
 Terms of office, Art. 16, § 65.
 Unexpired terms, running for other of-
 fices, Art. 16, § 65.
 Vacancies in office, running for other
 offices, Art. 16, § 65.

COUNTY COMMISSIONERS

Generally, Art. 5, § 18.
 Resignation, running for other offices,
 Art. 16, § 65.
 Terms of office, Art. 16, § 65.
 Unexpired terms, running for other of-
 fices, Art. 16, § 65.
 Vacancies in office, running for other
 offices, Art. 16, § 65.

COUNTY COMMISSIONERS COURT

Generally, Art. 5, § 18.
 Appeal and review, jurisdiction, Art. 5,
 § 8.
 Clerks, Art. 5, § 20.
 Conservation and reclamation districts,
 notice of creation, Art. 16, § 59.
 Local and special laws, Art. 3, § 56.

COUNTY COURT CLERKS

County clerk serving as, Art. 5, § 20.
 Removal from office, Art. 5, § 24.

COUNTY COURTS

Generally, Art. 5, § 15 et seq.
 Crimes and offenses, prosecutions, Art.
 5, § 17.
 Habeas corpus,
 Powers, Art. 5, § 16.
 Injunctions, Art. 5, § 16.
 Jurisdiction, Art. 5, § 16.
 Changes, Art. 5, § 22.
 Jury and jurors, Art. 5, §§ 17, 29.
 Demand, civil cases,
 Number, Art. 5, §§ 17, 29.
 Number, Art. 5, § 17.
 Mandamus,
 Powers, Art. 5, § 16.
 Powers and duties, vesting, Art. 5, § 1.
 Term of court, Art. 5, §§ 17, 29.
 Transfer of cases, Art. 5, § 27.
 Vacancies in office, Art. 5, § 28.
 Writs,
 Powers, Art. 5, § 16.

COUNTY COURTS AT LAW

Judges, terms of office, Art. 16, § 65.

COUNTY CRIMINAL COURTS

Judges, terms of office, Art. 16, § 65.

**COUNTY DOMESTIC RELATIONS
COURTS**

Judges, terms of office, Art. 16, § 65.

COUNTY FINANCES

Funds,
 Maximum tax, Art. 8, § 9.

COUNTY JUDGES

Generally, Art. 5, § 15.
 Elections, Art. 5, § 15.
 Removal from office, Art. 5, § 24.
 Resignation, running for other offices,
 Art. 16, § 65.
 Term of office, Art. 5, § 30; Art. 16,
 § 65.
 Unexpired terms, running for other of-
 fices, Art. 16, § 65.
 Vacancies in office, running for other
 offices, Art. 16, § 65.

**COUNTY OFFICERS AND EMPLOY-
EES**

Compensation and salaries, extra com-
 pensation, Art. 3, § 53.
 Domicile and residence, Art. 16, § 14.
 Extra compensation, Art. 3, § 53.
 Religious tests, Art. 1, § 4.
 Removal from office, Art. 5, § 24.
 Residence within county, Art. 16, § 14.
 Salaries and compensation, Art. 16,
 § 61.
 Sheriffs, generally, this index.
 Surveyors. County Surveyors, generally,
 this index.
 Tax Assessors and Collectors, generally,
 this index.
 Temporary succession, enemy attack dis-
 asters, Art. 3, § 62.
 Term of office, Art. 16, § 25.
 Tests, religious tests, Art. 1, § 4.
 Treasurers. County Treasurer, generally,
 this index.
 Workmen's compensation, Art. 3, § 60.

COUNTY PROBATE COURT

Judges, terms of office, Art. 16, § 65.

COUNTY SURVEYORS

Generally, Art. 16, § 44.
 Resignation, running for other offices,
 Art. 16, § 65.
 Terms of office, Art. 16, § 65.
 Unexpired terms, running for other of-
 fices, Art. 16, § 65.
 Vacancies in office, running for other
 offices, Art. 16, § 65.

COUNTY TREASURER

Generally, Art. 16, § 44.
 Bee county, transfer of powers and
 duties to county auditor, Art. 16,
 § 44.
 Elections,
 Abolition, Tarrant and Bee counties,
 Art. 16, § 44.
 Resignation, running for other offices,
 Art. 16, § 65.
 Tarrant county, transfer of powers and
 duties to county auditor, Art. 16,
 § 44.
 Terms of office, Art. 16, § 65.
 Transfer of powers and duties to county
 auditor, Tarrant and Bee counties,
 Art. 16, § 44.
 Unexpired terms, running for other of-
 fices, Art. 16, § 65.
 Vacancies in office, running for other
 offices, Art. 16, § 65.

COURT OF CRIMINAL APPEALS

Generally, Art. 5, § 4.
 Clerks, Art. 5, § 5.
 Commissioners, appointment, Art. 5,
 § 4.
 Death penalty,
 Appellate jurisdiction, Art. 5, § 5.
 Election of judges, Art. 5, § 4.
 En banc court, CCrP 44.33, Cr.App.
 Rules 206,
 Judges, Art. 5, § 4.

COURT OF CRIMINAL APPEALS

—Cont'd
 Judges,
 Qualifications, Art. 5, § 4.
 Jurisdiction, Art. 5, § 5.
 Mandamus,
 Powers, Art. 5, § 5.
 Panels,
 Judges, Art. 5, § 4.
 Pensions and retirement,
 Justices, Art. 5, § 1-a.
 Powers and duties, vesting, Art. 5, § 1.
 Qualifications, judges, Art. 5, § 4.
 Salaries and compensation,
 Judges, Art. 5, § 1-a.
 States appeal, Art. 5, § 26.
 Term of office, Art. 5, § 5.
 Clerk, Art. 5, § 5.
 Judges, Art. 5, § 4.
 Vacancies in office, Art. 5, § 28.
 Judges, Art. 5, § 4.
 Writs,
 Jurisdiction, Art. 5, § 5.

COURT RULES

Generally, Art. 5, § 25.

COURTHOUSES

Generally, Art. 11, § 2.
 Commissioners courts,
 Construction and repair, Art. 11, § 2.

COURTS

Generally, Art. 5, § 1 et seq.
 Acceptance, bribes, Art. 16, § 41.
 Bribery, Art. 16, § 41.
 Clerks of Courts, generally, this index.
 Compensation and salaries,
 Justices and judges, Art. 5, § 1-a.
 County attorneys, representation of state
 in district and inferior courts, Art.
 5, § 21.
 County Commissioners Court, generally,
 this index.
 Countywide jurisdiction, term of office of
 judges, Art. 5, § 30.
 Courthouses, generally, this index.
 Criminal appeals. Court of Criminal
 Appeals, generally, this index.
 District Courts, generally, this index.
 Division of powers, Art. 2, § 1.
 Judges, generally, this index.
 Justices of the Peace, generally, this in-
 dex.
 Local and special laws, Art. 3, § 56.
 Open courts, Art. 1, § 13.
 Parole and suspension of sentence, Art.
 4, § 11A.
 Perjury, generally, this index.
 Powers and duties, division of, Art. 2,
 § 1.
 Probate Courts, generally, this index.
 Rules of court, Art. 5, § 25.
 Special and local laws, Art. 3, § 56.
 Supreme Court, generally, this index.
 Suspension,
 Sentence and parole, Art. 4, § 11A.
 Time, holding, fixing by ordinance, Art.
 5, § 14.

COURTS OF APPEALS

Address, removal of judges, Art. 15, § 8.
 Clerks, Art. 5, § 6.
 Elections,
 Judges, Art. 5, § 6.
 Impeachment, judges, Art. 15, § 1 et
 seq.
 Jurisdiction, Art. 5, § 6.
 Powers and duties, vesting, Art. 5, § 1.
 Qualifications of judges, Art. 5, § 6.
 Salaries and compensation,
 Judges, Art. 5, § 1-a.
 Supreme judicial districts, Art. 5, § 6.
 Vacancies in office, Art. 5, § 28.

CREDENTIALS

Municipal corporations not to loan to
 private corporations, Art. 11, § 3.

CREDIT

Loans of credit, municipal corporations,
 loans to private corporations, Art.
 11, § 3.

CREDIT UNIONS

Unmanned teller machines, sharing with
 banks, Art. 16, § 16.

CRIMES AND OFFENSES

See, also, Fines and Penalties, general-
 ly, this index.

Accusations, rights of criminal accused,
 demanding nature and cause, Art. 1,
 § 10.

Arrest, generally, this index.

Bail and Recognizances, generally, this
 index.

Bill of Rights, this index.

Borrowing special funds, state treasury,
 Art. 8, § 7.

Capital Offenses, generally, this index.

Compulsory process, obtaining witnesses,
 rights of accused, Art. 1, § 10.

Convicted felons, voting restrictions, Art.
 6, § 1.

Counsel, right of accused, Art. 1, § 10.

County court prosecutions, Art. 5, § 17.

Diverting special funds, state treasury,
 Art. 8, § 7.

Double jeopardy, prohibition, Art. 1,
 § 14.

Elections, this index.

Indictment and Information, generally,
 this index.

Jurisdiction,
 Prosecutions, Art. 5, § 8.

County courts, Art. 5, § 16.

Jury trial, right of accused, Art. 1, § 10.

Libel, right of jury trial, Art. 1, § 8.

Military offenses, right of indictment,
 Art. 1, § 10.

Multiple convictions, denial of bail, Art.
 1, § 11a.

Number of jurors, Art. 4, § 13.

Process,
 Witnesses, rights of accused, Art. 1,
 § 10.

Right to counsel, criminal accused, Art.
 1, § 10.

CRIMES AND OFFENSES—Cont'd

Special funds, state treasury, borrowing,
 withholding or diverting, Art. 8,
 § 7.

Special laws,
 Criminal cases, Art. 3, § 56.

State,
 Right of appeal, Art. 5, § 26.

Transportation,
 Transporting of convicts forbidden,
 Art. 1, § 20.

Venue,
 Special laws, Art. 3, § 56.

Voting restrictions, convicted felons, Art.
 6, § 1.

Withholding special funds, state treasury,
 Art. 8, § 7.

CRIMINAL APPEALS COURT

Court of Criminal Appeals, generally,
 this index.

CRIMINAL DISTRICT ATTORNEYS

Resignation, running for other offices,
 Art. 16, § 65.

Term of office, Art. 5, § 30; Art. 16,
 § 65.

Unexpired terms, running for other of-
 fices, Art. 16, § 65.

Vacancies in office, running for other
 offices, Art. 16, § 65.

CRIMINAL DISTRICT COURTS

Compensation and salaries,
 Judges, Art. 5, § 1-a.

Retirement and pensions, judges, Art. 5,
 § 1-a.

CROPS

Agricultural Products, generally, this in-
 dex.

CRUEL OR UNUSUAL PUNISHMENT

Generally, Art. 1, § 13.

CULTURAL RESOURCES

Tax relief, Art. 8, § 1-f.

DALLAS COUNTY

Bonds, road and turnpike construction,
 Art. 3, § 52e.

DAMAGES

Homicide, Art. 16, § 26.

DAMS AND RESERVOIRS

Construction, Art. 3, § 49-d.

Political subdivisions, construction and
 maintenance, lending credit, Art. 3,
 § 52.

Water development bonds, Art. 3,
 § 49-c et seq.

DEAF AND MUTE PERSONS

Asylums, permanent fund, Art. 7, § 10.

DEATH

Governor,
 Filling vacancy in office, Art. 4, § 3a.

Lieutenant governor replacing, Art. 4,
 § 16.

DEATH—Cont'd

Lieutenant governor, replacement, Art. 4, § 17.

DEBTS

Conservation and reclamation districts, Art. 16, § 59.
Elections, assumption of debts by political subdivisions, voter property qualifications, Art. 6, § 3a.
Extinguishment or release, debts owed state or political subdivisions, Art. 3, § 55.
Imprisonment of debtors prohibited, Art. 1, § 18.
Local and special laws, Art. 3, § 56.
Municipal elections, debt assumption, voter qualifications, Art. 6, § 3.
Release or extinguishment, debts owed state or political subdivisions, Art. 3, § 55.
Special and local laws, Art. 3, § 56.
State bar, Art. 3, § 49.
Taxes and taxation,
 Counties, cities and towns, Art. 11, § 6.

DEEDS OF TRUSTS

Farm and ranch loan security bonds, Art. 3, § 50c.
Homestead, Art. 16, § 50.

DEFECTS

Title, former state lands, patent applications, Art. 7, § 4A.

DELINQUENT TAXES

Extinguishment, counties, Art. 3, § 55.
Permanent improvement bonds, colleges and universities, securing, Art. 8, § 1-e.
Release, Art. 3, § 55.

DEPOSITIONS

Antitrust cases, rights of accused, Art. 1, § 10.

DESCENT AND DISTRIBUTION

County courts, Art. 5, § 29.
Homesteads, Art. 16, § 52.
Jurisdiction of courts, Art. 5, §§ 8, 16.
Local and special laws, Art. 3, § 56.
Special and local laws, Art. 3, § 56.
Suicide, Art. 1, § 21.

DISABILITY PENSIONS

Texas rangers, Art. 16, § 66.

DISABLED PERSONS

Handicapped Persons, generally, this index.

DISASTERS

Enemy attack, continuity of government operations, Art. 3, § 62.

DISCOUNTS

Tax assessments, advance payment, Art. 8, § 20.

DISCRIMINATION

Generally, Art. 1, § 3.

DISORDERLY CONDUCT

Legislature, Art. 3, § 15.

DISSOLUTION

Hospital districts, Art. 9, § 9.

DISSOLUTION OF MARRIAGE

Divorce, generally, this index.

DISTRICT ATTORNEYS

Generally, Art. 5, § 21.
Elections, Art. 5, § 21.
Resignation, running for other offices, Art. 16, § 65.
Term of office, Art. 5, § 21; Art. 16, § 65.
Unexpired terms, running for other offices, Art. 16, § 65.
Vacancies in office, running for other offices, Art. 16, § 65.

DISTRICT COURT CLERKS

Generally, Art. 5, § 9.
Removal from office, Art. 5, § 24.
Resignation, running for other offices, Art. 16, § 65.
Terms of office, Art. 16, § 65.
Unexpired terms, running for other offices, Art. 16, § 65.
Vacancies in office, Art. 5, § 9.
 Running for other offices, Art. 16, § 65.

DISTRICT COURTS

Address, removal of judges, Art. 15, § 8.
Adverse or pecuniary interest, disqualification of judges, Art. 5, § 11.
Appeals and writs of error,
 Appellate jurisdiction, Art. 5, § 8.
Certiorari,
 Powers, Art. 5, § 8.
Clerks. District Court Clerks, generally, this index.
Compensation and salaries,
 Judges, Art. 5, § 1-a.
Conflict of interest, disqualification of judges, Art. 5, § 11.
Designation, ordinance, Art. 5, § 14.
Disqualification of judges, Art. 5, § 11.
Exchange of districts, Art. 5, § 11.
Fees, jury, Art. 5, § 10.
Holding court for other judges, Art. 5, § 11.
Impeachment, judges, Art. 15, § 1 et seq.
Incompetence, impeachment of judges, Art. 15, § 6.
Injunctions,
 Powers, Art. 5, § 8.
Judges, Art. 5, § 7.
 Disqualification, Art. 5, § 11.
Jurisdiction, Art. 5, § 8.
 Land, Art. 5, § 8.
Jury and jurors, Art. 5, § 10.
 Grand and petit jurors, number, Art. 5, § 13.
Mandamus, Art. 5, § 8.
Misconduct, impeachment of judges, Art. 15, § 6.
Negligence, impeachment of judges, Art. 15, § 6.

DISTRICT COURTS—Cont'd

Numbers and numbering, grand and petit jurors, Art. 5, § 13.
Oppression, impeachment of judges, Art. 15, § 6.
Partiality, impeachment of judges, Art. 15, § 6.
Powers and duties, vesting, Art. 5, § 1.
Prohibition, Art. 5, § 8.
Retirement and pensions, judges, Art. 5, § 1-a.
Sessions, Art. 5, § 7.
Term of court, Art. 5, § 7.
Time, holding, ordinance, Art. 5, § 14.
Transfer of cases, Art. 5, § 27.
Vacancies in office, Art. 5, § 28.
Writs,
 Powers, Art. 5, § 8.

DISTRICT OFFICERS

Compensation and salaries, Art. 16, § 61.
Residence within district, Art. 16, § 14.
Terms of office, Art. 16, § 65.

DISTRICTS

Conservation and Reclamation Districts, generally, this index.
Elections,
 Financial issues, voter property qualifications, Art. 6, § 3a.
Hospital Districts, generally, this index.
Judicial Districts, generally, this index.
Legislature, senate, Art. 3, § 25.
Rural fire prevention districts, Art. 3, § 48-d.
Senate, Art. 3, § 25.

DIVORCE

Jurisdiction, Art. 5, § 8.
Local and special laws, Art. 3, § 56.
 Fixing or changing voting places, Art. 3, § 56.

DOCTORS

Physicians and Surgeons, generally, this index.

DOMESTIC CORPORATIONS

Corporations, generally, this index.

DOMICILE AND RESIDENCE

District court judges, Art. 5, § 7.
Forfeiture of residence, absence on public business, Art. 16, § 9.
Governor,
 Qualification requirement, Art. 4, § 4.
 Residence, Art. 4, § 13.
Homestead, tax exemption, Art. 8, § 1-b.
House of representative members, Art. 3, § 7.
Legislature, this index.
Officers and employees, residence within state or district, Art. 16, § 14.
Senators, Art. 3, § 6.
State officers, Art. 16, § 14.
State treasurer, Art. 4, § 23.
Voting qualifications, Art. 6, § 2.

DOUBLE JEOPARDY

Crimes and offenses, prohibition, Art. 1, § 14.

DRAINS AND DRAINAGE

Conservation and development, Art. 16, § 59.

DRUNKARDS AND DRUNKENNESS

Judges, removal by address, Art. 15, § 8.

DUAL OFFICE HOLDING

State officers and employees, Art. 16, § 40.

DUE COURSE OF LAW

Generally, Art. 1, § 19.

DWELLINGS

Homestead tax exemption, Art. 8, § 1-b.

EARTHQUAKES

Colleges and universities,
Repair of damaged facilities, Art. 7, § 18.

EDUCATION

Generally, Art. 7, § 1 et seq.
Boards of trustees, educational institutions, terms of office, Art. 16, § 30a.
Schools and School Districts, generally, this index.
Terms of office, educational institutions, boards of trustees, Art. 16, § 30a.
Trustees board, educational institutions, terms of office, Art. 16, § 30a.

EDUCATION, STATE BOARD OF

Generally, Art. 7, § 8.

ELECTIONS

Absence and absentees,
Public business, forfeiture of residence, Art. 16, § 9.
Age,
Voting restrictions, underage persons, Art. 6, § 1.
Airport authorities, Art. 9, § 12.
Alcoholic beverages, local option, Art. 16, § 20.
Arrest,
Privileges and immunities, Art. 6, § 5.
Assessors and collectors,
Counties, Art. 8, § 14.
Assumption of debts, local elections, voter property qualifications, Art. 6, § 3a.
Ballots, Art. 6, § 4.
Bee county, county treasurer, abolition of office, Art. 16, § 44.
Bribery, prohibition, Art. 16, § 2.
Cities, towns and villages,
Qualifications of voters, Art. 6, § 3.
Terms of office exceeding two years, Art. 11, § 11.
Voter qualifications, Art. 6, § 3.
Citizens and citizenship,
Voting qualifications, Art. 6, § 2.

ELECTIONS—Cont'd

Classes, voters,
Persons not allowed to vote, Art. 6, § 1.
Clerks of court, district courts, Art. 5, § 9.
Consolidation,
Government functions,
Counties and political subdivisions, Art. 3, § 64.
Counties of 1,200,000 or more, Art. 3, § 63.
Constitutional amendments, ratification, Art. 17, § 1.
Contests,
Jurisdiction, Art. 5, § 8.
County attorneys, Art. 5, § 21.
County treasurer,
Tarrant and Bee counties, abolition of office, Art. 16, § 44.
Crimes and offenses. Offenses, generally, post.
Criminal appeals court, judges, Art. 5, § 4.
Debt assumption, municipal elections, taxpayer voter qualifications, Art. 6, § 3.
Domicile and residence,
Voter qualifications, presidential, vice-presidential and statewide offices, Art. 6, § 2a.
Executive department officers, Art. 4, § 2 et seq.
Expenses and expenditures,
Local elections, property qualifications of voters, Art. 6, § 3a.
Political subdivisions, voter property qualifications, Art. 6, § 3a.
Taxpayer voter qualifications, Art. 6, § 3.
Felony convicts, voting restrictions, Art. 6, § 1.
Forfeiture of residence, absence on public business, Art. 16, § 9.
Fraud,
Ballots, Art. 6, § 4.
Harris county, road or bridge construction, annual tax, Art. 3, § 52-d.
Indigent persons, right to vote, Art. 6, § 1.
Judges,
Appeals courts, Art. 5, § 6.
Jurisdiction,
Contest, Art. 5, § 8.
Legislature, this index.
Loans,
Credit, property qualifications, voters, Art. 6, § 3a.
Local and special laws, opening and conducting, Art. 3, § 56.
Numbers and numbering,
Ballots, Art. 6, § 4.
Oaths and affirmations,
Elected officials, Art. 16, § 1.
Offenses,
Exclusion of criminals from voting, Art. 16, § 2.
Voter arrest privilege, exceptions, Art. 6, § 5.

ELECTIONS—Cont'd

Offenses—Cont'd
Voting restrictions, felony convicts, Art. 6, § 1.
Paupers, right to vote, Art. 6, § 1.
Precinct divisions, Art. 5, § 18.
President of the United States, voter qualifications, Art. 6, § 2a.
Privileges and immunities,
Arrest, voter, Art. 6, § 5.
Railroad commission, Art. 16, § 30.
Registration of voters, Art. 6, § 4.
Prerequisite to voting, Art. 6, § 2.
Special elections,
Vacancies in office,
Municipal officers with extended terms, Art. 11, § 11.
State Officers and Employees, this index.
Statewide offices, voter qualifications, Art. 6, § 2a.
Supreme court justices, Art. 5, § 2.
Tarrant county, county treasurer, abolition of office, Art. 16, § 44.
Tumult, prohibition, Art. 16, § 2.
Vice President of the United States,
Voter qualifications, Art. 6, § 2a.

ELEMENTARY SCHOOLS

Schools and School Districts, generally, this index.

EMERGENCIES

Appropriations, Art. 3, § 5.
Balanced budget, exception, Art. 8, § 22.

EMINENT DOMAIN

Generally, Art. 1, § 17.
Airport authorities, Art. 9, § 11.
Cities, towns and villages,
Gulf of Mexico, cities bordering on, construction, Art. 11, § 7.
Gulf of Mexico, counties and cities bordering on, construction, Art. 11, § 7.

EMOLUMENTS

Exclusive separate payments, equal rights as citizens, Art. 1, § 3.

EMPLOYEES

Officers and Employees, generally, this index.

EMPLOYEES RETIREMENT SYSTEM

Generally, Art. 16, § 67.

EN BANC PROCEEDINGS

Criminal appeals court, Art. 5, § 4.

ENCUMBRANCES

Liens and Incumbrances, generally, this index.

ENDOWMENT FUNDS

Tax exemptions, religious and learning institutions, Art. 8, § 2.

ENEMY

Attacks,
Continuity of government operations, Art. 3, § 62.

ENEMY—Cont'd**Attacks—Cont'd**

Legislature, emergency rules, Art. 3, § 62.

ENERGY

Tax exemptions, solar and wind power devices, Art. 8, § 2.

ENTAILMENTS

Generally, Art. 1, § 26.

EQUAL RIGHTS

Generally, Art. 1, § 3.

EQUALIZATION BOARD

Tax assessments, Art. 8, § 18.

ESCHEAT

Jurisdiction,

State suits, Art. 5, § 8.

ESTABLISHMENT OF RELIGION

Generally, Art. 1, § 6.

ESTATES

Homesteads, Art. 16, § 52.

ESTIMATES

Governor, estimates of needed revenue to legislature, Art. 4, § 9.

State treasury, probable receipts and disbursements, Art. 3, § 49a.

EVIDENCE

Antitrust cases, deposition evidence, rights of accused, Art. 1, § 10.

Local and special laws, Art. 3, § 56.

Self-incrimination,

Criminal prosecutions, rights of accused, Art. 1, § 10.

Special or local laws, Art. 3, § 56.

EX POST FACTO LAWS

Prohibition, Art. 1, § 16.

EXECUTION

Jurisdiction, enforcement of writ, Art. 5, § 8.

EXECUTORS AND ADMINISTRATORS

County courts, Art. 5, § 29.

Jurisdiction, Art. 5, §§ 8, 16.

Local and special laws, giving effect to informal or invalid wills, Art. 3, § 56.

Setting apart homestead and other exempt property,

Homestead, Art. 16, § 52.

Suicide estates, Art. 1, § 21.

EXEMPTIONS

Public duty or service, Art. 16, § 43.

Taxes and Taxation, this index.

EXISTING LAWS

Continuance in force, Art. 16, § 48.

EXPENSES AND EXPENDITURES

Elections, this index.

Judicial conduct commission, Art. 5,

§ 1-a.

EXPULSION

Legislature, Art. 3, § 11.

FARM AND RANCH LOAN SECURITY BONDS

Generally, Art. 3, § 50c.

FARM AND RANCH LOAN SECURITY FUND

Generally, Art. 3, § 50c.

FARMS AND FARMING

Agricultural Lands, generally, this index.

Agricultural Products, generally, this index.

Agriculture, generally, this index.

FEDERAL GOVERNMENT

United States, generally, this index.

FEES

Disposition,

Counties, districts and precincts, Art. 16, § 61.

FELONIES

Crimes and Offenses, generally, this index.

FENCES

Generally, Art. 16, § 22.

FERRIES

Local and special laws, Art. 3, § 56.

Special and local laws, Art. 3, § 56.

FILTRATION AND AERATION PLANTS

Water development bonds, Art. 3, § 49-c et seq.

FINANCIAL STATEMENTS AND REPORTS

State treasury, Art. 3, § 49a.

FINES AND PENALTIES

See, also,

Crimes and Offenses, generally, this index.

Forfeitures, generally, this index.

Cruel or unusual punishment,

Prohibition, Art. 1, § 13.

Excessive fines,

Prohibition, Art. 1, § 13.

Governor, remission, Art. 4, § 11.

Improperly fined persons, aid or compensation, Art. 3, § 51-c.

Jurisdiction, recovery by state, Art. 5, § 8.

Local and special laws, Art. 3, § 56.

Suspension, sentence, Art. 4, § 11A.

Unusual or cruel punishment, prohibition, Art. 1, § 13.

FIREMEN AND FIRE DEPARTMENTS

Conservation and reclamation districts, engaging in firefighting activities, Art. 16, § 59.

Political subdivisions, lending of credit or granting of public money, Art. 3, § 52.

FIREMEN AND FIRE DEPARTMENTS

—Cont'd

Volunteer Fire Departments, generally, this index.

FIRES AND FIRE PREVENTION

Colleges and universities, repair of damaged facilities, Art. 7, § 18.

Rural fire prevention districts, Art. 3, § 48-d.

FISH AND GAME

Local and special laws, Art. 3, § 56.

FLOODS AND FLOOD CONTROL

Colleges and universities,

Repair of damaged facilities, Art. 7, § 18.

Conservation and development, Art. 16, § 59.

FLOWERS

Agricultural land use, tax assessments, Art. 8, § 1-d.

FORCED SALE

County and city property, exemption, Art. 11, § 9.

Homesteads, Art. 16, § 50.

Personal property, protection of portion, Art. 16, § 49.

FOREIGN CORPORATIONS

Banking and discounting privileges, Art. 16, § 16.

FOREIGN STATES

Conducting business with, governors powers, Art. 4, § 10.

FORESTS AND FORESTRY

Conservation and development, Art. 16, § 59.

FORFEITURES

Cities, towns and villages, population of 5,000 or less, Art. 11, § 4.

Governor, remission, Art. 4, § 11.

Highways and roads, use of forfeitures, Art. 16, § 24.

Jurisdiction, recovery by state, Art. 5, § 8.

Local and special laws, Art. 3, § 56.

FORM OF GOVERNMENT

Generally, Art. 1, § 2.

FREEDOM OF RELIGION

Generally, Art. 1, § 6.

FREEDOM OF SPEECH

Generally, Art. 1, § 8.

FREEDOM OF THE PRESS

Generally, Art. 1, § 8.

FRUITS

Agricultural land use, tax assessments, Art. 8, § 1-d.

Tax assessments, agricultural land for growing, Art. 8, § 1-d.

FUNDS

Asylums, permanent funds, Art. 7, § 9.
 Available school fund, Art. 7, § 5.
 Custodians of public funds, breach of trust, investigation, Art. 4, § 25.
 Endowment funds, tax exemptions, religious and learning institutions, Art. 8, § 2.
 Farm and ranch loan security fund, Art. 3, § 50c.
 Inspections, public officers, Art. 4, § 24.
 Medical education fund, Art. 3, § 50a.
 Opportunity plan fund, college student loans, Art. 3, §§ 50b, 50b-1.
 Park development fund, Art. 3, § 49-e.
 Permanent School Fund, generally, this index.
 Permanent University Fund, generally, this index.
 Perpetual school fund, Art. 7, § 2.
 Special funds,
 State treasury, borrowing, withholding or diverting, Art. 8, § 7.
 Veterans land fund, Art. 3, § 49-b-1.

GALVESTON COUNTY

Hospital districts, Art. 9, § 4.

GAMING

Legislature, lotteries, gift enterprises and bingo games, regulation, Art. 3, § 47.

GARNISHMENT

Generally, Art. 16, § 28.
 Support, personal service wage garnishment, Art. 16, § 28.

GENERAL LAND OFFICE

Commissioner, Art. 4, § 23.
 Compensation and salaries, minimum salary, Art. 3, § 61.
 Election, Art. 4, § 2 et seq.
 Executive department, basic officer, Art. 4, § 1.
 Impeachment, Art. 15, § 1 et seq.
 Legislative redistricting board, membership, Art. 3, § 28.
 Minimum salary, Art. 3, § 61.

GIFT ENTERPRISES

Prohibition, Art. 3, § 47.

GIFTS

Municipal corporations, donations to private corporations, Art. 11, § 3.
 Taxes and taxation,
 Political subdivisions, Art. 8, § 1-a.

GOVERNMENTAL FUNCTIONS

Defined,
 Consolidation,
 Counties and political subdivisions, Art. 3, § 64.
 Counties of 1,200,000 or more, Art. 3, § 63.

GOVERNOR

Generally, Art. 4, § 3a et seq.
 Account of public money, Art. 4, § 9.
 Age requirements, Art. 4, § 4.

GOVERNOR—Cont'd

Appointments,
 Confirmation by legislature, order of business, Art. 3, § 5.
 Secretary of state, Art. 4, § 21.
 Superior court judges, Art. 5, § 28.
 Vacancies in office, Art. 4, § 12.
 Veterans land board, Art. 3, § 49-b.
 Water development board, Art. 3, § 49-c et seq.
 Appropriations bills, disapproval of items, Art. 4, § 14.
 Approval,
 Bills, Art. 4, § 14.
 Orders, resolutions or votes, Art. 4, § 15.
 Citizenship of the United States, qualification requirements, Art. 4, § 4.
 Commander-in-chief, military forces, Art. 4, § 7.
 Commutation of punishment, Art. 4, § 11.
 Compensation and salaries, Art. 4, § 5.
 Minimum salary, Art. 3, § 61.
 Salary other than regular salary, Art. 4, § 6.
 Convening legislature, extraordinary occasion, Art. 4, § 8.
 Death,
 Lieutenant governor replacing, Art. 4, § 16.
 Vacancy in office, Art. 4, § 3a.
 Disability, filling vacancy in office, Art. 4, § 3a.
 Disapproval,
 Bills, Art. 4, § 14.
 Orders, resolutions or votes, Art. 4, § 15.
 Division of powers, Art. 2, § 1.
 Domicile and residence, qualification requirement, Art. 4, § 4.
 Elections, Art. 4, § 2 et seq.
 Estimates of necessary revenue, Art. 4, § 9.
 Execution of law, Art. 4, § 10.
 Executive department, basic officer, Art. 4, § 1.
 Extraordinary occasions, convening legislature, Art. 4, § 8.
 Failure to qualify, filling vacancy in office, Art. 4, § 3a.
 Failure to return bills, Art. 4, § 14.
 Fines and penalties,
 Remission, Art. 4, § 11.
 Forfeitures and fines, remission, Art. 4, § 11.
 Holding other offices, Art. 4, § 6.
 Impeachment, Art. 15, § 1 et seq.
 Lieutenant governor replacing, Art. 4, § 16.
 Installation, Art. 4, § 4.
 Insurrections, power to suppress, Art. 4, § 7.
 Invasions, power to repel, Art. 4, § 7.
 Legislative message, Art. 4, § 9.
 Legislature,
 Convening on extraordinary occasion, Art. 4, § 8.
 Message, Art. 4, § 9.
 Message to legislature, Art. 4, § 9.

GOVERNOR—Cont'd

Military forces, commander-in-chief, Art. 4, § 7.
 Militia, power to call forth, Art. 4, § 7.
 Minimum salary, Art. 3, § 61.
 Orders of legislature, approval or disapproval, Art. 4, § 15.
 Other states, conduct of business with, Art. 4, § 10.
 Powers and duties, division of, Art. 2, § 1.
 Professions and occupations, practicing professional in office, Art. 4, § 6.
 Remission, fines and forfeitures, Art. 4, § 11.
 Removal from office,
 Lieutenant governor replacing, Art. 4, § 16.
 Public officers, Art. 15, § 9.
 Reprieves,
 Powers, Art. 4, § 11.
 Residence, Art. 4, § 13.
 Resignation, lieutenant governor replacing, Art. 4, § 16.
 Resolutions, legislature, approval or disapproval, Art. 4, § 15.
 Return of bills, Art. 4, § 14.
 Revocation, paroles and conditional pardons, Art. 4, § 11.
 Term of office, Art. 4, § 4.
 Treason, commutations of punishment and pardons, Art. 4, § 11.
 United States, conduct of business with, Art. 4, § 10.
 Votes, legislature, approval or disapproval, Art. 4, § 15.

GOVERNORS MANSION

Residence of governor, Art. 4, § 5.

GRAIN

Drawbacks and rebates prohibited, Art. 16, § 25.

GRAND JURY

Crimes and offenses, rights of accused, Art. 1, § 10.
 Local and special laws, summoning or impaneling, Art. 3, § 56.
 Numbers and numbering,
 Jurors, number of, Art. 4, § 13.
 Qualifications,
 Juror, Art. 16, § 19.
 Rights of accused, Art. 1, § 10.
 Summons,
 Local and special laws, Art. 3, § 56.

GRANTS

Medical education board, Art. 3, § 50a.
 Public money, Art. 3, § 51.
 State lands, colleges and universities, Art. 7, § 15.

GRIEVANCES

Redress, petition, Art. 1, § 27.

GUARDIAN AND WARD

Children and minors,
 Jurisdiction of court, Art. 5, § 16.
 Court jurisdiction, Art. 5, § 8.
 Jurisdiction, Art. 5, §§ 8, 16.

GULF OF MEXICO

Public domain donation, seawall and breakwater construction, Art. 11, § 8.

HABEAS CORPUS

Appeals in criminal prosecutions, Powers, Art. 5, § 5.
Crimes and offenses, rights of accused, Art. 1, § 12.
District court powers, Art. 5, § 8.
Rights of accused, Art. 1, § 12.
Supreme court, Jurisdiction, Art. 5, § 3.

HANDICAPPED PERSONS

Blind Persons, generally, this index.
Confederate veterans widows, pensions, Art. 8, § 1-e.
Estates, local and special laws, Art. 3, § 56.
Governor, disabled, filling vacancy in office, Art. 4, § 3a.
Homestead tax exemption, Art. 8, § 1-b.
Judges, removal from office, Art. 5, § 1-a.
Local and special laws, Art. 3, § 56.
Medical care and assistance grants, Art. 3, § 51-a.
Mentally Deficient and Mentally Ill Persons, generally, this index.
Rangers, Texas rangers, disability pension, Art. 16, § 66.
Rehabilitation, State aid, Art. 16, § 6.
Residents homestead exemption, Art. 8, § 1-b.
Tax exemptions, Residents homestead, Art. 8, § 1-b.
Texas rangers widows, pensions, Art. 8, § 1-e.

HANSFORD COUNTY

Hospital districts, Art. 9, § 11.

HARRIS COUNTY

Taxation, road and bridge construction or repair, election, Art. 3, § 52-d.

HEALTH AND SANITATION

Cities, towns and villages, Construction, cities bordering Gulf of Mexico, Art. 11, § 7.
Gulf of Mexico, counties and cities bordering on, construction, Art. 11, § 7.
Hospital districts, responsibilities, Art. 9, § 13.

HEARING IMPAIRED PERSONS

Asylums, permanent fund, Art. 7, § 9.

HIDALGO COUNTY

Hospital district, Art. 9, § 7.

HIDES AND ANIMAL INSPECTOR

Term of office, Art. 16, § 64.

HIGHWAYS AND ROADS

Roads and Highways, generally, this index.

HISTORICAL GROUNDS OR SITES

Appropriations, information, Art. 16, § 56.
Information, Appropriations, Art. 16, § 56.
Taxes and taxation, Relief, Art. 8, § 1-f.

HISTORICAL RESOURCES

Tax relief, state and political subdivisions, Art. 8, § 1-f.

HOME RULE CITIES

Term of office, exceeding two years, Art. 11, § 11.

HOMESTEAD

Generally, Art. 16, § 50.
Amount in value, Art. 16, § 51.
Descent and distribution, Art. 16, § 52.
Liens and incumbrances, Exemption, Art. 16, § 50.
Tax exemptions, Art. 8, §§ 1-b, 1-c.
Taxes and taxation, Forced sale, delinquent taxes, Art. 16, § 50.

HOMICIDE

Damage liability, Art. 16, § 26.

HOPKINS COUNTY

Hospital districts, Art. 9, § 11.

HOSPITAL DISTRICTS

Generally, Art. 9, § 4 et seq.
Bonds, Art. 9, § 9.
County-wide, Art. 9, § 4.
Dissolution, Art. 9, § 9.
Elections, County-wide, creation, Art. 9, § 4.
Taxation, Art. 9, § 4 et seq.
Taxes and taxation, Art. 9, § 4 et seq.
County-wide, Art. 9, § 4.

HOSPITALS

Districts. Hospital Districts, generally, this index.
Law enforcement officials, injury in line of duty, county payment of medical expenses, Art. 3, § 52e.

HOUSE OF REPRESENTATIVES

Legislature, this index.

HUSBAND AND WIFE

Consent, sale of homestead, Art. 16, § 50.
Homestead, Consent to sale, Art. 16, § 50.
Surviving Spouse, generally, this index.

HYDRO-ELECTRIC POWER

Conservation and development, Art. 16, § 59.

IMMUNITIES

Privileges and Immunities, generally, this index.

IMPEACHMENT

Generally, Art. 15, § 1 et seq.
District court judges, Art. 15, § 6.

IMPEACHMENT—Cont'd

Governor, Lieutenant governor replacing, Art. 4, § 16.
Indictment, rights of accused, Art. 1, § 10.
Lieutenant governor, replacement, Art. 4, § 17.
Right of indictment, Art. 1, § 10.
Supreme court, impeachment of district court judges, Art. 15, § 6.

INCOME TAX

Generally, Art. 8, §§ 1, 1-a.
Abolition, Art. 8, § 1-e.
Residents homestead exemption, Art. 8, § 1-b.

INCOMPETENCY

District court judges, impeachment, Art. 15, § 6.

INCUMBRANCES

Liens and Incumbrances, generally, this index.

INDEBTEDNESS

Debts, generally, this index.

INDEPENDENCE OF STATE

Generally, Art. 1, § 1.

INDICTMENT AND INFORMATION

County court prosecutions, Art. 5, § 17.
Rights of accused, Art. 1, § 10.
State officers and employees, impeachment, Art. 15, § 4.

INDIGENT PERSONS

Poor houses and poor farms, Art. 11, § 2.
Counties, Art. 16, § 8.
Voting restrictions, Art. 6, § 1.

INDUSTRIAL INFORMATION

Appropriations, development and dissemination, Art. 16, § 56.

INFANTS

Children and Minors, generally, this index.

INFORMATION

Indictment and Information, generally, this index.

INHERENT POLITICAL POWER

Generally, Art. 1, § 2.

INJUNCTIONS

Appeals and Writs of Error, this index.

INSPECTIONS AND INSPECTORS

Agricultural land, tax assessments, Art. 8, § 1-d.
Hides and animals, inspector of, terms of office, Art. 16, § 64.
State officers, books and accounts, Art. 4, § 24.

INSPECTORS OF HIDES AND ANIMALS

Resignation, running for other offices, Art. 16, § 65.
 Terms of office, Art. 16, § 65.
 Unexpired terms, running for other offices, Art. 16, § 65.
 Vacancies in office, running for other offices, Art. 16, § 65.

INSTITUTIONS

Aid or compensation, persons improperly fined or imprisoned, Art. 3, § 51-c.

INSURANCE

Drawbacks, Art. 16, § 25.
 Rebates, Art. 16, § 25.

INSURRECTION AND SEDITION

Governors power to suppress, Art. 4, § 7.

INTEREST

Charges. Rates and charges, generally, post.
 College student loan bonds, Art. 3, § 50b.
 Local and special laws, Art. 3, § 56.
 Rates and charges,
 Absence of legislation, Art. 16, § 11.
 Local and special laws, Art. 3, § 56.
 Public bonds, Art. 3, § 65.
 Usury, Art. 16, § 11.

INTOXICATING LIQUORS

Generally, Art. 16, §§ 19, 20.
 County officers, removal from office, habitual drunkenness, Art. 5, § 24.

INVASIONS

Governor, power to suppress, Art. 4, § 7.

INVESTIGATIONS

Custodians of public funds, breach of trust, Art. 4, § 25.

INVESTMENTS

County school lands, proceeds of sale, Art. 7, § 6.
 Farm and ranch loan security fund, Art. 3, § 50c.
 Opportunity plan fund, Art. 3, § 50b.
 Permanent university fund, Art. 7, §§ 11, 11a.
 Retirement and pensions, statewide retirement systems, Art. 16, § 67.
 Sale of state lands, proceeds, public free school fund, Art. 7, § 4.

INVOLUNTARY HOSPITALIZATION

Mentally Deficient and Mentally Ill Persons, this index.

IRRIGATION

Conservation and development, Art. 16, § 59.
 Political subdivisions, bond issuance, Art. 3, § 52.

JAILS AND JAILERS

Construction and repair, Art. 11, § 2.

JEFFERSON COUNTY

Hospital district, Art. 9, § 5.

JUDGES

Address, removal of judges by address, Art. 15, § 8.
 Appeals courts, Art. 5, § 6.
 Assignment of judges,
 Probate jurisdiction, assignment of judges to other counties, Art. 5, § 16a.
 Conservators of the peace, Art. 5, § 12.
 Countywide jurisdiction courts, term of office, Art. 5, § 30.
 Disability, removal from office, Art. 5, § 1-a.
 Disciplinary proceedings, Art. 5, § 1-a.
 Disqualification,
 County courts, Art. 5, § 16.
 District courts, Art. 5, § 11.
 District judges, Art. 5, § 7.
 Handicapped persons, removal from office, Art. 5, § 1-a.
 Impeachment, Art. 15, § 1 et seq.
 Involuntary retirement, Art. 5, § 1-a.
 Legislative office, ineligibility, Art. 3, § 19.
 Misconduct,
 Disciplinary proceedings, Art. 5, § 1-a.
 Qualifications,
 District judges, Art. 5, § 7.
 Removal from office, Art. 5, § 1-a.
 Address of legislature, Art. 15, § 8.
 Reprimands, Art. 5, § 1-a.
 Salaries and compensation, Art. 5, § 1-a.
 Suspension from office, Art. 5, § 1-a.
 Vacancies in office, Art. 5, § 28.

JUDGMENTS AND DECREES

Local and special laws, Art. 3, § 56.
 Special and local laws, Art. 3, § 56.

JUDICIAL CONDUCT COMMISSION

Generally, Art. 5, § 1-a.

JUDICIAL DISTRICTS

Generally, Art. 5, § 7.
 District court judges, exchange, Art. 5, § 11.
 Fixing by ordinance, Art. 5, § 14.
 Time, holding, ordinance, Art. 5, § 14.

JUDICIAL QUALIFICATIONS COMMISSION

Change of name to commission on judicial conduct, Art. 5, § 1-a.

JUDICIAL RETIREMENT SYSTEM

Generally, Art. 5, § 1-a; Art. 16, § 67.

JURISDICTION

Appeals and Writs of Error, this index.
 Local and special laws, Art. 3, § 56.
 Special and local laws, Art. 3, § 56.

JURY AND JURORS

Commitment of persons of unsound mind, waiver of jury trial, Art. 1, § 15-a.
 County Courts, this index.

JURY AND JURORS—Cont'd

Crimes and offenses,
 Exclusion of criminals from jury duty, Art. 16, § 2.
 Rights of accused, Art. 1, § 8.
 Fees, Art. 5, § 10.
 Grand Jury, generally, this index.
 Libel,
 Right to jury trial, Art. 1, § 8.
 Numbers and numbering, Art. 4, § 13.
 Qualifications, Art. 16, § 19.
 Right to jury trial, Art. 1, § 15.

JUSTICES OF THE PEACE

Appeals and writs of error,
 Jurisdiction, Art. 5, § 19.
 Jurisdiction, Art. 5, § 19.
 Civil cases, Art. 5, § 19.
 Local and special laws, Art. 3, § 56.
 Powers and duties, vesting, Art. 5, § 1.
 Removal from office, Art. 5, § 24.
 Resignation, running for other offices, Art. 16, § 65.
 Special and local laws, Art. 3, § 56.
 Terms of office, Art. 16, § 65.
 Unexpired terms, running for other offices, Art. 16, § 65.
 Vacancies in office, Art. 5, § 28.
 Running for other offices, Art. 16, § 65.

JUVENILE DELINQUENTS AND DEPENDENTS

Medical care and treatment, Art. 3, § 51-a.

LABOR AND EMPLOYMENT

Convict labor, use on highways and roads, Art. 16, § 24.
 Local and special laws, regulation, Art. 3, § 56.
 Workers' Compensation, generally, this index.

LAKES AND PONDS

Political subdivisions, improvements, lending credit, Art. 3, § 52.

LAMAR COUNTY

Hospital district, abolition and transfer of assets, Art. 9, § 6.

LAND

Real Estate, generally, this index.

LAW ENFORCEMENT OFFICERS

Compensation and salaries, death in line of duty, survivors assistance, Art. 3, § 51-d.
 Death in line of duty, survivors assistance, Art. 3, § 51-d.
 Medical expenses, county payment, injury in line of duty, Art. 3, § 52e.
 Survivors, death in line of duty, assistance, Art. 3, § 51-d.

LAWS

Governor to cause laws to be executed, etc., Art. 4, § 10.
 Special or local laws, Art. 3, §§ 56, 57.

LAWYERS

Attorneys, generally, this index.

LEGISLATIVE DEPARTMENT

Law enforcement officers, death in line of duty, assistance to survivors, Art. 3, § 51-d.

LEGISLATIVE REDISTRICTING BOARD

Generally, Art. 3, § 28.

LEGISLATURE

Generally, Art. 3, § 1 et seq.

Acceptance of bribes, Art. 16, § 41.

Accounts and accounting,

Governors account of public money, Art. 4, § 9.

Address,

Removal of judges, Art. 15, § 8.

Adjournment, Art. 3, § 17.

Adverse or pecuniary interest, Art. 3, §§ 18, 22.

Age,

House of representatives members, qualification, Art. 3, § 7.

Senators, qualifications, Art. 3, § 6.

Aged persons, medical care and assistance programs, Art. 3, § 51-a.

Amendment of law by reference, Art. 3, § 36.

Amendments changing original purpose, Art. 3, § 30.

Apportionment, Art. 3, § 28.

Appropriations,

Bills, governors disapproval of items, Art. 4, § 14.

Emergency, order of business, Art. 3, § 5.

In excess of cash and anticipated revenue, Art. 3, § 49a.

Approval of bills, governor, Art. 4, § 14.

Arrest, privilege from, Art. 3, § 14.

Assistance grants, aged, disabled and blind persons and dependent children, Art. 3, § 51-a.

Attorney general,

Ineligibility for legislative office, Art. 3, § 19.

Bills, introduction, Art. 3, § 5.

Bingo games, regulation, Art. 3, § 47.

Blind persons, medical care and assistance grants, Art. 3, § 51-a.

Bonds, interests, public bonds, Art. 3, § 65.

Bribery and corruption, Art. 16, § 41.

Cities, towns and villages, workmen's compensation, Art. 3, § 61.

Citizenship,

House of representatives members, Art. 3, § 7.

Senators, Art. 3, § 6.

Claims, unauthorized, payment, Art. 3, § 53.

Clerks of court, ineligibility for legislative office, Art. 3, § 19.

Collectors of taxes, ineligibility for legislative office, Art. 3, § 20.

College student loan bonds, Art. 3, §§ 50b, 50b-1.

LEGISLATURE—Cont'd

Committees,

Referring bills to, Art. 3, § 37.

Compensation and salaries, Art. 3, § 24.

Extra compensation, public officers and employees, Art. 3, § 53.

Public officers and employees, legislative provision, Art. 3, § 44.

Confirmation of appointments, order of business, Art. 3, § 5.

Conflict of interest, Art. 3, §§ 18, 22.

Congressmen, ineligibility for legislative post, Art. 16, § 12.

Consolidation and merger, government functions,

Counties and political subdivisions, Art. 3, § 64.

Counties of 1,200,000 or more, Art. 3, § 63.

Contest, elections, Art. 3, § 8.

Continuity of government operations, enemy attack disasters, Art. 3, § 62.

Contracts, conflict of interest, Art. 3, § 18.

Convening, governor, extraordinary occasions, Art. 4, § 8.

Counties,

Consolidation of government offices and functions, Art. 3, § 64.

Workers' compensation, Art. 3, § 60.

Counties of 1,200,000 or more, consolidation of government functions, Art. 3, § 63.

Counties with more than 7 representatives, house of representatives apportionment, Art. 3, § 26a.

Credit, loans or pledges, Art. 3, § 50.

Debate, words spoken in debate, questioning in other places, Art. 3, § 21.

Debts, Art. 3, § 49.

State or political subdivisions, debts owed, release or extinguishment, Art. 3, § 55.

Defeated bills and resolutions, Art. 3, § 34.

Delinquent taxes, release or extinguishment, Art. 3, § 55.

Dependent children, medical care and assistance programs, Art. 3, § 51-a.

Digest of laws, Art. 3, § 43.

Disabled persons, medical care and assistance grants, Art. 3, § 51-a.

Disapproval of bills, governor, Art. 4, § 14.

Disasters,

Enemy attack, continuity of government operations, Art. 3, § 62.

Disclosure,

Personal or private interest, Art. 3, § 22.

Disrespectful or disorderly conduct, Art. 3, § 15.

Districts,

Senate, Art. 3, § 25.

Division, powers, Art. 2, § 1.

Domicile and residence,

House of representatives members, Art. 3, § 7.

Removal from district, vacancy in office, Art. 3, § 23.

LEGISLATURE—Cont'd

Domicile and residence—Cont'd

Senators, Art. 3, § 6.

Effective date of laws, Art. 3, § 39.

Elections, Art. 3, §§ 27, 41.

Contestable actions, Art. 3, § 8.

Contests,

Breaking tie vote, Art. 4, § 3.

House of representatives, Art. 3, §§ 4, 27, 41.

Senate, Art. 3, §§ 3, 27, 41.

Vacancies in office, Art. 3, § 13.

Emergencies,

Effective date of laws, Art. 3, § 39.

Emergency appropriations, order of business, Art. 3, § 5.

Emergency rules, enemy attack, Art. 3, § 62.

Enacting clause, Art. 3, § 29.

Enemy attack,

Disasters, continuity of government operations, Art. 3, § 62.

Estimates, necessary revenue, Art. 4, § 9.

Executive officers, elections, breaking tie vote, Art. 4, § 3.

Expulsion, members, Art. 3, § 11.

Extraordinary occasions, governor convening legislature, Art. 4, § 8.

Financial statements and estimates, condition of state treasury, Art. 3, § 49a.

Gift enterprises, prohibition, Art. 3, § 47.

Grants, public money, Art. 3, § 51.

Toll roads and turnpikes, Art. 3, § 52-b.

House of representatives,

Adjournment, Art. 3, § 17.

Adverse or pecuniary interest, Art. 3, §§ 18, 22.

Age of members, Art. 3, § 7.

Amendment of law by reference, Art. 3, § 36.

Amendments changing purpose of law, Art. 3, § 30.

Apportionment, Art. 3, §§ 26, 28.

Counties with more than 7 representatives, Art. 3, § 26a.

Arrest, privilege from, Art. 3, § 14.

Attendance, Art. 3, § 10.

Citizenship of members, Art. 3, § 7.

Committees, referring bills, Art. 3, § 37.

Conflict of interest, Art. 3, §§ 18, 22.

Contracts, conflict of interest, Art. 3, § 18.

Counties with more than seven representatives, apportionment, Art. 3, § 26a.

Debate, questioning in other places, Art. 3, § 21.

Defeated bills and resolutions, Art. 3, § 34.

Disrespectful or disorderly conduct, Art. 3, § 15.

Domicile and residence, Art. 3, § 7.

Effective date of laws, Art. 3, § 39.

Elections, Art. 3, §§ 27, 41.

Vacancies in office, Art. 3, § 13.

LEGISLATURE—Cont'd

House of representatives—Cont'd
 Enacting clause of laws, Art. 3, § 29.
 Expulsion, Art. 3, § 11.
 Impeachment power, Art. 15, § 1.
 Imprisonment, disorderly conduct, Art. 3, § 15.
 Ineligibility, persons holding other offices, Art. 3, § 19.
 Journal, proceedings, Art. 3, § 12.
 Membership, Art. 3, § 2.
 Open sessions, Art. 3, § 16.
 Origination of bills, Art. 3, § 31.
 Passage of laws, by bill, Art. 3, § 30.
 Per diem, Art. 3, § 24.
 Powers and duties, vesting, Art. 3, § 1.
 Private interest, disclosure in voting, Art. 3, § 22.
 Privileges and immunities, arrest, Art. 3, § 14.
 Qualifications of members, Art. 3, § 7.
 Quorum, Art. 3, § 10.
 Reading of bills on several days, Art. 3, § 32.
 Removal of residence from district, vacancy in office, Art. 3, § 23.
 Revenue bills, Art. 3, § 33.
 Revival of law by reference, Art. 3, § 36.
 Rules of procedure, Art. 3, § 11.
 Signatures, bills and joint resolutions, Art. 3, § 38.
 Speaker, Art. 3, § 9.
 Special sessions, Art. 3, § 40.
 Subjects and titles of bills, Art. 3, § 35.
 Suspension of rules, reading of bills on several days, Art. 3, § 32.
 Tax collectors, ineligibility, Art. 3, § 20.
 Term of office, Art. 3, § 4.
 Titles and subjects of bills, Art. 3, § 35.
 Travel expenses, Art. 3, § 24.
 Vacancies in office, Art. 3, § 13.
 Words spoken in debate, questioning in other places, Art. 3, § 21.
 Impeachment, powers, Art. 15, § 1.
 Ineligibility, persons holding other offices, Art. 3, § 19.
 Interest, public bonds, Art. 3, § 65.
 Journals, Art. 3, § 12.
 Judges, ineligibility for legislative office, Art. 3, § 19.
 Law enforcement officers, death in line of duty, survivors assistance, Art. 3, § 51-d.
 Legislative redistricting board, Art. 3, § 28.
 Lending states credit, toll roads and turnpikes, Art. 3, § 52-b.
 Liens and incumbrances, railroads, release or alienation, Art. 3, § 54.
 Loans or pledges, credit of state, Art. 3, § 50.
 Local and special laws, Art. 3, § 56.
 Notice, Art. 3, § 57.
 Lotteries, prohibition, Art. 3, § 47.

LEGISLATURE—Cont'd

Medical care and assistance, aged, disabled and blind persons and dependent children, Art. 3, § 51-a.
 Medical education board, Art. 3, § 50a.
 Meetings, Art. 3, § 5.
 Members,
 Senate and house, Art. 3, § 2.
 Notice,
 Special and local laws, Art. 3, § 57.
 Oaths and affirmations,
 Members, Art. 16, § 1.
 Officers and employees,
 Local and special laws, Art. 3, § 56.
 Open sessions, Art. 3, § 16.
 Order of business, Art. 3, § 5.
 Origination of bills in either house, Art. 3, § 31.
 Park development fund, Art. 3, § 49-e.
 Passage of laws by bill, Art. 3, § 30.
 Per diem, Art. 3, § 24.
 Pledges or loans, credit of state, Art. 3, § 50.
 Political subdivisions,
 Consolidation of government offices and functions, Art. 3, § 64.
 Employees, social security coverage, proprietary employees, Art. 3, § 51-g.
 Local and special laws, Art. 3, § 56.
 Workers' compensation, Art. 3, § 60.
 Powers and duties,
 Division of, Art. 2, § 1.
 Vesting of, Art. 3, § 1.
 President. Senate, post.
 Private interest, measure or bill, disclosure in voting, Art. 3, § 22.
 Privileges and immunities, arrest, Art. 3, § 14.
 Public money, grants, Art. 3, § 51.
 Publication, laws, Art. 3, § 43.
 Quorum, attendance, Art. 3, § 10.
 Railroad commission, terms of office, Art. 16, § 30.
 Railroads, liens and incumbrances, release or alienation, Art. 3, § 54.
 Reading of bills on several days, Art. 3, § 32.
 Reconsideration, returned bills, Art. 4, § 14.
 Removal of judges by address, Art. 15, § 8.
 Removal of residence from district, vacancy in office, Art. 3, § 23.
 Reports,
 Bills referred to committee, Art. 3, § 37.
 Residence. Domicile and residence, generally, ante.
 Resolutions,
 Introduction, order of business, Art. 3, § 5.
 Revenue bills, origination in house, Art. 3, § 33.
 Revision of laws, Art. 3, § 43.
 Revival of law by reference, Art. 3, § 36.
 Rules of procedure, Art. 3, § 11.
 Rural fire prevention districts, establishment or creation, Art. 3, § 48-d.

LEGISLATURE—Cont'd

Salaries. Compensation and salaries, generally, ante.
 Seat of government, Art. 3, § 58.
 Secretary of state, ineligibility for legislative office, Art. 3, § 19.
 Senate,
 Adjournment, Art. 3, § 17.
 Adverse or pecuniary interest, Art. 3, §§ 18, 22.
 Age of members, Art. 3, § 6.
 Amendment of bills by reference, Art. 3, § 36.
 Amendments changing purpose, Art. 3, § 30.
 Appointments,
 Advice and consent, vacancies in office, Art. 4, § 12.
 Secretary of state, advice and consent, Art. 4, § 21.
 Apportionment, Art. 3, § 28.
 Arrest, privilege from, Art. 3, § 14.
 Attendance, Art. 3, § 10.
 Citizenship of members, Art. 3, § 6.
 Committees, referring bills, Art. 3, § 37.
 Concurrence of two thirds, impeachment trials, Art. 15, § 3.
 Conflict of interest, Art. 3, §§ 18, 22.
 Contracts, conflict of interest, Art. 3, § 18.
 Debate, questioning in other places, Art. 3, § 21.
 Defeated bills and resolutions, Art. 3, § 34.
 Disrespectful or disorderly conduct, Art. 3, § 15.
 Districts, Art. 3, § 25.
 Domicile and residence, Art. 3, § 6.
 Effective date of laws, Art. 3, § 39.
 Elections, Art. 3, §§ 27, 41.
 Vacancies in office, Art. 3, § 13.
 Enacting clause of laws, Art. 3, § 29.
 Expulsion, Art. 3, § 11.
 Impeachment,
 Trial, Art. 15, §§ 2, 3.
 Imprisonment, disorderly conduct, Art. 3, § 15.
 Ineligibility, persons holding other offices, Art. 3, § 19.
 Journal, proceedings, Art. 3, § 12.
 Lieutenant governor, president of senate, Art. 4, § 16.
 Membership, Art. 3, § 2.
 Oaths and affirmations, impeachment trials, Art. 15, § 3.
 Open sessions, Art. 3, § 16.
 Origination of bills, Art. 3, § 31.
 Pardons and parole board members, advice and consent to appointments, Art. 4, § 11.
 Passage of laws by bill, Art. 3, § 30.
 Per diem, Art. 3, § 24.
 Powers and duties, vesting, Art. 3, § 1.
 President,
 Compensation and mileage, Art. 4, § 17.
 Lieutenant governor, Art. 4, § 16.

LEGISLATURE—Cont'd

Senate—Cont'd

President—Cont'd

- Restrictions and inhibitions, succession to governorship, Art. 4, § 18.
- President pro tempore, Art. 3, § 9.
- Private interest, disclosure in voting, Art. 3, § 22.
- Privileges and immunities, arrest, Art. 3, § 14.
- Qualifications, Art. 3, § 6.
- Quorum, Art. 3, § 10.
- Reading of bills on several days, Art. 3, § 32.
- Removal of public officers by governor, advice and consent, Art. 15, § 9.
- Removal of residence from district, vacancy in office, Art. 3, § 23.
- Revival of laws by reference, Art. 3, § 36.
- Rules of procedure, Art. 3, § 11.
- Signatures, bills and joint resolutions, Art. 3, § 38.
- Special sessions, Art. 3, § 40.
 - Removal of public officers by governor, Art. 15, § 9.
- Subjects and titles of bills, Art. 3, § 35.
- Suspension of rule, reading of bill on several days, Art. 3, § 32.
- Tax collectors, ineligibility, Art. 3, § 20.
- Term of office, Art. 3, § 3.
- Travel expenses, Art. 3, § 24.
- Vacancies in office, Art. 3, § 13.
- Words spoken in debate, questioning in other places, Art. 3, § 21.
- Signature, bills and joint resolutions, Art. 3, § 38.
- Social security, coverage of proprietary employees, political subdivisions, Art. 3, § 51-g.
- Speaker of house,
 - Legislative redistricting board, membership, Art. 3, § 28.
- Special and local laws, Art. 3, § 56.
 - Notice, Art. 3, § 57.
- Special sessions, Art. 3, § 40.
- State contracts, conflict of interest, Art. 3, § 18.
- State officers and employees,
 - Ineligibility for legislative office, Art. 3, § 19.
 - Workers' compensation, Art. 3, § 59.
- Student loans, Art. 3, §§ 50b, 50b-1.
- Subjects and titles of bills, Art. 3, § 35.
- Survivors assistance, law enforcement officers and volunteer firemen, death in line of duty, Art. 3, § 51-d.
- Suspension of rules, reading of bills on several days, Art. 3, § 32.
- Tax collectors, ineligibility for legislative office, Art. 3, § 20.
- Taxes and taxation,
 - Delinquent taxes, release or extinguishment, Art. 3, § 55.
 - Governors estimate of necessary revenue, Art. 4, § 9.

LEGISLATURE—Cont'd

Term of office,

- House of representative members, Art. 3, § 4.
 - Senators, Art. 3, § 3.
 - Titles and subjects of bills, Art. 3, § 35.
 - Toll roads, lending states credit or grant of public money, Art. 3, § 52-b.
 - Traveling expenses, Art. 3, § 24.
 - Turnpikes, lending states credit or grant of public money, Art. 3, § 52-b.
 - Unauthorized claims, payment, Art. 3, § 53.
 - Unauthorized claims and employment, legislative provision, Art. 3, § 44.
 - United States officers and employees,
 - Ineligibility for legislative office, Art. 3, § 19.
 - Ineligibility for legislative post, Art. 16, § 12.
 - Vacancies in office,
 - Removal of residence from districts, Art. 3, § 23.
 - Writs of election, Art. 3, § 13.
 - Venue,
 - Legislative provisions, Art. 3, § 45.
 - Vesting, powers and duties, Art. 3, § 1.
 - Veterans land board, bond interests, Art. 3, § 65.
 - Veterans land fund, legislative provisions, Art. 3, § 49-b.
 - Volunteer firemen, death in line of duty, assistance to survivors, Art. 3, § 51-d.
 - Voting, personal or private interest, Art. 3, § 22.
 - Wages. Compensation and salaries, generally, ante.
 - Water development board, Art. 3, § 49-c et seq.
 - Words spoken in debate, questioning in other places, Art. 3, § 21.
 - Workers' compensation,
 - City, town and village employees, Art. 3, § 61.
 - County employees, Art. 3, § 60.
 - Political subdivisions, Art. 3, § 60.
 - State employees, Art. 3, § 59.
- LETTERS TESTAMENTARY AND OF ADMINISTRATION**
- Jurisdiction of court, Art. 5, §§ 8, 16.
- LEVEES AND FLOOD CONTROL**
- Floods and Flood Control, generally, this index.
- LIBEL AND SLANDER**
- Jurisdiction, Art. 5, § 8.
 - Jury trial, right of accused, Art. 1, § 8.
- LICENSES AND PERMITS**
- District judges, licenses to practice law, qualification, Art. 5, § 7.
 - Supreme court justices, license to practice law, qualification, Art. 5, § 2.
 - Taxation, cities and towns, population of 5,000 or less, Art. 11, § 4.
- LIENS AND INCUMBRANCES**
- County and city property, Art. 11, § 9.

LIENS AND INCUMBRANCES—Cont'd

- Jurisdiction, enforcement actions, Art. 5, § 8.
 - Materialmen, Art. 16, § 37.
 - Tax assessments, agricultural land use, changing to other uses, Art. 8, § 1-d.
- LIEUTENANT GOVERNOR**
- Generally, Art. 4, § 16.
 - Compensation, Art. 4, § 17.
 - Elections, Art. 4, § 2 et seq.
 - Executive department, basic officer, Art. 4, § 1.
 - Impeachments, Art. 15, § 1 et seq.
 - Inability to serve, replacement, Art. 4, § 17.
 - Legislative redistricting board, membership, Art. 3, § 28.
 - Replacement of governor, death, disability or failure to qualify, Art. 4, § 3a.
 - Restrictions and inhibitions, succession to governorship, Art. 4, § 18.
- LIMITATION OF ACTIONS**
- Local and special laws, civil or criminal actions, Art. 3, § 56.
- LITTER**
- Beaches, Gulf of Mexico, county regulation, Art. 9, § 1-A.
- LIVESTOCK**
- Agricultural land use, tax assessments, Art. 8, § 1-d.
 - Brands, marks and labels, Art. 16, § 23.
 - Inspections and inspectors, Art. 16, § 23.
 - State regulation, Art. 16, § 23.
 - Tax exemptions, Art. 8, § 19.
- LOANS**
- Classification and interest, Art. 16, § 11.
 - Credit loans, political subdivisions, voter property qualifications, Art. 6, § 3a.
 - Credit of state, loaning, Art. 3, § 50.
 - Farm and ranch loan security bonds, Art. 3, § 50c.
 - Medical education board, Art. 3, § 50a.
 - Rates and charges, usury, Art. 16, § 11.
 - Usury, Art. 16, § 11.
- LOCAL AND SPECIAL LAWS**
- Generally, Art. 3, § 56.
 - Notice, Art. 3, § 56.
- LOCAL PENSION SYSTEM**
- Generally, Art. 16, § 67.
- LOCAL RETIREMENT SYSTEMS**
- Generally, Art. 16, § 67.
- LOTTERIES**
- Prohibition, Art. 3, § 47.
- MAGISTRATES**
- Local and special laws, Art. 3, § 56.

MANUAL LABOR POORHOUSE AND FARM

Counties, Art. 16, § 8.

MANUFACTURERS AND MANUFACTURING

Local and special laws, Art. 3, § 56.

MAPS AND PLATS

Vacating plats, local and special laws, Art. 3, § 56.

MARKETS AND WAREHOUSES

Drawbacks, Art. 16, § 25.
Rebates, Art. 16, § 20.

MARRIAGE

Divorce, generally, this index.
Surviving Spouse, generally, this index.

MASTERS

Judges, disciplinary proceedings, Art. 5, § 1-a.

MATERIALMENS LIEN

Generally, Art. 16, § 37.

MECHANICS LIENS

Generally, Art. 16, § 37.
Homestead, Art. 16, § 50.

MEDICAL ATTENDANCE AND TREATMENT

Law enforcement officials, payment of expenses by county, injury in line of duty, Art. 3, § 52e.
Medical education board and fund, Art. 3, § 50a.
Social services, aged, disabled and blind persons and needy dependent children, Art. 3, § 51-a.

MEDICAL MALPRACTICE

State punishment, Art. 16, § 31.

MENTALLY DEFICIENT AND MENTALLY ILL PERSONS

Asylums, permanent funds, Art. 7, § 9.
Elections,
Voting restrictions, Art. 6, § 1.
Hospital districts,
Responsibility, Art. 9, § 13.
Involuntary hospitalization, Art. 1, § 15-a.
Temporary hospitalization,
Right of jury trial, Art. 1, § 15-a.
Jurisdiction of court, Art. 5, §§ 8, 16.
Jury, rights of accused, Art. 1, §§ 15, 15-a.
Rehabilitation and treatment services, funding, Art. 16, § 6.
Temporary hospitalization, right of jury trial, Art. 1, § 15-a.

MERGER AND CONSOLIDATION

Colleges and universities, junior college districts, taxes and bonds, Art. 7, § 3-b.
Counties and political subdivisions, government offices and functions, Art. 3, § 64.

MERGER AND CONSOLIDATION

—Cont'd

Counties of 1,200,000 or more, consolidation of political subdivision functions, Art. 3, § 63.
Independent school districts, taxes and bonds, Art. 7, § 3-b.

MILITARY FORCES

Armed Forces, generally, this index.

MILITIA

Governor, power to call forth, Art. 4, § 7.

MINES AND MINERALS

Local and special laws, Art. 3, § 56.

MINORS

Children and Minors, generally, this index.

MISCONDUCT

District court judges, impeachment, Art. 15, § 6.

MIXED BEVERAGE LAW

Alcoholic beverages, Art. 16, § 20.

MONOPOLIES

Trusts and Monopolies, generally, this index.

MONUMENTS AND MEMORIALS

Historical memorials, appropriations, Art. 16, § 39.

MORTGAGES

Farm and ranch loan security bonds, Art. 3, § 50c.
Homestead, restrictions, Art. 16, § 50.

MOTOR CARRIERS

Carriers, generally, this index.

MOTOR VEHICLE FUEL

Taxation, disposition of revenues, Art. 8, § 7-a.

MOTOR VEHICLES

Counties,
Beaches, regulations, Art. 9, § 1-A.
Fees,
Registration, disposition, Art. 8, § 7-a.
Licenses and permits,
Fees,
Disposition, Art. 8, § 7-a.
Taxes and taxation,
Disposition, motor fuel and lubricants tax, Art. 8, § 7-a.
Fuels and lubricants, disposition of revenues, Art. 8, § 7-a.

NATIONAL GUARD

Holding more than one office, Art. 16, § 40.
Voting rights, officers holding more than one office, Art. 16, § 40.

NATIONAL ORIGIN

Discrimination, Art. 1, § 3a.

NATURAL HISTORY RESOURCES

Tax relief, Art. 8, § 1-f.

NATURAL RESOURCES

Conservation, Art. 16, § 59.

NEGLIGENCE

District court judges, impeachment, Art. 15, § 6.

NEWSPAPERS

Freedom of the press, Art. 1, § 8.

NONPROFIT ORGANIZATIONS

Bingo games, Art. 3, § 47.

NOTARIES PUBLIC

Generally, Art. 4, § 26.
Justice of the peace, ex officio, Art. 5, § 19.

NOTICE

Commitment of persons of unsound mind, right to demand jury trial, Art. 1, § 15-a.
Conservation and reclamation districts, creation, Art. 16, § 59.
Constitutional amendments, Art. 17, § 1.
Local and special laws, passage, Art. 3, § 57.

NUMBERS AND NUMBERING

District courts, grand and petit jurors, Art. 5, § 13.

OATHS AND AFFIRMATIONS

District court judges, impeachment, Art. 15, § 6.
State officers and employees, Art. 16, § 1.
State treasury, financial statements, Art. 3, § 49a.
Warrants,
Searches and seizures, Art. 1, § 9.

OCCUPATION TAXES

Generally, Art. 8, §§ 1, 2.
Cities, towns and villages,
Maximum rates, Art. 8, § 1.
Population of 5,000 or less, Art. 11, § 4.
Counties,
Maximum rate, Art. 8, § 1.
Rates and charges,
Counties, cities, towns and villages, Art. 8, § 1.

OCCUPATIONS

Professions and Occupations, generally, this index.

OCHILTREE COUNTY

See, also, Counties, generally, this index.
Hospital district, Art. 9, § 11.

OFFENSES

Crimes and Offenses, generally, this index.

OFFICERS AND EMPLOYEES

Absence and absentees, state business, residence forfeiture, Art. 16, § 9.

OFFICERS AND EMPLOYEES—Cont'd

Acceptance of bribes, Art. 16, § 41.
 Cities, Towns and Villages, this index.
 Congressmen, ineligibility for state office, Art. 16, § 12.
 County Officers and Employees, generally, this index.
 Crimes and offenses,
 Exclusion from office, Art. 16, § 2.
 Jurisdiction of prosecution, Art. 5, § 8.
 Deductions from salaries, neglect of duties, Art. 16, § 10.
 Discharge, public duty, Art. 16, § 43.
 Disqualification to office, bribery, Art. 16, § 5.
 District Officers, generally, this index.
 Domicile and residence, Art. 16, § 14.
 Forfeiture, state business, Art. 16, § 9.
 Dual office holding, Art. 16, § 40.
 Elections, forfeiture, absence on state business, Art. 16, § 9.
 Exemptions, public duty, Art. 16, § 43.
 Extra compensation, Art. 3, § 53.
 Forfeiture, residence, absence on state business, Art. 16, § 9.
 Holding more than one office, Art. 16, § 40.
 Jurisdiction,
 Official misconduct, prosecution, Art. 5, § 8.
 Local and special laws, Art. 3, § 56.
 Misconduct,
 Jurisdiction, Art. 5, § 8.
 Neglect of duty,
 Deductions from salaries, Art. 16, § 10.
 Public duty, exemption, Art. 16, § 43.
 Qualification of successors, service until qualified, Art. 16, § 17.
 Religious tests, Art. 1, § 4.
 Residence within district or area, Art. 16, § 14.
 Service until successors qualify, Art. 16, § 17.
 Special and local laws, Art. 3, § 56.
 Staggering terms of office, Art. 16, § 65.
 State Officers and Employees, generally, this index.
 Tests, religious tests, Art. 1, § 4.

OPEN SPACES
 Taxation, Art. 8, § 1-d-1.

OPPRESSION
 District court judges, impeachment, Art. 15, § 6.

ORPHANS
 Asylums, permanent fund, Art. 7, § 9.

OUTLAWRY
 Prohibition, Art. 1, § 20.

PAINTS AND PAINTING
 Historical memorials, appropriations, Art. 16, § 39.

PARDONS AND REPRIEVES
 Generally, Art. 4, § 11.
 Governor, Art. 4, § 11.

PARK DEVELOPMENT FUND

Generally, Art. 3, § 49-e.

PARKS AND PLAYGROUNDS

Development bonds,
 Park development bonds and fund, Art. 3, § 49-e.

PARTIALITY

District court judges, impeachment, Art. 15, § 6.

PARTITION

Homestead, Art. 16, § 52.

PARTNERS AND PARTNERSHIPS

Indebtedness, acceptance by state, toll road or turnpike construction, Art. 3, § 52-b.

PATENTS

Public free school land, defects in title, Art. 7, § 4A.

PAUPERS

Indigent Persons, generally, this index.

PAY

Compensation and Salaries, generally, this index.

PEACE OFFICERS

Compensation and salaries, death in line of duty, survivors assistance, Art. 3, § 51-d.

Death,

In line of duty, survivors assistance, Art. 3, § 51-d.

Medical expenses, county payment, injury in line of duty, Art. 3, § 52e.

Survivors, death in line of duty, assistance, Art. 3, § 51-d.

PENALTIES

Fines and Penalties, generally, this index.

PENSIONS AND RETIREMENT

Boards of trustees, statewide benefit systems, Art. 16, § 67.

Confederate veterans,

Trust funds, widows, Art. 8, § 1-e.

Investments,

Statewide benefit systems, Art. 16, § 67.

Involuntary retirement, judges, Art. 5, § 1-a.

Judges, Art. 5, § 1-a.

Public officers and employees, Art. 16, § 67.

Rangers, Texas rangers, Art. 16, § 66.
 Texas rangers, Art. 16, § 66.

Widows, Art. 8, § 1-e.

Trustees board, statewide benefit system, Art. 16, § 67.

PER DIEM

Constitutional convention members, Art. 17, § 2.

PERJURY

Generally, Art. 1, § 5.

PERJURY—Cont'd

Exclusion from office, convicted criminals, Art. 16, § 2.

State officers, false reports or information, Art. 4, § 24.

PERMANENT FUNDS

Asylums, Art. 7, § 9.

PERMANENT SCHOOL FUND

Generally, Art. 7, § 5.

Investments, veterans land board bond, Art. 3, § 49-b.

Reduction and distribution, Art. 7, § 6b.

PERMANENT UNIVERSITY FUND

Investments, Art. 7, §§ 11, 11a.

Veterans land board bonds, Art. 3, § 49-b.

Sale of lands, Art. 7, § 12.

PERMITS

Licenses and Permits, generally, this index.

PERPETUAL SCHOOL FUND

Generally, Art. 7, § 2.

PERPETUITIES

State perpetuities forbidden, Art. 1, § 26.

PERSONAL PROPERTY

Community property, husband and wife, Art. 16, § 15.

Forced sale, protection of portion, Art. 16, § 49.

Husband and wife, separate and community property, Art. 16, § 15.

Redemption, property sold for taxes, Art. 8, § 13.

Sale for taxes, Art. 8, § 13.

Separate property, husband and wife, Art. 16, § 15.

PERSONAL PROPERTY HOME-STEAD

Defined, taxation, Art. 8, § 1.

PETIT JURIES

Local and special laws, summoning or impaneling, Art. 3, § 56.

PETITIONS

Airport authorities, addition to area, Art. 9, § 12.

Grievances, redress, rights, Art. 1, § 27.

Redress of grievances, rights, Art. 1, § 27.

PHYSICALLY HANDICAPPED PERSONS

Handicapped Persons, generally, this index.

PHYSICIANS AND SURGEONS

Medical Attendance and Treatment, generally, this index.

Medical education board, financial assistance, Art. 3, § 50a.

Qualifications,

State regulation, Art. 16, § 31.

PLEDGES

Credit of state, Art. 3, § 50.
Permanent university fund, permanent improvements, colleges and universities, Art. 7, § 18.

POLICE

Compensation and salaries, death in line of duty, survivors assistance, Art. 3, § 51-d.
Death, survivors assistance, Art. 3, § 51-d.
Reserve or auxiliary units, death in line of duty, survivors assistance, Art. 3, § 51-d.
Survivors, death in line of duty, assistance, Art. 3, § 51-d.

POLITICAL SUBDIVISIONS

Bonds, Art. 3, § 52.
Interest rates, Art. 3, § 65.
Consolidation, government offices and functions, Art. 3, § 64.
Continuity of government operations, military attack disaster, Art. 3, § 62.
Credit, lending, Art. 3, § 52.
Cultural resources, tax relief, Art. 8, § 1-f.
Debts, release or extinguishment, Art. 3, § 55.
Delinquent taxes, release or extinguishment, Art. 3, § 55.
Disasters,
Enemy attack, continuity of government operations, Art. 3, § 62.
Enemy attack disasters, continuity of government operations, Art. 3, § 62.
Government operations, continuity, enemy attack disasters, Art. 3, § 62.
Granting public money, Art. 3, § 52.
Historical resources, tax relief, Art. 8, § 1-f.
Homestead tax exemption, Art. 8, § 1-b.
Indebtedness,
State acceptance, toll road or turnpike construction, Art. 3, § 52.
Legislature, this index.
Lending credit, Art. 3, § 52.
Local and special laws, Art. 3, § 56.
Local retirement systems, Art. 16, § 67.
Natural history resources, tax relief, Art. 8, § 1-f.
New territory, taxation, Art. 8, § 21.
Pensions and retirement,
Local retirement systems, Art. 16, § 67.
Reinvestment zones, tax relief, Art. 8, § 1-g.
Roads and highways,
Lending of credit, or grant of public money, Art. 3, § 52.
Social security coverage, proprietary employees, Art. 3, § 51-g.
Tax relief, cultural, historical or natural history resources, Art. 8, § 1-f.
Taxes and taxation, Art. 3, § 52.
Reinvestment zones, Art. 8, § 1-g.
Relief, Art. 8, § 1-f.
Terms of office, Art. 16, § 65.

POLITICAL SUBDIVISIONS—Cont'd

Voters, Art. 6, § 3a.
Workers' compensation, Art. 3, § 60.

POOR HOUSES AND FARMS

Counties, Art. 16, § 8.
Establishment, Art. 11, § 2.

POOR PERSONS

Indigent Persons, generally, this index.

POTTER COUNTY

Hospital district, Art. 9, § 5.

POULTRY AND POULTRY PRODUCTS

Taxes and taxation,
Exemptions, Art. 8, §§ 11, 19.

PRECINCTS

Officers and employees,
Compensation and salaries, Art. 16, § 61.

PRESIDENT OF THE UNITED STATES

Elections,
Voter qualifications, Art. 6, § 2a.

PRIMA FACIE EVIDENCE

Evidence, generally, this index.

PRIMOGENITURE

Generally, Art. 1, § 26.

PRISONS AND PRISONERS

Correctional Institutions, generally, this index.

PRIVATE ROADS AND DRIVEWAYS

Counties of 5,000 or less, construction and maintenance, Art. 3, § 52f.

PRIVILEGES AND IMMUNITIES

Generally, Art. 1, § 3.
Arrest, this index.
Deprivation,
Without due course of law, Art. 1, § 19.
Legislature, arrest, Art. 3, § 14.
Special privileges and immunities, prohibition, Art. 1, § 17.

PROBABLE CAUSE

Search warrant, Art. 1, § 9.

PROBATE COURTS

Generally, Art. 5, § 29.
Assignments, judges,
Other counties, Art. 5, § 16a.
Judges,
Assignments,
Other counties, Art. 5, § 16a.

PROBATE PROCEEDINGS

Executors and Administrators, generally, this index.

PROBATION AND PAROLE

Courts, powers, Art. 4, § 11A.
Revocation or suspension,
Governors powers, Art. 4, § 11.

PROCEDENDO

Criminal appeals court, powers, Art. 5, § 5.
Supreme court, jurisdiction, Art. 5, § 3.

PROCEEDINGS

Actions and Proceedings, generally, this index.

PROCESS

Adoption of constitution, process not executed or returned, Art. 16, § 53.
Impeachment, district court judges, Art. 15, § 6.
Style, Art. 5, § 12.

PROFESSIONS AND OCCUPATIONS

Governor, practicing while in office, Art. 4, § 6.
Medical personnel, qualifications, state regulation, Art. 16, § 31.
Taxation, Art. 8, § 2.

PROHIBITION

Criminal appeals court, powers, Art. 5, § 5.

PROPERTY

Damages,
Adequate compensation, Art. 1, § 17.
Deprivation without due course of law, Art. 1, § 19.
Destruction, adequate compensation, Art. 1, § 17.
Personal Property, generally, this index.
Real Estate, generally, this index.
Taking of property, Art. 1, § 17.

PROPERTY TAXATION

Taxes and Taxation, generally, this index.

PSYCHIATRISTS AND PSYCHIATRY

Commitment, persons of unsound mind, psychiatric testimony, Art. 1, § 15-a.

PUBLIC ASSISTANCE

Social Services, generally, this index.

PUBLIC DOMAIN

Donation, seawall and breakwater construction, Gulf of Mexico, Art. 11, § 8.

PUBLIC FREE SCHOOL FUND

Sale, state lands, investment of proceeds, Art. 7, § 4.

PUBLIC HEALTH SERVICES

Hospital districts, responsibility, Art. 9, § 13.

PUBLIC LANDS

Asylums, land granted for benefit of asylum, permanent fund, Art. 7, § 9.
Grants,
Colleges and universities, Art. 7, § 15.
Patents,
Applications, former state lands, Art. 7, § 4A.
Perpetual school fund, Art. 7, § 2.

PUBLIC LANDS—Cont'd

Public free school fund, sale of lands set apart, investment of proceeds, Art. 7, § 4.

Religion, appropriations for, Art. 1, § 7. Sales,

Permanent university fund, Art. 7, § 12.

Sectarian purposes, appropriations, Art. 1, § 7.

Veterans land fund, purchase, Art. 3, § 49-b.

PUBLIC OFFICERS AND EMPLOYEES

Officers and Employees, generally, this index.

PUBLIC WEIGHERS

Resignation, running for other offices, Art. 16, § 65.

Terms of office, Art. 16, § 65.

Unexpired terms, running for other offices, Art. 16, § 65.

Vacancies in office, running for other offices, Art. 16, § 65.

QUALIFIED ELECTOR

Defined, Art. 6, § 2.

QUARTERING OF SOLDIERS

Generally, Art. 1, § 25.

QUORUM

Criminal appeals court, Art. 5, § 4.

Judicial conduct commission, meetings, Art. 5, § 1-a.

Legislature, Art. 3, § 10.

Supreme court, Art. 5, § 2.

RACE

Discrimination, Art. 1, § 3a.

RAILROAD COMMISSION

Generally, Art. 16, § 30.

Authority governing board members, terms of office, Art. 16, § 30.

District governing board members, terms of office, Art. 16, § 30.

Terms of office, Art. 16, § 30.

RAILROADS

Generally, Art. 10, § 2.

Classification,

Carriers, Art. 10, § 2.

Commission. Railroad Commission, generally, this index.

Discrimination,

Rates and charges, Art. 10, § 2.

Fines and penalties,

Discrimination,

Rates, Art. 10, § 2.

Liens and incumbrances,

Release or alienation, Art. 3, § 54.

Local and special laws, incorporation, Art. 3, § 56.

Rates and charges, Art. 10, § 2.

Release, liens, Art. 3, § 54.

Roads and highways,

Classification, Art. 10, § 2.

Taxes and taxation,

Assessments, counties, Art. 8, § 8.

RAILROADS—Cont'd

Taxes and taxation—Cont'd

Cities, towns and villages, Art. 8, § 5.

Municipalities, Art. 8, § 5.

RANCHES

Farm and ranch loan security bonds, Art. 3, § 50c.

Open space land, taxation, Art. 8, § 1-d-1.

RATES AND CHARGES

Interest, this index.

REAL ESTATE

Agricultural Lands, generally, this index.

Farm and ranch loan security bonds, Art. 3, § 50c.

Forced Sale, generally, this index.

Homestead, generally, this index.

Liens and Incumbrances, generally, this index.

Public Lands, generally, this index.

Redemption,

Tax sales, Art. 8, § 13.

Sales,

Taxes, Art. 8, § 13.

Taxation, Art. 8, § 1.

Title and Ownership, generally, this index.

REAL PROPERTY

Real Estate, generally, this index.

RECLAMATION DISTRICTS

Conservation and Reclamation Districts, generally, this index.

RECOGNIZANCES

Bail and Recognizances, generally, this index.

RECORDS AND RECORDATION

Pardons, and parole board, Art. 4, § 11.

REDRESS OF GRIEVANCES

Right of petition, Art. 1, § 27.

REFUNDS

State treasury,

Local and special laws, Art. 3, § 56.

REGISTRATION

Elections, voter qualifications, presidential, vice-presidential and statewide offices, Art. 6, § 2a.

Voters, Art. 6, § 2.

REINVESTMENT ZONES

Taxes and taxation,

Political subdivisions, Art. 8, § 1-g.

RELIGION

Appropriations, sectarian purposes, Art. 1, § 7.

Bingo games, regulation, Art. 3, § 47.

Discrimination, Art. 1, § 3a.

Freedom from, Art. 1, §§ 4, 6, 7.

Freedom of worship, Art. 1, § 6.

Public officers and employees, tests, Art. 1, § 4.

Tests, public office or trust, Art. 1, § 6.

RELIGION—Cont'd

Witnesses, disqualification for belief, Art. 1, § 5.

RELIGIOUS SOCIETIES AND ORGANIZATIONS

Private schools, state funds, Art. 7, § 5.

Taxes and taxation,

Exemptions, Building, Art. 8, § 2.

REMONSTRANCE

Right of, Art. 1, § 27.

REMOVAL FROM OFFICE

Lieutenant governor, replacement, Art. 4, § 17.

REPORTS

Executive officers, state finances, Art. 4, § 24.

REPRIMANDS

Judges, Art. 5, § 1-a.

RESERVOIRS

Dams and Reservoirs, generally, this index.

RESIDENCE

Domicile and Residence, generally, this index.

RESIGNATION

Cities, towns and villages, officers and employees, announcement of candidacy for another office, Art. 11, § 11.

Governor, lieutenant governor replacing, Art. 4, § 16.

Lieutenant governor, replacement, Art. 4, § 17.

RESTRAINT OF TRADE

Trusts and Monopolies, generally, this index.

RETIREMENT

Pensions and Retirement, generally, this index.

RETROACTIVE LAWS

Prohibition, Art. 1, § 16.

REVIEW

Appeals and Writs of Error, generally, this index.

REVOCAION OR SUSPENSION

State officers and employees, pending impeachment, Art. 15, § 5.

RIGHT OF ASSEMBLY

Generally, Art. 1, § 27.

RIVERS AND STREAMS

Conservation and development, Art. 16, § 59.

Political subdivisions, lending credit, Art. 3, § 52.

Water development bonds, Art. 3, § 49-c et seq.

ROAD DISTRICTS

- Bonds,
 - Motor vehicle registration fees and taxes, disposition of revenues, Art. 8, § 7-a.
- Harris county, annual tax, road or bridge construction, Art. 3, § 52-d.

ROADS AND HIGHWAYS

- Generally, Art. 16, § 24.
- Bonds,
 - County bonds, road construction, maintenance and operation, Art. 3, § 52.
 - Dallas county, Art. 3, § 52e.
- Bridges, generally, this index.
- Construction,
 - County bonds, issuance, Art. 3, § 52.
- Farm-to-market road,
 - County taxation, Art. 8, § 1-a.
- Fines and penalties,
 - Use of fires, Art. 16, § 24.
- Harris county, annual tax, election, Art. 3, § 52-d.
- Legislature, provide for, Art. 16, § 24.
- Local and special laws, Art. 3, § 56.
- Maximum tax, Art. 8, § 9.
- Special and local laws, Art. 3, § 56.
- Turnpikes and Toll Roads, generally, this index.

RULES OF COURT

- Generally, Art. 5, § 25.

RURAL AREA

- Medical education board, students financial assistance, Art. 3, § 50a.

SALARIES

- Compensation and Salaries, generally, this index.

SALES

- Forced Sale, generally, this index.
- Permanent university fund, land sales, Art. 7, § 12.
- Personal property, forced sale, protection of portion, Art. 16, § 49.

SANITATION

- Health and Sanitation, generally, this index.

SAVINGS AND LOAN ASSOCIATIONS

- Unmanned teller machines, shared use, Art. 16, § 16.

SCHOLARSHIPS

- Medical education board, Art. 3, § 50a.

SCHOOL ELECTIONS

- Taxes and taxation, Art. 7, § 3.

SCHOOL FUNDS

- Available school fund, Art. 7, § 5.
- Motor vehicle taxes and registration fees, disposition, Art. 8, § 7-a.

SCHOOL OFFICERS AND EMPLOYEES

- Terms of office, Art. 7, § 16.

SCHOOL TAXES

- Agricultural or grazing school land, Art. 7, § 6a.
- Exemptions,
 - Buildings and property, Art. 8, § 2.
 - Homestead, Art. 8, § 1-b.
- Independent school districts,
 - Boundary changes, Art. 7, § 3-b.

SCHOOL TEXTBOOKS

- State aid, Art. 8, § 1-e.

SCHOOLS AND SCHOOL DISTRICTS

- Generally, Art. 7, § 1 et seq.
- Adverse possession,
 - County school lands, Art. 7, § 6.
- Agricultural lands,
 - Taxation, Art. 7, § 6a.
- Annexation,
 - Independent school districts,
 - Taxes and bonds, Art. 7, § 3-b.
- Available school fund, motor vehicle registration fees and taxes, disposition of revenues, Art. 8, § 7-a.
- Board of education,
 - State, Art. 7, § 8.
- Boundaries,
 - Independent school districts,
 - Taxes and bonds, Art. 7, § 3-b.
- County school land, Art. 7, § 6.
- Agricultural or grazing lands, taxation, Art. 7, § 6a.
- Grazing school land, taxation, Art. 7, § 6a.
- Homesteads,
 - Exemption, taxes, Art. 8, § 1-b.
- Independent school districts,
 - Bonds,
 - Boundary changes, Art. 7, § 3-b.
 - Taxes and bonds, Art. 7, § 3-b.
- Investments,
 - Proceeds of sale, county school land, Art. 7, § 6.
- Local and special laws, Art. 3, § 56.
- Medical schools, state preference, Art. 16, § 31.
- Merger and consolidation,
 - Independent school districts, taxes and bonds, Art. 7, § 3-b.
- Perpetual school fund, Art. 7, § 2.
- Private schools,
 - Funds,
 - State funds, Art. 7, § 5.
 - State funds, Art. 7, § 5.
- Public free school fund, sale of state lands, investment of proceeds, Art. 7, § 4.
- Public free school land, patent applications, defects in title, Art. 7, § 4A.
- Residents homestead tax exemption, Art. 8, § 1-b.
- Sales,
 - County school lands, Art. 7, § 6.
 - Special and local laws, Art. 3, § 56.
- State lands, public free school fund, investment of proceeds of sale, Art. 7, § 4.
- Taxes and taxation. School Taxes, generally, this index.
- Term of office, Art. 7, § 16.

SEARCHES AND SEIZURES

- Oaths and affirmations, warrants, Art. 1, § 9.
- Probable cause, Art. 1, § 9.
- Tax liens, seizure of property, Art. 8, § 15.
- Unreasonable seizures and searches, prohibition, Art. 1, § 9.
- Warrants, Art. 1, § 9.

SEAT OF GOVERNMENT

- Generally, Art. 3, § 58.

SEAWALLS

- Bonds,
 - Construction,
 - Counties and cities bordering Gulf of Mexico, Art. 11, § 7.
- Construction, counties and cities bordering Gulf of Mexico, Art. 11, § 7.
- Gulf of Mexico, counties and cities bordering on, construction, Art. 11, § 7.
- Public domain donation, construction, Art. 11, § 8.

SECRETARY OF STATE

- Generally, Art. 4, § 21.
- Compensation and salaries,
 - Minimum salary, Art. 3, § 61.
- Elections, Art. 4, § 2 et seq.
- Executive department, basic officer, Art. 4, § 1.
- Legislative office, ineligibility, Art. 3, § 19.
- Minimum salary, Art. 3, § 61.

SEIZURES

- Searches and Seizures, generally, this index.

SELF-INCRIMINATION

- Crimes and offenses, rights of accused, Art. 1, § 10.
- Rights of accused, Art. 1, § 10.

SEMINARIES

- Appropriations, sectarian purposes, Art. 1, § 7.

SENATE

- Legislature, this index.

SENIOR CITIZENS

- Aged Persons, generally, this index.

SEPARATE PROPERTY

- Generally, Art. 16, § 15.

SEQUESTRATION

- Jurisdiction,
 - Writ, Art. 5, § 8.

SEWERS, SEWAGE AND SEWER SYSTEMS

- Cities, towns and villages, relocation or replacement of laterals, expenditures, Art. 11, § 12.
- Laterals,
 - Municipal expenditures, Art. 11, § 12.

SEX

Discrimination, Art. 1, § 3a.

SHARES AND SHAREHOLDERS

Consideration,
Private corporations, Art. 12, § 6.
Protection, private corporations, Art. 12, § 2.

SHERIFFS

Generally, Art. 5, § 23.
Assessor and collector of taxes, sheriffs additional duties, Art. 8, § 16.
Elections, Art. 5, § 23.
Local and special laws, Art. 3, § 56.
Medical expenses, payment by county, injury in line of duty, Art. 3, § 52e.
Resignation, running for other offices, Art. 16, § 65.
Special and local laws, Art. 3, § 56.
Terms of office, Art. 16, § 65.
Unexpired terms, running for other offices, Art. 16, § 65.
Vacancies in office, running for other offices, Art. 16, § 65.

SIGNATURES

Legislature, bills and joint resolutions, Art. 3, § 38.

SINKING FUNDS

Cities of 5,000 or more population, Art. 11, § 5.

SOCIAL SECURITY

Political subdivision employees, eligibility, Art. 3, § 51-g.

SOCIAL SERVICES

Aged persons, medical care and assistance, Art. 3, § 51-a.
Assistance grants, needy aged, disabled and blind persons, and needy dependent children, Art. 3, § 51-a.
Blind persons, medical care and assistance grants, Art. 3, § 51-a.
Dependent children, medical care and assistance, Art. 3, § 51-a.
Disabled persons, medical care and assistance, Art. 3, § 51-a.
Medical care, needy aged, disabled and blind persons and needy and dependent children, Art. 3, § 51-a.

SOLAR ENERGY DEVICES

Tax exemptions, Art. 8, § 2.

SOVEREIGNTY OF STATE

Generally, Art. 1, § 1.

SPEECH

Freedom of speech, Art. 1, § 8.

SPEEDY TRIAL

Criminal accused, rights, Art. 1, § 10.
Right of accused, Art. 1, § 10.

STATE

Actions and proceedings,
Recovery of penalties, forfeitures and escheats, jurisdiction, Art. 5, § 8.

STATE—Cont'd

Agencies. State Agencies, generally, this index.

Appeals in criminal prosecutions,
Criminal cases, Art. 5, § 26.

Bill of rights, Art. 1, § 1.

Binding and printing, contracts, Art. 16, § 21.

Continuity of government operations,
disasters caused by enemy attack,
Art. 3, § 62.

Contracts, Art. 16, § 21.
Legislators conflict of interest, Art. 3, § 18.

Credit of state, loans or pledges, Art. 3, § 50.

Crimes and offenses,
Right of appeal, Art. 5, § 26.

Debts, Art. 3, § 49.
Release or extinguishment, Art. 3, § 55.

Division of powers, Art. 2, § 1.
Enemy attack, continuity of government operations and disaster, Art. 3, § 62.

General Land Office, generally, this index.

Government operations,
Continuity, Art. 3, § 62.

Grant of public money,
Toll roads and turnpikes, Art. 3, § 52-b.

Grants,
Public money, Art. 3, § 51.

Historical Grounds or Sites, generally, this index.

Income Tax, generally, this index.

Independence, Art. 1, § 1.

Lending states credits, toll roads or turnpikes, Art. 3, § 52-b.

Loans, Art. 3, § 50.

Officers and employees. State Officers and Employees, generally, this index.

Pledges, Art. 3, § 50.

Printing,
Contracts, Art. 16, § 21.

Public Lands, generally, this index.

Public money, grants, Art. 3, § 51.

Public printing and binding, contracts, Art. 16, § 21.

Rate of growth, states economy, maximum appropriations, Art. 8, § 22.

Real estate. Public Lands, generally, this index.

Seal, Art. 4, § 19.

Sovereignty, Art. 1, § 1.

Statutes, suspension, Art. 1, § 28.

Suspension, laws, Art. 1, § 28.

STATE AGENCIES

General land office, Art. 14, § 1.

Handicapped persons,
Physical or mental handicap, rehabilitation and treatment services, Art. 16, § 6.

Interest rates, bonds, Art. 3, § 65.

Land office, Art. 14, § 1.

STATE AGENCIES—Cont'd

Mentally deficient and mentally ill persons, rehabilitation or treatment services, Art. 16, § 6.

Park development fund, purchase of land for parks, Art. 3, § 49-e.

Terms of office, Art. 16, § 30.

STATE BONDS

Interest, Art. 3, § 65.

Retirement of debt, Art. 3, § 49a.

STATE COMPTROLLER

Impeachment, Art. 15, § 1 et seq.

STATE DEPARTMENTS

Division of powers, Art. 2, § 1.

Powers and duties, division of, Art. 2, § 1.

STATE LANDS

Public Lands, generally, this index.

STATE MONOPOLY

Alcoholic beverages, Art. 16, § 20.

STATE OFFICERS AND EMPLOYEES

Absence and absentees, state business, residence forfeiture, Art. 16, § 9.

Attorney General, generally, this index.

Bribery and corruption, Art. 16, § 41.

Disqualification to office, Art. 16, § 5.

Commissions, Art. 4, § 20.

Comptroller of Public Accounts, generally, this index.

Discharge, public duty, Art. 16, § 43.

Disqualification to office,
Bribery, Art. 16, § 5.

Impeachment, Art. 15, § 4.

Domicile and residence, Art. 16, § 14.

Forfeiture, state business, Art. 16, § 9.

Dual office holding, Art. 16, § 40.

Elected statutory officers, compensation and term of office, Art. 4, § 23.

Elections,

Executive officers, Art. 4, § 2 et seq.

Forfeiture, absence on state business, Art. 16, § 9.

Viewer qualifications, Art. 6, § 2a.

Eligibility for legislative office, Art. 3, § 19.

Executive department officers, elections, Art. 4, § 2 et seq.

Exemptions, public duty, Art. 16, § 43.

Forfeiture, residence, absence on state business, Art. 16, § 9.

Governor, generally, this index.

Holding more than one office, Art. 16, § 40.

Impeachment, Art. 15, § 1 et seq.

Legislative office, ineligibility, Art. 3, § 19.

Lieutenant Governor, generally, this index.

Minimum salary, Art. 3, § 61.

Oaths and affirmations, Art. 16, § 1.

Provisional appointments, suspension pending impeachment, Art. 15, § 5.

Public duty, exemption, Art. 16, § 43.

Religious tests, Art. 1, § 4.

STATE OFFICERS AND EMPLOYEES

—Cont'd

Removal from office, Art. 15, § 9.
 Impeachment, Art. 15, § 4.
 Resignation, running for other offices, Art. 16, § 65.
 Salaries and compensation,
 Minimum salary, Art. 3, § 61.
 Statutory elected officers, Art. 4, § 23.
 Secretary of State, generally, this index.
 Statutory officers, compensation, terms of office, fees and costs, Art. 4, § 23.
 Suspension pending impeachment, Art. 15, § 5.
 Temporary succession, enemy attack disasters, Art. 3, § 62.
 Term of office, Art. 16, § 65.
 Tests, religious tests, Art. 1, § 4.
 Treasurer. State Treasurer, generally, this index.
 Unexpired terms, running for other offices, Art. 16, § 65.
 Vacancies in office,
 Appointments, Art. 4, § 12.
 Running for other offices, Art. 16, § 65.
 Unexpired terms, Art. 16, § 27.

STATE PARKS

Bonds, park development fund and bonds, Art. 3, § 49-e.

STATE TREASURER

Generally, Art. 4, § 23.
 Compensation and salaries, minimums, Art. 3, § 61.
 Election, Art. 4, § 2 et seq.
 Executive department, basic officer, Art. 4, § 1.
 Impeachment, Art. 15, § 1 et seq.
 Minimum salary, Art. 3, § 61.

STATE TREASURY

Borrowing special funds, Art. 8, § 7.
 Diverting special funds, Art. 8, § 7.
 Financial statements and estimates, Art. 3, § 49a.
 Refunds, Art. 3, § 56.
 Special funds,
 Borrowing, withholding or diverting, Art. 8, § 7.
 Warrants for payment of money, salaries and compensation, state officers and employees, holding more than one office, Art. 16, § 33.
 Withdrawal of money, Art. 8, § 6.
 Withholding special funds, Art. 8, § 7.

STATUTES

Existing laws, continuance, Art. 16, § 48.
 Suspension, Art. 1, § 28.

STREAMS

Rivers and Streams, generally, this index.

STREETS AND ALLEYS

Special laws, Art. 3, § 56.

SUICIDE

Descent of estate, Art. 1, § 21.

SUITS

Actions and Proceedings, generally, this index.

SUPPORT

Collections,
 Garnishment, personal service wages, Art. 16, § 28.
 Garnishment, personal service wages, Art. 16, § 28.

SUPREME COURT

Generally, Art. 5, § 2 et seq.
 Age qualification, justices, Art. 5, § 2.
 Appeals,
 Orders granting or denying injunctions, Art. 5, § 3-b.
 Appellate jurisdiction, Art. 5, § 3.
 Citizens and citizenship, supreme court justice qualification, Art. 5, § 2.
 Clerks, Art. 5, § 3.
 Election, Art. 5, § 2.
 Impeachment, judges, Art. 15, § 1 et seq.
 Injunctions,
 Orders granting or denying, appeal, Art. 5, § 3-b.
 Jurisdiction, Art. 5, § 3.
 Licenses and permits, supreme court justices, practice of law, Art. 5, § 2.
 Mandamus,
 Jurisdiction, Art. 5, § 3.
 Powers and duties, vesting, Art. 5, § 1.
 Qualifications of justices, Art. 5, § 2.
 Quo warranto,
 Original jurisdiction, Art. 5, § 3.
 Quorum, Art. 5, § 2.
 Rules of court, Art. 5, § 25.
 Seat of government, transaction of business at, Art. 5, § 3a.
 Sections, Art. 5, § 2.
 Sessions of court, Art. 5, § 3a.
 Terms of office, justices, Art. 5, § 2.
 Vacancies in office, Art. 5, §§ 2, 28.
 Writs, Art. 5, § 3.

SUPREME JUDICIAL DISTRICTS

Appeals courts, Art. 5, § 6.

SURGEONS

Physicians and Surgeons, generally, this index.

SURVEYORS AND SURVEYING

County Surveyors, generally, this index.

SURVIVING SPOUSE

Disabled veterans, tax exemptions, Art. 8, § 2.
 Homicide, damage liability, Art. 16, § 26.
 Law enforcement officers, volunteer firemen, death in line of duty, state assistance, Art. 3, § 51-d.
 State assistance, law enforcement officers or volunteer firemen, death in line of duty, Art. 3, § 51-d.

SUSPENDED SENTENCES

Generally, Art. 4, § 11A.

TARRANT COUNTY

See, also, Counties, generally, this index.

County auditor, transfer of powers and duties from county treasurer, Art. 16, § 44.

County treasurer, transfer of powers and duties to county auditor, Art. 16, § 44.

Elections, county treasurer, abolition, Art. 16, § 44.

TAX ASSESSORS AND COLLECTORS

Generally, Art. 8, § 14.
 Airport authorities, Art. 9, § 12.
 Counties of less than 10,000, optional creation of office, Art. 8, § 16a.
 Resignation, running for other offices, Art. 16, § 65.
 Sheriff acting as, Art. 8, § 16.
 Terms of office, Art. 16, § 65.
 Unexpired terms, running for other offices, Art. 16, § 65.
 Vacancies in office, running for other offices, Art. 16, § 65.

TAX SALES

Generally, Art. 8, §§ 13, 15.

TAXES AND TAXATION

Generally, Art. 3, § 52; Art. 8, § 1 et seq.
 Abolition, state property taxes, Art. 8, § 1-e.
 Advance payment, discounts, Art. 8, § 20.
 Airport authorities, Art. 9, § 12.
 Appraisals and appraisers, Art. 8, § 18.
 Uniform standards, enforcement, Art. 8, § 23.
 Assessments,
 Advance payment, discounts, Art. 8, § 20.
 Classification of lands, Art. 8, § 18.
 Discounts, advance payment, Art. 8, § 20.
 Equalization, valuation, Art. 8, § 18.
 Equalization board, Art. 8, § 18.
 Fair cash market value, not to be exceeded, Art. 8, § 20.
 Liens and incumbrances, Art. 8, § 15.
 Place, Art. 8, § 11.
 Railroads, Art. 8, § 8.
 Sales, Art. 8, § 15.
 Seizure, property, Art. 8, § 15.
 Time,
 Extension, local and special laws, Art. 3, § 56.
 Breakwaters, construction, counties and cities bordering on Gulf of Mexico, Art. 11, § 7.
 Cities, Towns and Villages, this index.
 Colleges and Universities, this index.
 Conservation and reclamation districts, Art. 16, § 59.
 County general fund, deposits, Art. 8, § 1-e.

TAXES AND TAXATION—Cont'd

Cultural resources, tax exemptions, Art. 8, § 1-f.
 Debt payments, Art. 11, § 6.
 Delinquent Taxes, generally, this index.
 Discounts, advance payment, Art. 8, § 20.
 Donations, state to political subdivisions, Art. 8, § 1-a.
 Elections,
 Highway and road maintenance, Art. 8, § 9.
 Voter qualifications, expenditure or debt provisions, municipal elections, Art. 6, § 3.
 Exemptions, Art. 8, § 2.
 City property, Art. 11, § 9.
 Common carriers, airport authority tax, Art. 9, § 12.
 Cultural resources, Art. 8, § 1-f.
 Family supplies, Art. 8, § 19.
 Farm products, Art. 8, § 19.
 Historical resources, Art. 8, § 1-f.
 Livestock, Art. 8, § 19.
 Local and special laws, Art. 3, § 56.
 Natural history resources, Art. 8, § 1-f.
 Poultry and poultry products, Art. 8, § 19.
 Reinvestment zone,
 Political subdivisions, Art. 8, § 1-g.
 Fair cash market value not to be exceeded, Art. 8, § 20.
 General laws, Art. 8, § 3.
 Governor,
 Estimates, Art. 4, § 9.
 Gulf of Mexico, counties and cities bordering on, construction, Art. 11, § 7.
 Harris county, road or bridge construction, election, Art. 3, § 52-d.
 Hearings,
 Increases, Art. 8, § 21.
 Hospital districts, Art. 9, § 9.
 Income Tax, generally, this index.
 Increases, Art. 8, § 21.
 License taxes, cities and towns, population of 5,000 or less, Art. 11, § 4.
 Liens and incumbrances, Art. 8, § 15.
 Agricultural land change to other uses, Art. 8, § 1-d.
 Maximum tax, Art. 8, § 9.
 Natural history resources, tax exemption, Art. 8, § 1-f.
 New territory, Art. 8, § 21.
 Notice,
 Increase, Art. 8, § 21.
 Objects, specification of, Art. 8, § 17.
 Occupation Taxes, generally, this index.
 Open space land, Art. 8, § 1-d-1.
 Place of assessment, Art. 8, § 11.
 Political Subdivisions, this index.
 Public purposes, Art. 8, § 3.
 Railroads, this index.
 Redemption,
 Property sold for taxes, Art. 8, § 13.
 Reevaluation, Art. 8, § 21.
 Reinvestment zones, Art. 8, § 1-g.
 Release,
 Payment, Art. 8, § 10.

TAXES AND TAXATION—Cont'd

Relief, Political subdivisions, Art. 8, § 1-f.
 Resolutions, homestead tax exemption, effectiveness, Art. 8, § 1-c.
 Rural fire prevention districts, Art. 3, § 48-d.
 School Taxes, generally, this index.
 Single board of equalization, Art. 8, § 18.
 Statewide appraisal, Art. 8, § 23.
 Subjects, specifications of, Art. 8, § 17.
 Surrender, corporate taxing power, Art. 8, § 4.
 Suspension, corporate taxing power, Art. 8, § 4.

TEACHER RETIREMENT FUNDS

Veterans land board bonds, investment, Art. 3, § 49-b.

TEACHERS RETIREMENT SYSTEM

Generally, Art. 16, § 67.

TERM OF OFFICE

Generally, Art. 16, §§ 30, 65.
 Assessor and collector of taxes, Art. 8, § 14.
 Boards and commissions, Art. 16, § 30a.
 Civil service offices, Art. 16, § 30b.
 County clerks, Art. 5, § 20.
 County surveyor, Art. 16, § 44.
 County treasurer, Art. 16, § 44.
 Court of Criminal Appeals, this index.
 Education, state board of, Art. 7, § 8.
 Hides and animal inspector, Art. 16, § 64.
 Judicial conduct commission, members, Art. 5, § 1-a.
 Notary public,
 State employees, Art. 4, § 26.
 Railroad commissioners, Art. 16, § 30.
 Regents board members, state university, Art. 16, § 30a.
 School officers and employees, Art. 7, § 16.
 Sheriffs, Art. 5, § 23.
 State officers, elected statutory officers, Art. 4, § 23.
 Supreme court clerk, Art. 5, § 3.
 Supreme court justices, Art. 5, § 2.

TESTIMONY

Evidence, generally, this index.

TESTS

Religious tests, public officers and employees, Art. 1, § 4.

TEXAS RANGERS

Retirement and disability pensions, trust fund, Art. 8, § 1-e.
 Retirement and pensions, Art. 16, § 66.

TEXAS WATER COMMISSION

Notice, creation of conservation and reclamation districts, Art. 16, § 59.

TIMBER AND LUMBER

Open space land, taxation, Art. 8, § 1-d-1.

TITLE AND OWNERSHIP

Existing rights of property, Art. 16, § 18.
 General land office, public lands, Art. 14, § 1.
 Patent applications,
 Former state lands, hearing defects, Art. 7, § 4A.
 School land board, Art. 7, § 4A.
 Real estate, jurisdiction; suits involving, Art. 5, § 8.
 Rights not revived, Art. 16, § 18.
 Tax sales, Art. 8, § 13.

TOLL ROADS

Turnpikes and Toll Roads, generally, this index.

TOWNS

Cities, Towns and Villages, generally, this index.

TRADE

Business and Commerce, generally, this index.

TRANSPORTATION

Drawbacks, Art. 16, § 25.
 Rebates, Art. 16, § 25.

TRAVELING EXPENSES

Constitutional convention members, Art. 17, § 2.
 Legislature, Art. 3, § 24.

TREASON

Generally, Art. 1, § 22.
 Arrest privilege exception, voters, Art. 6, § 5.

TREASURERS

State Treasurer, generally, this index.

TREATMENT

Medical Attendance and Treatment, generally, this index.

TRIAL

Crimes and offenses,
 Speedy trial, right of accused, Art. 1, § 10.
 Double jeopardy, prohibition, Art. 1, § 14.
 State officers and employees, impeachment, Art. 15, § 4.

TRUST COMPANIES

Banks and Trust Companies, generally, this index.

TRUST FUNDS

Retirement and pensions, Confederate veterans and Texas rangers, Art. 8, § 1-e.

TRUSTEES BOARD

Statewide retirement systems, Art. 16, § 67.

TRUSTS AND MONOPOLIES

Alcoholic beverages, state monopoly, Art. 16, § 20.

TRUSTS AND MONOPOLIES—Cont'd

Antitrust cases, deposition evidence, rights of accused, Art. 1, § 10.
 Depositions, evidence, rights of accused, Art. 1, § 10.
 Drawbacks, Art. 16, § 25.
 Rebates, Art. 16, § 25.
 State monopolies forbidden, Art. 1, § 26.

TRUSTS AND TRUSTEES

Homesteads, exemptions, Art. 16, § 50.

TURNPIKES AND TOLL ROADS

Bonds, Dallas county, Art. 3, § 52e.
 Lending states credit or grant of public money, Art. 3, § 52-b.
 Political subdivisions, lending of credit or granting of public money, Art. 3, § 52.

UNFAIR TRADE PRACTICES

Trusts and Monopolies, generally, this index.

UNITED STATES

Handicapped persons, funding for rehabilitation or treatment services, state acceptance, Art. 16, § 6.
 Mentally deficient and mentally ill persons,
 Funding for rehabilitation or treatment services, state acceptance, Art. 16, § 6.
 Officers and employees,
 Ineligibility for state offices, Art. 16, §§ 12, 19.
 State legislative office, ineligibility, Art. 3, § 19.
 Park development fund, acquisition of property, Art. 3, § 49-c.
 Real estate,
 Veterans land fund purchase, Art. 3, § 49-b.
 Social services,
 State cooperation, medical care and assistance, aged, disabled, blind and dependent children, Art. 3, § 51-a.
 State business, governor conducting, Art. 4, § 10.
 Veterans land fund, purchase of United States land, Art. 3, § 49-b.

UNIVERSITIES

Colleges and Universities, generally, this index.

UNIVERSITY OF TEXAS SYSTEM

Colleges and Universities, this index.

UNMANNED TELLER MACHINES

Banks and banking, Art. 16, § 16.

UNUSUAL OR CRUEL PUNISHMENT

Generally, Art. 1, § 13.

URBAN HOMESTEAD

Defined, Art. 16, § 51.

USURY

Generally, Art. 16, § 11.

VACANCIES IN OFFICE

Cities, towns and villages, extended term officers, Art. 11, § 11.
 County attorneys, Art. 5, § 21.
 County clerks, Art. 5, § 20.
 Criminal appeals court, Art. 5, § 4.
 District court clerks, Art. 5, § 9.
 Judicial offices, Art. 5, § 28.
 Railroad commissioners, Art. 16, § 30.
 Sheriff, Art. 5, § 23.
 State Officers and Employees, this index.
 Supreme court justices, Art. 5, § 2.
 Unexpired term filled, Art. 16, § 27.

VEHICLES

Motor Vehicles, generally, this index.

VENUE

Special laws, Art. 3, § 56.

VETERANS

Bingo games, veterans organizations, Art. 3, § 47.
 Bonds,
 Housing and land assistance, Art. 3, § 49-b-1.
 Confederate veterans,
 Pensions and retirement,
 Trust fund, Art. 8, § 1-e.
 Disabled veterans,
 Tax exemptions, Art. 8, § 2.
 Housing purchase assistance,
 Bond issuance, Art. 3, § 49-b-1.
 Land board. Veterans Land Board, generally, this index.
 Land purchase assistance, bond issuance, Art. 3, § 49-b-1-.

VETERANS LAND BOARD

Generally, Art. 3, § 49-b.
 Bonds, Art. 3, § 49-b-1.
 Interest, Art. 3, § 65.

VETERANS LAND FUND

Generally, Art. 3, § 49-b-1.

VICE PRESIDENT OF THE UNITED STATES

Elections,
 Voter qualifications, Art. 6, § 2a.

VILLAGES

Cities, Towns and Villages, generally, this index.

VOLUNTEER FIRE DEPARTMENTS

Bingo games, Art. 3, § 47.
 Compensation and salaries, death in line of duty, survivors assistance, Art. 3, § 51-d.
 Death in line of duty, survivors assistance, Art. 3, § 51-d.
 Survivors, death in line of duty, assistance, Art. 3, § 51-d.

VOTING

Elections, generally, this index.

VOUCHERS

Inspections, state officers, Art. 4, § 24.

WAGES

Compensation and Salaries, generally, this index.

WAIVER

Jury trial, commitment of persons of unsound mind, Art. 1, § 15-a.

WAR

Continuity of government operations, enemy attack, Art. 3, § 62.

WARDS

Guardian and Ward, generally, this index.

WARRANTS FOR PAYMENT OF MONEY

Compensation and salaries, state officers and employees, holding more than one office, Art. 16, § 33.
 Motor vehicle taxes and registration fees, disposition of revenues, Art. 8, § 7-a.

WATER COMMISSION

Notice,
 Conservation and reclamation districts creation, Art. 16, § 59.

WATER DEVELOPMENT

Bonds, Art. 3, § 49-c et seq.
 Funds, Art. 3, § 49-c et seq.
 Grants, Art. 3, § 49-d-1.
 Loans, Art. 3, § 49-d-1.
 United States,
 Contracts and bonds, Art. 3, § 49-c et seq.

WATER DEVELOPMENT BOARD

Generally, Art. 3, § 49-c et seq.

WATERS AND WATER COURSES

Political subdivisions, construction and maintenance, lending credit, Art. 3, § 52.

WATERWORKS AND WATER SUPPLY

Conservation and development, Art. 16, § 59.
 Construction, Art. 3, § 49-d.
 Contracts, storage facilities, Art. 3, § 49-d.
 Revenue bonds,
 Water development bonds, Art. 3, § 49-c et seq.
 Storage facilities, contracts, Art. 3, § 49-d.

WEAPONS

Deadly weapons, multiple convictions, involving, denial of bail, Art. 1, § 11a.
 Right to keep and bear arms, Art. 1, § 23.

WELFARE

Social Services, generally, this index.

WICHITA COUNTY

Hospital district, Art. 9, § 5.

WILLS

County courts, Art. 5, § 29.
 Descent and Distribution, generally, this index.
 Executors and Administrators, generally, this index.
 Informal or invalid, giving effect, local and special laws, Art. 3, § 56.
 Jurisdiction, Art. 5, §§ 8, 16.

WIND-POWERED ENERGY DEVICE

Tax exemptions, Art. 8, § 2.

WITNESSES

Confrontation,
 Rights of accused, Art. 1, § 10.
 Crimes and offenses,
 Compulsory process, rights of accused, Art. 1, § 10.
 Confrontation of witnesses, right of accused, Art. 1, § 10.
 Oaths and affirmations, Art. 1, § 5.

WITNESSES—Cont'd

Religious beliefs, disqualifications, Art. 1, § 5.
 Treason,
 Requirements, Art. 1, § 22.

WORDS AND PHRASES

Agricultural use,
 Tax assessments, Art. 8, § 1-d.
 Governmental functions,
 Consolidation of governmental functions,
 Counties and political subdivisions, Art. 3, § 64.
 Counties of 1,200,000 or more, Art. 3, § 63.
 Personal property homestead, taxation, Art. 8, § 1.
 Qualified elector, Art. 6, § 2.

WORKERS' COMPENSATION

Counties, Art. 3, § 60.
 Legislature, this index.

WORKERS' COMPENSATION—Cont'd

Municipal officers and employees, Art. 3, § 61.
 State officers and employees, Art. 3, § 59.

WRITS

Adoption of constitution, unexecuted or returned writs, Art. 16, § 53.
 Style, Art. 5, § 12.
 Supreme court or justice,
 Jurisdiction, Art. 5, § 3.

WRITS OF ELECTION

Legislature, vacancies in office, Art. 3, § 13.

WRITS OF ERROR

Appeals and Writs of Error, generally, this index.

ZONES AND ZONING

Reinvestment zones,
 Political subdivisions, tax relief, Art. 8, § 1-g.

REVISED CIVIL STATUTES

Title	Article	Title	Article
1. General Provisions	1	42. Courts—Practice in District and County	1971
2. Accountants—Public and Certified	31	43. Courts—Juvenile	2329
3. Adoption—See Family Code		44. Courts—Commissioners	2339
3A. Aeronautics	46c-1	45. Courts—Justice	2373
4. Agriculture and Horticulture—See Agriculture Code	47	46. Credit Organizations	2461
5. Aliens	166	46A. Declaratory Judgments	2524-1
6. Amusements—Public Houses of	178	47. Depositories	2525
7. Animals	180	48. Descent and Distribution—See Probate Code	
8. Apportionment	193	49. Education—Public—See Education Code	
9. Apprentices—See Family Code		50. Elections—See Election Code	
10. Arbitration	224	51. Eleemosynary Institutions	3174
10A. Architects	249a	52. Eminent Domain—See Property Code	3264
11. Archives	250	52A. Engineers	3271a
11A. Assignments, in General—See Business and Commerce Code		53. Escheat—See Property Code	3272
12. Assignments for Creditors—See Business and Commerce Code		54. Estates of Decedents—See Probate Code	
13. Attachment	275	55. Evidence	3704
14. Attorneys at Law	304	56. Execution	3770
15. Attorneys—District and County	321	57. Exemptions—See Property Code	3832
16. Banks and Banking	342	58. Express Companies	3860
17. Bees—See Agriculture Code	549	59. Feeble Minded Persons—Proceedings in Case of	3867
18. Bills and Notes—See Business and Commerce Code		60. Feeding Stuff—See Agriculture Code	3872
19. Blue Sky Law—Securities	579-1	61. Fees of Office	3882
19A. The Securities Act—Repealed		62. Fences—See Agriculture Code	3947
20. Purchasing and General Services Commission	601	63. Fire Escapes	3955
20A. Board and Department of Public Welfare	695b	63A. Fire Protection Districts	3972a
21. Bond Investment Companies	696	64. Forcible Entry and Detainer—See Property Code	3973
22. Bonds—County, Municipal, etc.	701	65. Frauds and Fraudulent Conveyances—See Business and Commerce Code	
23. Brands and Trade Marks—See Business and Commerce Code		66. Free Passes, Franks and Transportation	4005
24. Building—Savings and Loan Associations	852	67. Fish, Oyster, Shell, etc.—See Parks and Wildlife Code	4016
25. Carriers	882	68. Garnishment	4076
26. Cemeteries	912	68A. Good Neighbor Commission of Texas	4101-1
27. Certiorari	932	69. Guardian and Ward—See Probate Code	
28. Cities, Towns and Villages	961	70. Heads of Departments	4330
29. Commissioner of Deeds	1270	71. Health—Public	4414
29A. Commissioners on Uniform Laws	1273a	72. Holidays—Legal	4591
30. Commission Merchants—See Agriculture Code	1274	73. Hotels and Boarding Houses	4592
31. Conveyances—See Property Code	1288	74. Humane Society—Repealed	4597
32. Corporations	1302	75. Husband and Wife—See Family Code	
33. Counties and County Seats	1539	76. Injunctions	4642
34. County Finances	1607	77. Injuries Resulting in Death	4671
35. County Libraries	1677	78. Insurance—See Insurance Code	
36. County Treasurer	1703	79. Interest—Consumer Credit—Consumer Protection	5069
37. Court—Supreme	1715	80. Intoxicating Liquor—Repealed	
38. Court of Criminal Appeals	1801	81. Jails	5115
39. Courts of Appeals	1812	82. Juveniles	5119
40. Courts—District	1884	83. Labor	5144
41. Courts—County	1927		

Title	Article	Title	Article
84. Landlord and Tenant—See Property Code	5222	109A. Plumbing	6243-101
85. Lands—Acquisition for Public Use	5240	110. Principal and Surety—See Business and Commerce Code	
86. Land—Public—See Natural Resources Code	5249	110A. Public Offices, Officers and Employees	6252-1
87. Legislature	5422	110B. Public Retirement Systems	
88. Libel	5430	111. Quo Warranto	6253
89. State Library and Archives Commission	5434	112. Railroads	6259
90. Liens—See Property Code	5447	113. Rangers—State—Repealed	
91. Limitations	5507	113A. Real Estate Dealers	6573a
92. Mental Health	5547-1	114. Records	6574
93. Markets and Warehouses—See Agriculture Code	5562	115. Registration	6591
94. Militia—Soldiers, Sailors and Marines	5765	116. Roads, Bridges and Ferries	6663
95. Mines and Mining	5892	117. Salaries	6813
96. Minors—Removal of Disabilities of—See Family Code		118. Seawalls	6830
96A. Minors—Liability of Parents for Acts of Minors—See Family Code		119. Sequestration	6840
96B. Gifts to Minors—See Property Code	5923-101	120. Sheriffs and Constables	6865
97. Name	5924	120A. State and National Defense	6889-1
97A. National Guard Armory Board	5931-1	121. Stock Laws—See Agriculture Code	6890
98. Negotiable Instruments Act—See Business and Commerce Code		122. Taxation—See Tax Code	
99. Notaries Public	5949	122A. Taxation—General—See Tax Code	
100. Officers—Removal of	5961	123. Timber—See Natural Resources Code	7360
101. Official Bonds	5998	124. Trespass to Try Title—See Property Code	7364
102. Oil and Gas—See Natural Resources Code	6004	125. Trial of Right of Property—See Property Code	7402
103. Parks	6067	125A. Trusts and Trustees—See Property Code	7425a
104. Partition—See Property Code	6082	126. Trusts—Conspiracies Against Trade—See Business and Commerce Code	
105. Partnerships and Joint Stock Companies	6110	127. Veterinary Medicine and Surgery	7448
106. Patriotism and the Flag	6139	128. Water—See Water Code	
106A. Passenger Elevators	6145a	129. Wills—See Probate Code	
107. Pawnbrokers and Loan Brokers—Repealed		130. Workers' Compensation and Crime Victims Compensation	8306
108. Penitentiaries	6166	131. Wrecks—Repealed	
109. Pensions	6204	132. Occupational and Business Regulation	8401
		133. Safety	9201
		Final Title	

TITLE 1

GENERAL PROVISIONS

Art.

1. Common Law.
- 1a. Emergency Care; Relief from Liability for Civil Damages.
- 1b. Liability of Real Property Owner Permitting Persons to Enter for Recreational Purposes.
- 1c. Expired.
- 1d. Privilege to Investigate Theft.

SPECIAL LAWS

2. Special Laws: Notice.
3. If No Newspaper Published.
4. Notice for Each County.
5. Affecting Persons.
6. Where Applicant is a Non-Resident.
7. Details Unnecessary.
8. Proof of Publication.
9. Proof of Posting.

CONSTRUCTION OF LAWS

10. General Rules.
11. Grammatical Errors.
- 11a. Severability of Statutes.
- 11c. References to General Appropriations Act.

MISCELLANEOUS

12. Fiscal Year.
13. Reports of Officers.
14. Quorum.
15. Disqualifications.
16. Oath of Office.
17. Commencement of Term of Office.
18. Term of Office.
19. Vacancies; Ratification by Senate.
- 19a. Vacancies Filled by Incumbent Governor During Period Immediately Preceding Successor Taking Office.
20. Vacancy Filled by Election.
21. Vacancy in Board or Commission.
22. Officers of Texas.
23. Definitions.
- 23a. Standard Time.
24. Repealed.
25. Form of Oath.
26. Oaths, Affidavits and Affirmations; Persons Authorized to Administer and Issue Certificate; Armed Forces Members and Spouses; Presumption; Absence of Seal.
27. Seals and Scrolls.
28. Repealed.
- 28a. Legal Publications, Definitions.
29. Legal Rate of Publication.
- 29a. Official Publications.
- 29b. Annual Financial Statements; Publication by School, Soil Conservation, Road, and Other Districts.
- 29c. Certified Mail with Return Receipt; Use in Lieu of Registered Mail Authorized.
- 29c-1. Unsolicited Goods; Gift to Recipient.
- 29d. Official Notice of Federal Decennial Census.

Art.

- 29e. Boards and Commissioners Courts; Notice of Certain Public Hearings.
- 29f. Electronic Filing of Documents in District and County Courts and Courts of Appeals.
30. Revised Statutes Cited.

Art. 1. Common Law

The common law of England, so far as it is not inconsistent with the Constitution and laws of this State, shall together with such Constitution and laws, be the rule of decision, and shall continue in force until altered or repealed by the Legislature.

[Acts 1925, S.B. 84.]

Art. 1a. Emergency Care; Relief from Liability for Civil Damages

No person shall be liable in civil damages who administers emergency care in good faith:

(1) at the scene of an emergency or in a hospital for acts performed during the emergency unless such acts are wilfully or wantonly negligent; provided that nothing herein shall apply to the administering of such care where the same is rendered for remuneration or with the expectation of remuneration or is rendered by any person or agent of a principal who was at the scene of the accident or emergency because he or his principal was soliciting business or seeking to perform some services for remuneration; and further provided that this section shall not apply to a person who regularly administers care in a hospital emergency room or to an admitting physician, or to a treating physician associated by the admitting physician, of the patient bringing a health care liability claim;

(2) as emergency medical service personnel not licensed in the healing arts unless the emergency care is wilfully or wantonly negligent whether or not remuneration is received for the rendition of the service or whether or not remuneration is expected as a result of the rendition of the service.

[Acts 1961, 57th Leg., p. 681, ch. 317, § 1, eff. Aug. 28, 1961. Amended by Acts 1977, 65th Leg., p. 2054, ch. 817, § 21.02, eff. Aug. 29, 1977.]

Art. 1b. Liability of Real Property Owner Permitting Persons to Enter for Recreational Purposes

Sec. 1. If any owner, lessee or occupant of real property gives permission to another to enter the premises for recreational purposes, he does not thereby

(1) extend any assurance that the premises are safe for such purposes, or

(2) constitute the person to whom permission is granted one to whom a greater degree of care is owed than that owed to a trespasser on the premises, or

(3) assume responsibility for or incur liability for any injury to persons or property caused by any act of persons to whom permission is granted.

Sec. 2. The provisions of this Act shall not relieve any owner, lessee or occupant of real property of any liability which would otherwise exist for deliberate, willful or malicious injury to persons or property, nor does it create any liability where such liability does not now exist.

Sec. 3. The provisions of this Act shall not modify, extend or change in any way the doctrine of attractive nuisance as interpreted and applied by the courts of Texas.

Sec. 4. The provisions of this Act shall not be interpreted to limit, restrict, modify or change in any way the liability which would otherwise apply to any owner, lessee or occupant of real property who

(1) uses the premises or any part thereof, or permits the use of the premises or any part thereof, as a commercial recreational enterprise for purposes of profit, or

(2) makes a charge for permission to enter the premises, other than that levied against those who remove game from the premises in such sum as may reasonably be required for the replacement of such game.

Sec. 5. The provisions of this Act shall not be interpreted to create any liability where such liability does not now exist.

Sec. 6. (a) The word "premises," as used in this Act, shall include lands, roads, waters, water courses, and private ways, together with all buildings, structures, machinery or equipment attached thereto or located thereon.

(b) The term "recreational purposes," as used in this Act, means activities such as hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, nature study, water skiing and water sports.

[Acts 1965, 59th Leg., p. 1551, ch. 677, eff. Aug. 30, 1965. Amended by Acts 1981, 67th Leg., p. 934, ch. 349, §§ 1, 2, eff. June 10, 1981.]

Art. 1c. Expired

This article, derived from Acts 1969, 61st Leg., p. 1495, ch. 446, created the Governor's Committee on Human Relations that, by the terms of § 2 thereof, the Committee ceased to exist on August 31, 1975.

Art. 1d. Privilege to Investigate Theft

A person reasonably believing another has stolen or is attempting to steal property is privileged to

detain the person in a reasonable manner and for a reasonable period of time for the purpose of investigating ownership of the property.

[Acts 1973, 63rd Leg., p. 988, ch. 399, § 2(F), eff. Jan. 1, 1974.]

SPECIAL LAWS

Art. 2. Special Laws: Notice

Any person intending to apply for the passage of any local or special law shall give notice of such intention by having a statement of the substance of such law published once in some newspaper published in the county embracing the locality to be affected by said law, at least thirty days prior to the introduction into the Legislature of such contemplated law.

[Acts 1925, S.B. 84. Amended by Acts 1977, 65th Leg., p. 1406, ch. 569, § 1, eff. Aug. 29, 1977.]

Art. 3. If No Newspaper Published

If no newspaper is published in said county, a written copy of such statement shall be posted at the court house door and in five other public places in the immediate locality to be affected thereby in said county, for thirty days, and such notice shall accurately define the locality to be affected by said law.

[Acts 1925, S.B. 84.]

Art. 4. Notice for Each County

Where the locality to be affected by said law shall extend beyond the limits of any one county, such notice shall be given for each county to be affected.

[Acts 1925, S.B. 84.]

Art. 5. Affecting Persons

Whenever any person intends applying for the passage of a special law which shall affect persons chiefly, and not directly affect any particular locality more than others, such persons, if residing in this State, shall make publication of notice of such intention in the county of the residence of such person in the same manner as if the said law was to affect such locality.

[Acts 1925, S.B. 84.]

Art. 6. Where Applicant is a Non-Resident

If the applicant is a non-resident of this State, said publication need only be made in a newspaper published at the Capital, in like manner as if such person resided at the seat of government.

[Acts 1925, S.B. 84.]

Art. 7. Details Unnecessary

Said notice need not contain the particular form and terms of such contemplated law, but a statement only of the general purposes and nature of the same shall be sufficient.

[Acts 1925, S.B. 84.]

Art. 8. Proof of Publication

Whenever publication in a newspaper is required by law, proof of the same shall be made by the affidavit of the publisher accompanied with a printed copy of such notice as published.

[Acts 1925, S.B. 84.]

Art. 9. Proof of Posting

The posting above provided for may be shown by the return of the sheriff or constable, or by the affidavit of any credible person made on a written copy of the notice so posted, showing the fact of such posting, and such proof or other competent proof of the giving of said notice shall accompany the introduction of every local or special law.

[Acts 1925, S.B. 84; Acts 1927, 40th Leg., p. 42, ch. 29, § 1.]

CONSTRUCTION OF LAWS**Art. 10. General Rules**

The following rules shall govern in the construction of all civil statutory enactments:

1. The ordinary signification shall be applied to words, except words of art or words connected with a particular trade or subject matter, when they shall have the signification attached to them by experts in such art or trade, with reference to such subject matter.

2. The present or past tense shall include the future.

3. The masculine gender shall include the feminine and neuter.

4. The singular and plural number shall each include the other, unless otherwise expressly provided.

5. A joint authority given to any number of persons or officers may be executed by a majority of them, unless it is otherwise declared.

6. In all interpretations, the court shall look diligently for the intention of the Legislature, keeping in view at all times the old law, the evil and the remedy.

7. Whenever one law which shall have repealed another shall itself be repealed, the former law shall not be thereby revived without express words to that effect.

8. The rule of the common law that statutes in derogation thereof shall be strictly construed shall have no application to the Revised Statutes; but the said statutes shall constitute the law of this State respecting the subjects to which they relate; and the provisions thereof shall be liberally construed with a view to effect their objects and to promote justice.

[Acts 1925, S.B. 84.]

Art. 11. Grammatical Errors

Grammatical errors shall not vitiate a law, and a transposition of words and clauses may be resorted to when the sentence or clause is without meaning as it stands. In no case shall the punctuation of a law control or affect the intention of the Legislature in the enactment thereof.

[Acts 1925, S.B. 84.]

Art. 11a. Severability of Statutes

Sec. 1. Except to the extent otherwise specifically provided in a statute enacted previously or in the future, if any provision of a statute or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the statute which can be given effect without the invalid provision or application, and to this end the provisions of each statute are declared to be severable.

Sec. 2. Nothing in this Act affects the power or the duty of a court in an appropriate case to ascertain and effectuate the intent of the legislature with regard to the severability of a statute.

[Acts 1973, 63rd Leg., p. 69, ch. 45, eff. April 18, 1973.]

Art. 11c. References to General Appropriations Act

Sec. 1. [Amends art. 6252-11, § 2]

Sec. 2. [Amends art. 6701m-1]

Sec. 3. It is the intent of the legislature that references in law to a specific article of the General Appropriations Act should be by article title only.

Sec. 4. If a statute enacted or last amended before 1982 refers by number to an article of the General Appropriations Act, the reference shall be construed as meaning the article of the current General Appropriations Act, regardless of numerical designation, that corresponds in substance to the numerically cited article as it existed on the date of the enactment or most recent amendment of the statutory citation.

[Acts 1981, 67th Leg., p. 1006, ch. 383, §§ 3, 4, eff. Aug. 31, 1981.]

MISCELLANEOUS**Art. 12. Fiscal Year**

The fiscal year of the State shall terminate on the thirty-first day of August of each year, and appropriations of the State government shall conform thereto. All officers who are required by law to report annually or biennially to the Legislature or Governor shall close their accounts on that date, and as soon thereafter as practicable shall prepare and compile their respective reports.

[Acts 1925, S.B. 84.]

Art. 13. Reports of Officers

All annual or biennial reports intended for the use of the Legislature or Governor shall be sent by the respective officers to the Secretary of State on or before November first, and he shall promptly cause the same to be printed before the assembling of the Legislature, and upon its organization he shall send to the presiding officer of each house ten copies of each printed report for the members thereof.

[Acts 1925, S.B. 84.]

Art. 14. Quorum

The majority of any legally constituted board or commission, unless otherwise specially provided, shall constitute a quorum for the transaction of business.

[Acts 1925, S.B. 84.]

Art. 15. Disqualifications

No judge or justice of the peace shall sit in any case wherein he may be interested or where either of the parties may be connected with him by affinity or consanguinity within the third degree, or where he shall have been counsel in the case.

[Acts 1925, S.B. 84.]

Art. 16. Oath of Office

Each officer in this State, whether elected or appointed shall, before entering upon the duties of his office, take and subscribe the oath prescribed by Article 16, Section 1, of the Constitution of this State; and if he shall be required by law to give an official bond, said oath shall be filed with said bond.

[Acts 1925, S.B. 84.]

Art. 17. Commencement of Term of Office

The regular terms of office for all elective state, district, county and precinct offices of the State of Texas, excepting the offices of Governor, Lieutenant Governor, State Senator, and State Representative, shall begin on the first day of January next following the general election at which said respective offices are regularly filled, and those who are elected to regular terms shall qualify and assume the duties of their respective offices on the first day of January following their election, or as soon thereafter as possible. Persons elected to unexpired terms in the various state, district, county and precinct offices shall be entitled to qualify and assume the duties of their respective offices immediately upon receiving a certificate of election, which certificate shall be issued immediately following the official canvass of the results of the election at which they were elected, and they shall take office as soon thereafter as possible.

[Acts 1925, S.B. 84. Amended by Acts 1963, 53th Leg., p. 1017, ch. 424, § 5, eff. Aug. 23, 1963.]

Art. 18. Term of Office

Each officer, whether elected or appointed under the laws of this State, and each Commissioner, or member of any board or commission created by the laws of this State, shall hold his office for the term provided by law and until his successor is elected or appointed and qualifies; and each, on retiring from office, shall deliver to his successor all books, papers and documents relating to his office.

[Acts 1925, S.B. 84.]

Art. 19. Vacancies; Ratification by Senate

All vacancies in State or district offices, except members of the Legislature, shall be filled unless otherwise provided by law, by appointment of the Governor, which appointment, if made during its session, shall be with the advice and consent of two-thirds of the Senate present. If made during the recess of the senate, the said appointee, or some other person to fill such vacancy, shall be nominated to the Senate during the first ten days of its session. If rejected, said office shall immediately become vacant, and the Governor shall, without delay, make further nominations until a confirmation takes place. But should there be no confirmation during the session of the Senate, the Governor shall not thereafter appoint any person to fill such vacancy, who has been rejected by the Senate; but may appoint some other person to fill the vacancy until the next session of the Senate, or until the regular election to said office, should it sooner occur. Appointments to vacancies in offices elective by the people shall only continue until the first general election thereafter.

[Acts 1925, S.B. 84.]

Art. 19a. Vacancies Filled by Incumbent Governor During Period Immediately Preceding Successor Taking Office**Vacancies Covered**

Sec. 1. (a) This article applies to a vacancy that occurs in a state or district office and that is to be filled by appointment by the governor.

(b) For the purposes of this article, the expiration of a state or district officer's term of office is considered to create a vacancy in the office.

Vacancies Governor May Not Fill

Sec. 2. (a) Except as provided by Subsection (d) of this section, during the period beginning on the November 1 preceding the day of a general election for the office of governor and ending on the day the person elected governor at the election takes office or, if the person elected is unable for any reason to take office as governor, on the day his successor takes office as governor, the incumbent governor may not appoint a person to fill a vacancy covered by this article that occurred before and still existed on that November 1.

(b) This prohibition does not apply to an incumbent governor if the secretary of state proclaims that, according to his count of the returns from the general election, the incumbent governor is reelected.

(c) An appointment made in violation of this section is void.

(d) The prohibition established by Subsection (a) of this section does not apply to a vacancy covered by this Act that:

(1) is caused by the death of the officeholder that occurs after the October 1 but before the November 1 preceding the day of a general election for the office of governor; and

(2) would not have occurred anyway during that period by the expiration of the officeholder's term of office.

Vacancies Governor May Fill for Partial Term

Sec. 3. (a) If a vacancy covered by this article occurs during the period prescribed by Subsection (a) of Section 2 of this article, the incumbent governor may appoint a person to fill the vacancy, but only for a partial term expiring February 1 following the occurrence of the vacancy or, if Article V of the constitution of this state prescribes another date until which the vacancy in the specific office may be filled, expiring on the constitutional date.

(b) The limitation to a partial term does not apply to an appointee of an incumbent governor if the secretary of state proclaims that, according to his count of the returns from the general election, the incumbent governor is reelected.

(c) The limitation to a partial term does not apply to an appointment made under Subsection (d) of Section 2 of this article.

[Acts 1983, 68th Leg., p. 2828, ch. 484, art. I, eff. June 19, 1983.]

Art. 20. Vacancy Filled by Election

All elections to fill vacancies in office shall be to fill the unexpired term only.

[Acts 1925, S.B. 84.]

Art. 21. Vacancy in Board or Commission

Any vacancy in the office of any commissioner, commission or board created by law where the appointment to such office shall be authorized to be made by the Governor shall be filled by the Governor for the unexpired time, unless otherwise provided by law.

[Acts 1925, S.B. 84.]

Art. 22. Officers of Texas

When an officer is referred to in any civil or criminal law of this State, it shall mean an officer of this State, unless otherwise expressly provided.

[Acts 1925, S.B. 84.]

Art. 23. Definitions

The following meaning shall be given to each of the following words, unless a different meaning is apparent from the context:

1. "Property" includes real and personal property, and life insurance policies and the effects thereof.

2. "Person" includes a corporation.

3. "Written" or "in writing" includes any representation of words, letters or figures, whether by writing, printing or otherwise.

4. "Oath" includes affirmation.

5. "Swear" or "sworn" includes affirm.

6. "Signature" or "subscribe" includes the mark of a person unable to write.

7. "Justice" when applied to a magistrate, means justice of the peace.

8. "Preceding Federal Census" shall be construed to mean the United States Census of date preceding the action in question and each such subsequent Census as it occurs.

9. "Governing body," the governing or legislative body of any incorporated town, city or village, whether known as a council, commission, board of commissions, common council, board of aldermen, city council, or by whatever name such bodies may be known or designated.

10. "Official oath" means the oath required by Article 16, Section 1, of the Constitution of Texas.

11. "Comptroller" means the Comptroller of Public Accounts of the State of Texas.

12. "Land Commissioner" means the Commissioner of the General Land Office of Texas.

13. "Preceding" when used by way of reference to title, chapter or Article, means the next preceding.

14. "Succeeding" in like manner, means the next succeeding.

15. "Month" means a calendar month.

16. "Year" means a calendar year.

17. "Effects" includes all personal property and all interest therein.

18. "Affidavit" means a statement in writing of a fact or facts signed by the party making it, and sworn to before some officer authorized to administer oaths, and officially certified to by such officer under his seal of office.

[Acts 1925, S.B. 84. Amended by Acts 1957, 55th Leg., p. 1228, ch. 404, § 1.]

Art. 23a. Standard Time

The standard time throughout this state shall be that of the ninetieth (90th) meridian of longitude west from Greenwich, commonly known as "central standard time"; provided, however, that regions of

this State using Mountain Standard Time, shall continue to use that time as their official standard time. In all statutes, orders, rules, and regulations, either now in force or hereafter to be promulgated, relating to the time within which any Act shall or shall not be performed by any person, it shall be understood and intended that the time referred to is the standard time as provided for in this Article, unless otherwise expressly provided.

[Acts 1947, 50th Leg., p. 723, ch. 359, § 1.]

Art. 24. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 25. Form of Oath

All oaths and affirmations shall be administered in the mode most binding upon the conscience of the individual taking same and shall be subject to the pains and penalties of perjury.

[Acts 1925, S.B. 84.]

Art. 26. Oaths, Affidavits and Affirmations; Persons Authorized to Administer and Issue Certificate; Armed Forces Members and Spouses; Presumption; Absence of Seal

1. All oaths, affidavits, or affirmations made within this State may be administered and a certificate of the fact given by:

- a. A judge, clerk, or commissioner of any court of record;
- b. A notary public;
- c. A justice of the peace;
- d. Any member of any board or commission created by the laws of this State, in matters pertaining to the duties thereof;
- e. The Secretary of State of Texas;
- f. An employee of the Secretary of State of Texas who has duties related to the records required by Chapter 14, Texas Election Code, as amended (Article 14.01 et seq., Vernon's Texas Election Code), in matters pertaining to those duties;
- g. The Lieutenant Governor of Texas; and
- h. The Speaker of the House of Representatives of Texas.

2. Such oath, affidavit, or affirmation made without this State and within the physical limits of the United States and its territories may be administered and a certificate of fact given by:

- a. A clerk of any court of record having a seal;
- b. A commissioner of deeds duly appointed under the laws of this State;
- c. A notary public.

3. Such oath, affidavit, or affirmation made without the physical limits of the United States and its territories may be administered and a certificate of fact given by:

a. A minister, a commissioner, or charge d'affaires of the United States, resident and accredited to the country where the oath, affidavit, or affirmation is made;

b. A consul-general, consul, vice-consul, commercial agent, vice-commercial agent, deputy consul or consular agent of the United States, resident in the country where the oath, affidavit, or affirmation is made;

c. A notary public.

4. In addition to the methods above provided, any such oath, affidavit, or affirmation made by a member of the Armed Forces of the United States of America or any Auxiliaries thereto, or by the husband or wife of a member of the Armed Forces of the United States of America or any Auxiliaries thereto, may be administered by any commissioned officer in the Armed Forces of the United States of America or in the Auxiliaries thereto, and a certificate of such fact may be made by such officer.

In the absence of pleading or proof to the contrary it shall be presumed, when any certificate of an oath, affidavit, or affirmation is offered in evidence, that the person signing such as a commissioned officer was such on the date signed, and that the person making such oath, affidavit, or affirmation, to which such officer certifies, was one of those with respect to whom such action is hereby authorized.

No oath, affidavit, or affirmation administered in accordance with the provisions of this sub-section 4 of this Act shall be held invalid by reason of the failure of the officer certifying to such oath, affidavit, or affirmation to attach an official seal to the certificate thereto.

[Acts 1925, S.B. 84. Amended by Acts 1945, 49th Leg., p. 544, ch. 331, § 1; Acts 1947, 50th Leg., p. 2, ch. 2, § 1; Acts 1971, 62nd Leg., p. 2491, ch. 814, § 1, eff. June 8, 1971; Acts 1975, 64th Leg., p. 166, ch. 70, § 1, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 2885, ch. 771, § 1, eff. Aug. 31, 1981; Acts 1983, 68th Leg., p. 20, ch. 7, § 1, eff. Aug. 29, 1983.]

Art. 27. Seals and Scrolls

Each commissioner and each commission and each board which is or may be created by the laws of this State shall have authority to adopt a seal with which to attest its official documents, certificates or any official written paper of any kind. No private seal or scroll shall be required in this State on any written instrument except such as are made by corporations.

[Acts 1925, S.B. 84.]

Art. 28. Repealed by Acts 1929, 41st Leg., p. 235, ch. 100, § 1

Art. 28a. Legal Publications, Definitions

The following terms shall, unless the context indicates otherwise, have the following respective meanings:

(1) The term "publication" shall mean any proclamation, notice, citation, advertisement, or other matter required or authorized by law to be printed in a newspaper or newspapers by any institution, board, commission, department, officer, agent, representative, or employee of the State or of any subdivision or department of the State, or of any county, political subdivision, or district of whatever nature within the State, whether to be paid for out of public funds or charged as costs or fees.

(2) The term "newspaper" shall mean any newspaper devoting not less than twenty-five per cent (25%) of its total column lineage to the carrying of items of general interest, published not less frequently than once each week, entered as second-class postal matter in the county where published, and having been published regularly and continuously for not less than twelve (12) months prior to the making of any publication mentioned in this Act, except that any weekly newspaper shall be allowed to omit two (2) publication issues in twelve (12) months and still retain its status as a newspaper eligible to make any publication mentioned in this Act.

(3) The term "political subdivision" shall include cities, towns, and villages, but this definition shall not be exclusive.

(4) The term "district" shall include school districts of every kind, road districts, drainage districts, irrigation districts, levee improvement districts, conservation and reclamation districts, and improvement districts of every kind, but this definition shall not be exclusive.

(5) The term "shall" whenever used in this Act shall be construed as indicating mandatory provisions in this Act.

(6) The officer, employee, agency, or persons charged with the duty of inserting any publication in a newspaper or newspapers shall select the newspaper or newspapers in which such publication is to be inserted.

[Acts 1933, 43rd Leg., 1st C.S., p. 223, ch. 84, § 1. Amended by Acts 1941, 47th Leg., p. 480, ch. 303, § 1; Acts 1963, 58th Leg., p. 462, ch. 163, § 1, eff. Aug. 23, 1963.]

Art. 29. Legal Rate of Publication

Wherever any publication, as publication is defined in Section 1 hereof,¹ is authorized or required by any law, general or special, to be inserted in a newspaper, the legal rate which such newspaper shall charge for such publication shall be the lowest published rate of that newspaper for classified advertising.

All bills for publication shall be accompanied by a certificate of the publisher, under oath, certifying the number of publications and the dates thereof, together with the clipping of said publication from an issue of said newspaper, the rate charged, and certification that it is the lowest published classified rate. The Board of Control, or any district or

county official charged with the publication of any notice required by law to be published, is hereby fully authorized and empowered to cancel any contract made by them, or either of them, in the event said Board or official may ascertain or determine that a higher rate is being charged by said newspaper than provided herein. All political advertising, except display advertising, shall be done at the same rate as legal notices, and under the same supervision and regulations. Political advertising shall include the announcements for public office.

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

[Acts 1925, S.B. 84; Acts 1941, 47th Leg., p. 480, ch. 303, § 1; Acts 1961, 57th Leg., p. 586, ch. 278, § 1, eff. Aug. 28, 1961.]

¹ Articles 28a, 29, 29a.

Art. 29a. Official Publications

After the effective date of this Act, in every case where any law, general or special, requires the giving of any notice, the making of any proclamation or advertisement, or the service of any citation by any institution, board, commission, department, officer, agent, representative, or employee of the State or of any subdivision or department of the State or of any county, political subdivision, or district of whatever nature within the State by publication in a newspaper, the giving of such notice, the making of such proclamation or advertisement, or the service of such citation shall be by publication in a newspaper, as defined in Section 1 of this Act.¹ If any such law or laws specifies the manner of publication of such notice, proclamation, advertisement, or citation in a newspaper, such law or laws shall govern the manner of publication of such notice, proclamation, advertisement, or citation. If the manner of publication of such notice, proclamation, advertisement, or citation is not prescribed by the law requiring such notice to be given, such proclamation or advertisement to be made, or such citation to be served, then publication of such notice, proclamation, advertisement, or citation shall be made in a newspaper subject to the following restrictions and requirements:

(1) When the number of insertions of a publication is not specified by the law or laws requiring or authorizing such publication, such publication shall be inserted in some newspaper for at least one issue of such newspaper.

(2) If the period of time required for the giving of any notice, the making of any proclamation or advertisement, or the service of any citation is specified by the law or laws requiring or authorizing the

giving of such notice, the making of such proclamation or advertisement, or the service of such citation, then the provisions of such law or laws shall be complied with as to such period of time in all publications made under the provisions of this Act.

(3) If the period of time referred to in paragraph 2 of this Article is not specified in the law or laws referred to therein, then such publication shall be in some newspaper issued at least one day prior to the happening of the events referred to in such publication.

(4) In every case where any notice, proclamation, or advertisement is required to be given by any district or political subdivision within the State, such notice or proclamation shall be given or made by publication in some newspaper published in such district or political subdivision, if there be such newspaper which will make such publication at a price not in excess of the maximum prescribed by this Act, but if there be no such newspaper, then such publication shall be made in any newspaper published in the county in which said district or political subdivision is situated, or, if there be no newspaper in such county which will make such publication at a price not in excess of the maximum prescribed by this Act, then such notice shall be posted at the courthouse door of said county.

(5) In every case where any notice, proclamation, or advertisement is required to be given or made by any county, such notice, proclamation, or advertisement shall be given or made by publication in some newspaper published in the county, if there be such newspaper which will make such publication at a price not in excess of the maximum prescribed by this Act, but if there be no such newspaper published in the county, then such notice shall be made by posting a copy of same at the courthouse door of said county.

In every case where the service of any citation or notice in any case, controversy, suit, or proceeding in any of the Courts of the State is required to be by publication under the provisions of any general or special law of this State, such publication shall be published as required by the general or special law providing for such notice by publication.

In every case, controversy, proceeding, or suit in any of the Courts of the State where the service of citation or notice is required to be made by publication under any general or special law of this State and in which case, controversy, proceeding, or suit the State or any political subdivision or district thereof is a party and in which case, controversy, proceeding, or suit the cost of publication of such citation or notice is to be charged as fees or costs, the refusal of any newspaper to make publication of such citation or notice without payment of the cost of such publication in advance of publication shall be deemed as unqualified refusal to publish such citation or notice, and the sworn statement of the publisher or the person offering to insert such publi-

cation shall be subject to record as proof of such refusal.

[Acts 1925, S.B. 84. Amended by Acts 1941, 47th Leg., p. 480, ch. 303, § 1.]

¹ Articles 28a, 29, 29a.

Repealed in Part

Repealed in part by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1). See Vernon's Texas Rules of Civil Procedure, rule 117a.

Art. 29b. Annual Financial Statements; Publication by School, Soil Conservation, Road, and Other Districts

(a) The governing body of each school district, junior college district, road district, soil conservation district, water improvement district, water control and improvement district, fresh water supply district, drainage district, navigation district, river authority, conservation and reclamation district, or any other kind of district organized under Section 52 of Article III or Section 59 of Article XVI of the Constitution of Texas, shall cause to be prepared an annual financial statement showing the total receipts of each fund subject to its orders during the fiscal year, itemized according to source, such as taxes, assessments, service charges, grant of state money, gifts, or any other general source from which such funds are derived; showing total disbursements of such funds, itemized according to the nature of the expenditure; and showing the balance on hand in each fund at the close of the fiscal year.

(b) Except as provided by Subsection (c) of this section, the presiding officer of such governing body shall submit such financial statements to some newspaper in each county in which the district or any part thereof is located. The publication shall be made within two months after the close of the fiscal year, except that the publication of a school district statement shall be made within 120 days after the close of the fiscal year and in accordance with the accounting method required by the Central Education Agency. Provided, however, if the district is located in more than one county then such publication may be in any newspaper having a general circulation in said district. If there is no newspaper published in the county, then the publication shall be made in a newspaper in an adjoining county.

(c) The presiding officer of a school district shall submit the district's financial statement to a daily, weekly, or biweekly newspaper published within the boundaries of the district. If no daily, weekly, or biweekly newspaper is published within the boundaries of the district, the financial statement shall be published in accordance with Subsection (b) of this section.

[Acts 1957, 55th Leg., p. 1240, ch. 410, § 1. Amended by Acts 1981, 67th Leg., p. 457, ch. 193, § 1, eff. May 25, 1981; Amended by Acts 1981, 67th Leg., p. 628, ch. 249, § 1, eff. May 28, 1981.]

Art. 29c. Certified Mail with Return Receipt; Use in Lieu of Registered Mail Authorized

All persons, firms, associations, corporations, and all municipalities, counties and other political subdivisions of the State, all State Departments, and State Agencies and boards, and all public officials are hereby authorized and empowered to use certified mail with return receipt requested, in lieu of registered mail in all instances where registered mail has heretofore been required or may hereafter be authorized by law. The mailing of any required notice of hearing, citation, bid request, or other notices, information or material by such certified mail shall have the same legal effect as if sent by registered mail, provided receipt for such certified mail is validated by official post office postmark. Provided, further, that where existing law now requires registered mail so as to provide insurance against loss of articles or material having an intrinsic value, then such insured articles or material shall continue to be sent by registered mail.

[Acts 1957, 55th Leg., p. 1266, ch. 424, § 1.]

Art. 29c-1. Unsolicited Goods; Gift to Recipient

Unless otherwise agreed, where unsolicited goods are delivered to a person, he has a right to refuse to accept delivery of the goods and is not bound to return such goods to the sender. Goods received due to a bona fide mistake are to be returned, but the burden of proof of the error shall be upon the sender. If such unsolicited goods are either addressed to or intended for the recipient, they shall be deemed a gift to the recipient, who may use them or dispose of them in any manner without any obligation to the sender. Provided, however, the provisions of this Act shall not apply to goods substituted for goods ordered or solicited by the recipient.

[Acts 1969, 61st Leg., p. 2044, ch. 700, § 1, eff. Sept. 1, 1969.]

Art. 29d. Official Notice of Federal Decennial Census

Sec. 1. (a) Except as provided by Subsection (b) of this section, neither the state nor any political subdivision or agency thereof except the Legislature shall ever officially recognize or act upon any report or publication, in whatever form, of any Federal Decennial Census, either as a whole or as to any part thereof, before the first day of September of the year immediately following the calendar year during which such census was taken.

(b) For purposes of redistricting, a political subdivision that is governed by a body elected from single-member districts may recognize and act on the population tabulations of a census on or after the date on which the governor receives the report of the basic tabulations of population from the Secretary of Commerce under 13 U.S.C. Sec. 141(c). If a statute requires political subdivisions classified

by population to elect the governing body from single-member districts, this subsection does not apply to a political subdivision that is not subject to the statute under the immediately prior census.

Sec. 2. As of the first day of September of the year immediately following the calendar year during which said census was taken, the state and all political subdivisions and agencies thereof shall recognize and act upon the population reports or counts as released by the Director of the Bureau of the Census of the U.S. Department of Commerce, or of its successor agency; and as to those parts of such population reports or counts not then published, official recognition shall be taken immediately upon the publication thereof after said first day of September.

[Acts 1963, 58th Leg., p. 1151, ch. 447, eff. Aug. 23, 1963. Amended by Acts 1971, 62nd Leg., p. 37, ch. 18, § 1, eff. March 11, 1971; Acts 1981, 67th Leg., p. 1873, ch. 450, § 1, eff. June 11, 1981.]

Art. 29e. Boards and Commissioners Courts; Notice of Certain Public Hearings

(a) In addition to other required notice and if not otherwise required by law to give notice by publication, any school board, county commissioners court, or governing board of a city shall publish notice not more than 30 days nor less than 10 days before a public hearing relating to fiscal budgets or a regular or special election. Except as provided by Subsection (b) of this section, the notice shall be published in at least one newspaper of general circulation in the county in which the board or court is located.

(b) A school board shall publish notice in a daily, weekly, or biweekly newspaper published within the boundaries of the district. If no daily, weekly, or biweekly newspaper is published within the boundaries of the district, the school board shall publish notice in accordance with Subsection (a) of this section.

[Acts 1967, 60th Leg., p. 1218, ch. 549, § 1, eff. Aug. 28, 1967. Amended by Acts 1979, 66th Leg., p. 2315, ch. 841, § 4(a), eff. Jan. 1, 1982; Acts 1981, 67th Leg., p. 458, ch. 193, § 2, eff. Jan. 1, 1982.]

Art. 29f. Electronic Filing of Documents in District and County Courts and Courts of Appeals

Electronic Filing of Documents

Sec. 1. (a) Electronic filing of documents is data transmitted to a district or county clerk or a clerk of any court of appeals by the communication of information, displayed originally in written form, to digital electronic signals transformed by computer and stored either on microfilm, magnetic tape, optical disks or any other medium if the district or county or court of appeals has established a system for receiving electronically transmitted information from an electronic copying device, and the system has been approved by the supreme court.

(b) The place of filing is the receiving station designated by the district or county clerk or the clerk of the court of appeals to which the information may be transmitted.

(c) The following must occur to complete an electronic filing:

(1) a party desiring to file an instrument with the district or county clerk or the clerk of the court of appeals shall transmit the instrument electronically;

(2) the receiving station shall transmit acknowledgment by encoding electronic receipt of the transmission back to the sending party;

(3) the sending station shall encode validation of the encoded receipt as correct; and

(4) the receiving station shall respond by encoded transcription into the computer system that validation has occurred, and that the electronic transmission has been completed, which shall constitute completion of the filing.

(d) The receiving station, upon completion of filing, shall transmit data as required to the appropriate court or other distribution as required by statute or rule from or through the medium of direct computer transmission, microfilm, magnetic tape, or optical disks, or any other medium approved by the supreme court.

Transmission and Receipt of Reports, Writs, Citations, Subpoenas, Returns, Transcripts of Previous Court Proceedings, and Other Documents Generated and Received Between the Justice Agencies and Other Individuals and Institutions

Sec. 2. The courts of a county may adopt local rules that govern the transmission and receipt of documents or reports stored or created in digital electronic or facsimile form and recognize such document as the original record for file, or evidentiary purpose. Said rules shall be submitted to the supreme court for review and adoption as a part of the overall plan or procedure.

Supreme Court Regulation and Approval

Sec. 3. (a) If the supreme court determines that each document filed by electronic transmission be signed in the original, it shall be sufficient that the sending station at the point of origin maintain a hard copy with original signature affixed, which shall be filed in original hard copy medium upon order of the court. The electronic transmission of the data to be filed shall bear a facsimile or printing of the required signature, which may be represented in numerical form. The electronically reproduced document shall bear a copy of this signature or its representation in numerical form, and the electronically reproduced document shall be accepted as the signature document for all court-related purposes unless the hard copy with original signature affixed is requested by one or more parties to a suit or other agent required by statute, law, or other legal requirement, and the request is made in the form of a motion to the court, which shall, upon granting the motion, order that the original be filed with the court.

(b) The court shall adopt rules and procedures to regulate the use of electronic copying devices for filing in the courts.

(c) A district or county clerk or clerk of a court of appeals who believes there is justification for use of an electronic filing system in his office shall request approval from the supreme court. The court shall approve or disapprove the request, and may withdraw approval at any time the system does not meet its requirements.

[Acts 1983, 68th Leg., p. 4505, ch. 732, eff. Aug. 29, 1983.]

Art. 30. Revised Statutes Cited

These Revised Civil Statutes shall be known and may be cited as the "Revised Statutes."

[Acts 1925, S.B. 84.]

TITLE 2

ACCOUNTANTS—PUBLIC AND CERTIFIED

Art.

31 to 41a. Repealed.

41a-1. Public Accountancy Act of 1979.

41b. Repealed.

Arts. 31 to 41. Repealed by Acts 1945, 49th Leg., p. 517, ch. 315, § 26

Art. 41a. Repealed by Acts 1979, 66th Leg., p. 1496, ch. 646, § 30, eff. Sept. 1, 1979

See, now, art. 41a-1.

Art. 41a-1. Public Accountancy Act of 1979

Policy and Purpose

Sec. 1. The practice of public accountancy is in all respects a learned profession having specialized educational and experience requirements. The terms "accountant" and "auditor" and the derivations, combinations, and abbreviations of those terms carry with them an implication of competence in the profession of public accountancy on which the public relies in personal, business, and public activities and enterprises. It is the policy of this state and the purpose of this Act that the admission of persons to practice public accountancy depends on education and experience commensurate with and required by the exigencies of the profession, that persons professing to practice public accountancy be qualified to do so, that the persons continue to maintain high standards of professional competence, integrity, and learning, that areas of specialized practice require special training, and that the activities and competitive practices of those practicing public accountancy be regulated to be free of commercial exploitation toward the end that the public will be provided with a high level of professional competence at reasonable fees by independent, qualified persons.

Short Title

Sec. 1A. This Act may be cited as the Public Accountancy Act of 1979.

Definitions

Sec. 2. In this Act:

(1) "Board" means the Texas State Board of Public Accountancy.

(2) "Person" means an individual, partnership, or corporation.

(3) "State" includes any state, territory, or insular possession of the United States and the District of Columbia.

(4) "Corporation" means a professional public accounting corporation organized under The Texas Professional Corporation Act, as amended (Article 1528e, Vernon's Texas Civil Statutes), or an equivalent law of another state, territory, or foreign country.

(5) "Financial statement" means a statement and related footnotes that purport to show financial position at a specified time or changes in financial position during a specified period of time, including a statement that uses the cash or other incomplete basis of accounting. The term includes a balance sheet, statement of income, statement of retained earnings, statement of changes in financial position, and statement of changes in owners' equity or any combination thereof, but does not include incidental financial data included in a management advisory or consulting services report to support recommendations to a client, nor does it include a tax return and supporting schedules.

Acts Not Restricted

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

(b) Nothing contained in this Act shall prohibit any person not a certified public accountant or public accountant from serving as an employee of a certified public accountant or public accountant, partnership, or corporation composed of certified public accountants and/or public accountants holding a license or licenses to practice issued by the board; provided, however, that such employee shall not issue any accounting or financial statement over his own name.

(c) Nothing contained in this Act shall prohibit a certified public accountant or a registered public accountant of another state or any accountant who holds a certificate, degree, or license in a foreign country, constituting a recognized qualification for the practice of public accountancy in such country, from temporarily practicing in this state on professional business incident to his regular practice outside this state; provided that such temporary practice is conducted in conformity with the laws of Texas and the regulations and rules of professional conduct promulgated by the board. The person coming into this state shall notify the board of his incidental, temporary practice in the state and shall

pay to the board a fee set by the board, not to exceed \$10.

State Board of Public Accountancy

Sec. 4. (a) The Texas State Board of Public Accountancy shall consist of 12 members, each of whom shall be a citizen of the United States and a resident of this state. Members of the board and their successors shall be appointed by the governor with the advice and consent of the senate. At least seven members shall be certified public accountants in public practice. Two members shall be certified public accountants or public accountants. The remaining three members shall be public representatives who are not licensed under this Act and who are not financially involved in an organization subject to regulation by the board. The term of office of each member of the board shall be six years and each member shall continue until a successor is appointed. Members of the present board shall continue in office until their respective terms have expired or until their successors have been appointed.

(b) A member of the board may not be an officer, employee, or paid consultant of a trade association of the public accountancy profession.

(c) A member or employee of the board may not be related within the second degree of affinity or within the second degree of consanguinity to a person who is an officer, employee, or paid consultant of a trade association of the profession of public accountancy.

(d) A board member who has served as a member for six consecutive years shall not be eligible for reappointment until two years shall have elapsed between the end of the term of his last prior appointment and the beginning of the term of a new appointment.

(e) Each member of the board is entitled to reimbursement for actual and necessary expenses incurred in performing the functions of the board and to \$100 for each day on which the member attends an official meeting of the board or assists in the administration of an examination under this Act.

(f) Appointments to the board shall be made without regard to the race, creed, sex, religion, or national origin of the appointees.

(g) Each member of the board shall be present for at least one-half of the regularly scheduled board meetings held each year. Failure of a board member to meet this requirement automatically removes the member from the board and creates a vacancy on the board.

(h) A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes), may not act as a general counsel to the board or serve as a member of the board.

Powers and Duties of Board

Sec. 5. (a) The board shall administer and carry out this Act and shall:

(1) elect from its members a chairman, secretary, treasurer, and other officers as the board considers necessary;

(2) keep records of all proceedings and actions by and before the board;

(3) keep a seal which shall be judicially noticed; and

(4) employ personnel and independent contractors necessary to assist it in the performance of its duties.

(b) A majority of the board constitutes a quorum for the transaction of business. The members of the board who are not certified public accountants have all the authority, responsibility, and duties of any other member of the board.

(c) The board shall keep an information file about each complaint filed with the board. If a written complaint is filed with the board relating to a licensee under this Act, the board, at least as frequently as quarterly and until the complaint is finally disposed of, shall notify the complainant of the status of the complaint.

Rulemaking

Sec. 6. (a) The board shall promulgate rules deemed necessary or advisable to effectuate this Act, including the promulgation of rules of professional conduct in order to establish and maintain high standards of competence and integrity in the practice of public accountancy and to insure that the conduct and competitive practices of licensees serve the purposes of this Act and the best interest of the public. The board in its rules of professional conduct shall not restrict advertising or competitive bidding by licensees except if necessary to:

(1) insure that advertising, price information, and other communications from licensees are informative, free of deception, and consistent with the professionalism expected and deserved by the public from those engaged in the practice of public accountancy;

(2) insure that the conduct and dealings of licensees are free from fraud, undue influence, deception, intimidation, overreaching, harassment, and other forms of vexatious conduct, including uninvited solicitations to perform professional accounting services; provided, however, that the term "uninvited solicitation" shall not be deemed to include advertising in print, radio, motion pictures, and television media; or

(3) regulate the competitive practices of licensees to the extent necessary to insure that:

(A) contracts or engagements between a licensee and any state agency, political subdivision, county, municipality, district, authority, or publicly owned

utility for the performance of professional accounting services are not solicited or awarded on the basis of competitive bids submitted for such contracts or engagements in violation of law;

(B) contracts or engagements for the preparation of or opinion on any financial statement which is or can be used by or given to a person or entity not a party to the contract or engagement for the purpose of inducing reliance thereon are not entered into on the basis of competitive bids; this paragraph shall not apply to any tax or consulting services; further, this paragraph shall not apply to any accounting services or any contracts or engagements for or opinion on any financial statement of any sole proprietorship, partnership, or corporation whose sales or other revenues did not exceed \$300,000 for the latest complete fiscal year; however, the \$300,000 amount provided in this paragraph shall be adjusted proportionately upward or downward on the first day of each calendar year according to changes from January 1, 1979, in the Consumer Price Index for all Urban Consumers published by the United States Department of Labor; or

(C) no licensee engages in any competitive practice which would impair the independence or quality of services rendered by any licensee or which would impair or restrict the opportunity for members of the public to seek and secure high quality professional accounting services at reasonable prices or which would unreasonably restrict competition among licensees.

The board may adopt a system of required annual continuing education for licensees to assure that the licensees remain informed of changes in the field of accountancy. The board may recognize areas of specialization in the field of accountancy and may recognize alternate ways by which licensees may demonstrate acceptable levels of competency.

(b) If the appropriate standing committees of both houses of the legislature acting under Section 5(g), Administrative Procedure and Texas Register Act, as added (Article 6252-13a, Vernon's Texas Civil Statutes), transmit to the board statements opposing adoption of a rule under that section, the rule may not take effect or, if the rule has already taken effect, the rule is repealed effective on the date the board receives the committees' statements.

Expenses of Board

Sec. 7. (a) The fees and other money received by the board under this Act shall be deposited in the state treasury to the credit of a special fund to be known as the public accountancy fund and may be used only for the administration of this Act.

(b) The board shall file an annual report of its activities with the governor and the Legislative Budget Board. The report shall include a summary statement of all receipts and disbursements of the board for each calendar year. The board's funds shall be audited each fiscal year by the state auditor.

Prohibition Against Practicing Without License

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

(b) No partnership or corporation shall assume or use the title or designation "Certified Public Accountant" or the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such partnership or corporation is composed of certified public accountants unless such partnership or corporation is registered as a partnership or corporation of certified public accountants under this or prior Acts, holds a license issued under Section 9 of this Act, and all of such partnership's or corporation's offices in this state for the practice of public accountancy are maintained and registered as required under Section 10 of this Act.

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

(d) No partnership or corporation shall assume or use the title or designation "Public Accountants" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such partnership or corporation is composed of public accountants, unless such partnership or corporation is registered as a partnership or corporation of public accountants under this or prior Acts or as a partnership or corporation of certified public accountants under this or prior Acts, holds a license

issued under Section 9 of this Act, and all of such partnership's or corporation's offices in this state for the practice of public accountancy are maintained and registered as required under Section 10 of this Act.

(e) No person shall assume or use the title or designation "certified accountant," "chartered accountant," "enrolled accountant," "licensed accountant," or any other title or designation likely to be confused with "certified public accountant" or "public accountant," or any of the abbreviations, "CA," "PA," "EA," "RA," or "LA," or similar abbreviations likely to be confused with "CPA"; provided, however, that only a person holding a license issued under Section 9 of this Act and all of whose offices in this state for the practice of public accountancy are maintained and registered as required under Section 10 of this Act may hold himself out to the public as an "accountant" or "auditor" or any combination of said terms; and provided further that a foreign accountant registered under this or prior Acts who holds a license issued under Section 9 of this Act and all of whose offices in this state for the practice of public accountancy are maintained and registered as required under Section 10 of this Act, may use the title under which he is generally known in his state or country, followed by the name of the state or country from which he received his certificate, license, or degree.

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

(g) No licensee shall assume or use a name which is misleading in any way as to the legal form of the firm or as to the persons who are partners, officers, or shareholders of the firm. The name or designation any partnership or corporation may assume or use shall contain the personal name or names of one or more individuals presently or previously members thereof, and the name or designation any individual may assume or use shall contain his name. No trade name or descriptive words indicating character or grade of service offered may be used or included except as authorized by rules promulgated by the board.

(h) No licensee shall assume or use the designation "and Company" or "and Associates" or abbreviations thereof in designating a firm in the practice of public accountancy unless there are at least two persons holding licenses under this Act involved in the practice of the firm.

• Annual Licenses to Practice

Sec. 9. (a) Licenses shall be issued by the board to the following upon the payment of fees hereinafter specified:

(1) holders of the certificate of "Certified Public Accountant" issued under this or prior Acts; and

(2) such persons as are registered with the board under the provisions of this or prior Acts.

There shall be paid to the Texas State Board of Public Accountancy by all persons referred to in Subdivisions (1) and (2) of this subsection an annual license fee not to exceed \$60. All licenses shall expire on the 31st day of December of each year or on such other date or dates as set by the board pursuant to Subsection (b) of this section, but shall annually be renewed for a period of one year upon the payment of a fee of not more than \$60, the board being hereby given the authority and duty to determine the amount of such renewal fee not less than 30 days prior to the beginning of the year to which it applies and to mail notices thereof each year by that date.

Failure of any licensee to pay the annual license renewal fee on or before the date it is due shall automatically cancel his license. Any licensee whose license shall have been canceled because of failure to pay the annual license renewal fee may secure reinstatement of his license at any time within that license year upon payment of the delinquent fee together with a penalty of \$20. After expiration of the license year for which the license fee was not paid, no license shall be reinstated except upon application and examination satisfactory to the board and payment of delinquent fees and a penalty to be assessed by the board. The board shall have no authority to waive the collection of any fee or penalty.

(b) The board by rule may adopt a system under which licenses expire on various dates during the year. Dates relating to cancellation and reinstatement of licenses shall be adjusted accordingly. For the year in which the license expiration date is changed, license fees shall be prorated on a monthly basis so that each licensee shall pay only that portion of the license fee which is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the total license renewal fee shall be payable.

(c) The board by rule may adopt a system by which individual licensees over age 65 may qualify for a reduced license fee.

Registration With the Board

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

(1) all individuals registered as Public Accountants under the Public Accountancy Act of 1945¹ and all individuals registered under Section 14 of this Act;

(2) partnerships qualified under this or prior Acts;

(3) corporations qualified under this or prior Acts; and

(4) each office established or maintained in this state for the practice of public accountancy in this state by a certified public accountant or partnership or corporation of certified public accountants or by a public accountant or a partnership or corporation of public accountants or by an individual registered under Section 14 of this Act, but no fee shall be charged for such registration. Each such office shall be under the direct supervision of a resident manager who may be either a principal or a staff employee holding a license issued by the board which is in full force and effect; provided that the title or designation "Certified Public Accountant" or the abbreviation "CPA" shall not be used in connection with such office unless such resident manager is the holder of a certificate as a certified public accountant and a license issued by the board, both of which are in full force and effect. Such resident manager may serve in such capacity only in one office at the same time except as authorized by rule of the board. The board shall by regulation prescribe the procedure to be followed in effecting such registrations. The board may by rule require that a sign notifying consumers that complaints may be directed to the board be prominently displayed in each office registered under the provisions of this section and may prescribe the size and contents of such sign.

All applicants for registration shall furnish satisfactory evidence of eligibility for registration. The board shall have power to examine such applications and may refuse registration to any applicant who is unable to meet the standards imposed by this Act.

¹ Article 41a (repealed).

Rules and Requirements Applicable to Partnerships and Corporations

Sec. 11. (a) All rules and statutory requirements applying to partnerships apply to corporations. All rules and statutory requirements applying to partners of partnerships apply to incorporators, stockholders, officers, and directors of corporations. All rules and statutory requirements governing employees or agents of partnerships apply to employees or agents of corporations.

(b) All rules and statutory requirements applying to partnerships apply to the partners of the partnership. Rules and statutory requirements applying to

corporations apply to incorporators, stockholders, officers, and directors of corporations.

Certification of Certified Public Accountants

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

(1) who is a citizen of the United States or who, if not a citizen, has lived in the State of Texas for the 90 days immediately preceding the date of submitting to the board the initial application to take the written examination conducted by the board for the purpose of granting a certificate of "Certified Public Accountant" or has maintained permanent legal residence in Texas for the six months immediately preceding the date of submission;

(2) who shall have qualified to take the examination for the certificate in this state;

(3) who has attained the age of 18 years;

(4) who is of good moral character;

(5) who meets the requirements of education and experience as hereinafter provided:

(A) the experience requirements shall be for the number of years as provided in Paragraph (B) or (C) below and shall be in public practice under the supervision of a certified public accountant or public accountant or in an activity comparable thereto or in any combination of such types of experience in work of a nonroutine accounting nature which continually requires independent thought and judgment on important accounting matters; and all such experience must be satisfactory to the board;

(B) the education requirement shall be either (i) a baccalaureate degree conferred by a college or university recognized by the board, with a major in accounting, or with a nonaccounting major, supplemented by what the board determines to be substantially the equivalent of an accounting major, with not less than 30 semester hours of accounting and 20 additional semester hours of related courses in other areas of business administration; and the experience requirement shall be two years of the experience described in Paragraph (A) above; or (ii) graduation from an accredited high school, plus two years of study of accounting or related subjects including at least 20 semester hours of accounting in one or more colleges or universities recognized by the board, plus six years of experience under the supervision of a certified public accountant in work described in Paragraph (A) above, in which event such certified public accountant or certified public accountants, if the applicant has been employed by more than one, shall certify to the board that the applicant has had during such six-year period the experience described in Paragraph (A) above; and

(C) the experience requirement shall be only one year of the experience described in Paragraph (A) above for any candidate holding a master's degree in accounting or business administration from a college or university recognized by the board or

holding a professional degree in accounting with a minimum of 30 semester hours in accounting designated other than as a master's degree but judged by the board to be equivalent to that degree and to be at an appropriate professional level, if the candidate has satisfactorily completed at least 30 semester hours in accounting and 20 semester hours in other areas of business administration and such related subjects as the board shall determine to be appropriate; and

(6) who shall have passed a written examination in theory of accounts, accounting practice, auditing, commercial law affecting public accounting, and such other related subjects as the board shall determine to be appropriate. A grade of at least 75 percent on each subject shall be required as a passing grade.

Any candidate who meets the education requirements under Paragraph (B) or (C) of Subdivision (5) above and who is duly enrolled as an attorney by the Supreme Court of Texas shall be given credit for commercial law without taking the written examination on commercial law.

The board may by written regulations provide for granting credit to a candidate for his satisfactory completion of a written examination in any of the subjects specified in Subdivision (6) above given by the licensing authority in any other state. Such regulations shall include such requirements as the board shall determine to be appropriate in order that any examination approved as a basis for any such credit shall in the judgment of the board be at least as thorough as the most recent examination given by the board at the time of granting such credit.

None of the education or experience requirements specified above shall apply to a candidate who is registered as a public accountant under The Public Accountancy Act of 1945, as amended (Article 41a, Vernon's Texas Civil Statutes), and holds a license issued under this Act.

A candidate who has met the education requirements shall be eligible to take the examination in all subjects without waiting until he meets the experience requirements; provided that the candidate also meets the requirements of Subdivisions (1), (2), (3), and (4) of this section.

A candidate for the certificate of certified public accountant who has successfully completed the examination under Subdivision (6) above shall have no status as a certified public accountant, unless and until the candidate has the requisite experience and has received notice of certification as a certified public accountant.

The holder of a certificate heretofore issued under the provisions of prior Acts shall not be required to secure a new certificate as a certified public accountant under this Act.

The applicable education and experience requirements under this Act shall be those in effect on the

date of the candidate's application for the examination or reexamination by which the candidate successfully completes the examination. Any person qualified to sit under The Public Accountancy Act of 1945, as amended (Article 41a, Vernon's Texas Civil Statutes), shall continue to qualify to sit for the examination as long as the initial qualifications are met.

Any person who at the effective date of this Act has entered a program to meet the education and experience requirements of The Public Accountancy Act of 1945, as amended and as in force immediately prior to the effective date of this Act, shall file with the board within 180 days after the effective date of this Act a written declaration thereof and submit such proof thereof as the board may require. After the filing of such declaration and proof under rules and regulations prescribed by the board, a person shall be allowed the time reasonably required to complete his program to meet the education requirements in force immediately prior to the effective date of this Act, but no more than four years following the effective date of this Act to meet such education requirements in force immediately prior to the effective date of this Act. Upon completion of such requirements, if otherwise qualified to take the examination, he shall be permitted to make his application and take the examination under such education requirements.

Every person who has met the requirements of Subdivisions (1), (2), (3), (4), (5), and (6) of this section and is ready to receive his certificate as a "Certified Public Accountant" shall before receiving such certificate take an oath that he will support the Constitution of the United States and of this state and the laws thereof and will comply with the rules of professional conduct promulgated under this Act. This oath shall be administered by a member of the board or by such other person as may be authorized by law to administer oaths.

Reciprocity

Sec. 13. The board may in its discretion waive the examination of and may issue a certificate of "Certified Public Accountant" to any person possessing the other qualifications mentioned in Section 12 of this Act who is the holder of a certificate as certified public accountant issued under the laws of any state or territory or the equivalent thereof issued in any foreign country, provided the requirements for such certificate in the state or territory or foreign country which has granted it to the applicant were in the opinion of the board at least equivalent to those required in this state at the time the applicant's original certificate was issued. The board shall charge for the issuance of such a certificate as a "Certified Public Accountant" under this section a fee of not more than \$100.

Registration of Certified Public Accountants of Other States and Persons Holding Similar Titles in Foreign Countries

Sec. 14. A certified public accountant of another state or territory or the holder of a certificate, license, or degree authorizing him to practice public accountancy in a foreign country may register with the board as a certified public accountant of such other state or territory or as holding such certificate, license, or degree of a foreign country, if the board determines that the standards under which the applicant became a certified public accountant or received such certificate, license, or degree were as high as the standards of this state at the same time for granting the certificate of certified public accountant. A person so registered may describe himself as a certified public accountant of the state or territory which issued his certificate or may use the title held by him in a foreign country; provided that the country of its origin is indicated. The registered person must pay the license fee provided in Section 9 of this Act and a processing fee set by the board of not more than \$100.

Examinations, Reexaminations, and Fees

Sec. 15. All examinations provided for under this Act shall be conducted by the board. The examination for the certificate of "Certified Public Accountant" shall take place as often as the board deems necessary, but not less frequently than once each year. The board as it considers appropriate may use all or part of the Uniform CPA Examination and any related service available from the American Institute of Certified Public Accountants or the National Association of State Boards of Accountancy. The board by rule may adopt a system for the maintenance of the security and integrity of the examination process.

Not later than the 30th day after the day on which the board receives an individual's examination results, the board shall send to the individual the examination results.

A candidate who fails shall have the right to apply for additional examinations, subject to the satisfaction of the board that the candidate continues to meet requirements of Subdivisions (1), (2), and (4) of Section 12 of this Act.

Any candidate who at the time of filing his application to take the examination or reexamination provided for herein had prior to the effective date of this Act any examination credits or who after the effective date of this Act shall pass in a single examination two or more subjects (accounting practice counting as two subjects), or who is registered as a public accountant under The Public Accountancy Act of 1945, as amended (Article 41a, Vernon's Texas Civil Statutes), and who shall pass one or more subjects after the effective date of this Act shall have the right, subject to the approval of his application for reexamination under the provisions of the preceding paragraph, to be reexamined in the

remaining subjects only at subsequent examinations held by the board, except that the candidate must pass the remaining subjects within the next 10 consecutive examinations, and the candidate may receive credit for one or more subjects in any subsequent examination. When the candidate shall have received credit for all subjects, the candidate shall then be considered to have passed the examination. A candidate having two or more credits on September 1, 1979, is entitled to an unlimited number of reexaminations on the remaining parts of the examination.

The board shall charge for the first examination of a candidate for certification as a "Certified Public Accountant" a fee of not more than \$150, which shall be payable by the applicant at the time of making the initial application. For each subsequent examination or reexamination, the fee shall not exceed for each subject for which the candidate is eligible \$60 for accounting practice and \$30 for each of theory of accounts, auditing, and commercial law, which shall be payable by the applicant at the time of making the application for the subsequent examination or reexamination. Where the applicant fails to be present for the examination and shows to the board satisfactory reason for such failure, the board may in its discretion refund any fee so paid.

All fees provided for herein shall be paid to the Texas State Board of Public Accountancy.

It is further provided that any applicant who has failed any such examination or reexaminations shall have a right to request a copy of the questions and the answers thereto made by him upon any such examination with the grade clearly shown, together with a copy of solutions to such questions; and the board shall forthwith comply with such request by delivering by registered or certified mail to such applicant a true copy of the questions and his answers thereto, together with a copy of solutions to such questions. The board may charge such applicant a reasonable fee therefor, and such request by the candidate shall be made within six months after the grades are mailed to said candidate and not thereafter.

Use of Designation "Certified Public Accountant"

Sec. 16. Any person who has received from the board a certificate of "Certified Public Accountant" and holds a license to practice shall be styled and known as a "Certified Public Accountant" and may also use the abbreviation "CPA."

Use of Designation "Certified Public Accountant" by Partnerships

Sec. 17. A partnership engaged in this state in the practice of public accountancy may register with the board as a partnership of certified public accountants provided it meets the following requirements:

(1) at least one general partner must be a certified public accountant of this state in good standing;

(2) each partner thereof personally engaged with in this state in the practice of public accountancy as a member must be a certified public accountant in this state in good standing;

(3) each partner must be a certified public accountant of some state in good standing; and

(4) each resident manager in charge of an office of the firm in this state must be a certified public accountant of this state in good standing.

Application for such registration must be made upon the affidavit of a general partner of such partnership who is a certified public accountant of this state in good standing. Such affidavit must set forth the partnership name, the post office address within the state, and the address of the principal office wherever located, together with the name, residence, and post office address of each general partner. The board shall in each case determine whether the applicant is eligible for registration. A partnership which is so registered and which holds a license issued under Section 9 of this Act may use the words "Certified Public Accountants" or the abbreviation "CPAs" in connection with its partnership name. Notification shall be given the board within one month after the admission or withdrawal of a partner to or from any partnership so registered.

Use of Designation "Public Accountant"

Sec. 18. Any individual qualified under this Act to register with the board for the practice of public accountancy and who has so registered and who holds a license for the practice of public accountancy may be styled and known as a "Public Accountant."

Use of Designation "Public Accountant" by Partnerships

Sec. 19. A partnership engaged in this state in the practice of public accountancy may register with the board as a partnership of public accountants provided it meets the following requirements:

(1) at least one general partner must be a certified public accountant or a public accountant of this state in good standing;

(2) each partner personally engaged within this state in the practice of public accountancy as a member must be a certified public accountant or a public accountant of this state in good standing;

(3) each partner must be a certified public accountant or a public accountant of some state in good standing; and

(4) each resident manager in charge of an office of a firm in this state must be a certified public accountant or a public accountant of this state in good standing.

Application for such registration must be made upon the affidavit of a general partner of such partnership who holds a license to practice in this state as a certified public accountant or as a public

accountant. Such affidavit must set forth the partnership name, the post office address within the state, and the address of the principal office of the partnership wherever it is located, together with the name, residence, and post office address of each general partner of the partnership. The board shall in each case determine whether the applicant is eligible for registration. A partnership which is so registered and which holds a partnership license issued under Section 9 of this Act may use the words "Public Accountants" in connection with its partnership name. Notification shall be given the board within one month after the admission or withdrawal of a partner to or from any partnership so registered.

Practice of Public Accountancy by Corporations

Sec. 20. A corporation authorized to engage in the practice of public accountancy in this state may register with the board as a corporation engaged in the practice of public accountancy. Application for such registration must be made upon the affidavit of an officer of such corporation. The affidavit must set out the corporate name, the post office address within the state, and the address of the principal office of the corporation. The board shall in each case determine whether the applicant is eligible for registration. A corporation which is so registered and which holds a license issued under this Act may practice public accountancy under a corporate name indicating that it is engaged in such practice. Licensing provisions and procedures applicable to partnerships under Sections 17 and 19 of this Act are also applicable to corporations.

Resignation, Revocation, or Suspension of Certificate or License

Sec. 21. (a) Any individual holding a certificate or registration issued by the board may, at any time and for any reason, subject to the approval of the board, resign and surrender that certificate or registration to the board. An individual who has resigned and surrendered a certificate or registration may not apply for reinstatement of the certificate or registration but may be issued a new certificate or registration upon completion of all requirements for the issuance of a certificate or registration. No certificate shall be issued to any person who has previously resigned a certificate unless that person shall have successfully completed the examination requirement for a new certificate between the time of resignation and the issuance of a new certificate unless, upon application, the examination requirement is waived by the board. If any individual shall resign and surrender a certificate or registration during the course of a disciplinary investigation or proceeding conducted by the board, this fact shall be disclosed in any later application for a new certificate or registration, and the board shall consider this fact in determining whether to issue a new certificate or registration.

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

(1) fraud or deceit in obtaining a certificate as certified public accountant or in obtaining registration under this or any prior Acts or in obtaining a license to practice public accountancy under this Act;

(2) dishonesty, fraud, or gross negligence in the practice of public accountancy;

(3) violation of any of the provisions of Section 8 of this Act;

(4) violation of a rule of professional conduct promulgated by the board under the authority granted by law;

(5) final conviction of a felony under the laws of any state or of the United States;

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

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

(8) suspension or revocation of the right to practice before any state or federal agency for a cause which in the opinion of the board warrants its action;

(9) failure of a certificate holder or registrant to obtain an annual license under Section 9 of this Act within either (A) three years from the expiration date of the license to practice last obtained or renewed by said certificate holder or registrant or (B) three years from the date upon which the certificate holder or registrant was granted his certificate or registration, if no license was ever issued to him, unless such failure shall be excused by the board pursuant to the provisions of Section 9 of this Act; or

(10) conduct indicating lack of fitness to serve the public as a professional accountant.

(c) Upon conviction by any court of original jurisdiction of a felony under the laws of any state or of the United States or of any crime, an element of which is dishonesty or fraud, under the laws of any state or the United States and after notice and hearing as provided in Section 22 of this Act, the board may suspend any certificate issued under this or prior Acts, any registration granted under this or prior Acts, or may suspend or refuse to renew any license issued under this Act for the period between the date of such conviction and the date such conviction

becomes final or set aside. If such conviction becomes final whether by passage of time, exhaustion of appeal, or otherwise, the board may without further notice and hearing take any action authorized in Subsection (b) of this section. If such conviction is reversed, set aside, or modified so that it no longer constitutes a conviction of a felony or of a crime of which an element is dishonesty or fraud, the board shall reinstate any license, registration, or certificate suspended under this subsection; provided, however, that such reinstatement shall be without prejudice to the rights of the board to invoke any other applicable provisions of this section.

(d) After notice and hearing as provided in Section 22 of this Act, the board shall revoke the registration and license to practice of a partnership or corporation which does not meet all the qualifications for registration prescribed by this Act.

After notice and hearing as provided in Section 22 of this Act, the board may revoke or suspend the registration of a partnership or corporation or may revoke, suspend, or refuse to renew its license under Section 9 of this Act to practice or may reprimand the holder of any such license for any of the causes enumerated in Subsection (b) of this section or for any of the following additional causes:

(1) the revocation or suspension of the certificate or registration or the revocation or suspension or refusal to renew the license to practice of any partner or shareholder;

(2) the cancellation, revocation, suspension, or refusal to renew the authority of the partnership or corporation or any partner or shareholder thereof to practice public accountancy in any other state for any cause other than failure to pay an annual registration fee in such other state; or

(3) the suspension or revocation of the right of any partner or shareholder to practice before any state or federal agency for a cause which in the opinion of the board warrants its action.

Hearing and Review Procedure

Sec. 22. (a) The board may, on its own motion or on the complaint of any person, initiate proceedings to determine the eligibility of any person for examination, registration, and certification under this Act.

(b) The board may initiate disciplinary proceedings under this Act either on its own motion or on the complaint of any person.

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

(2) At any hearing the accused may appear in person and by counsel, produce evidence and wit-

nesses on his own behalf, cross-examine witnesses, and examine such evidence as may be produced against him. The accused shall be entitled on application to the board to the issuance of subpoenas to compel the attendance of witnesses on his behalf.

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

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

(c) A stenographic record of the hearings shall be kept, and if deemed necessary by the board, a transcript shall be ordered.

(d) At all hearings the attorney general or one of his assistants or such other legal counsel as may be employed shall appear and represent the board.

(e) The decision of the board shall be by majority vote.

(f)(1) Any person, firm, or corporation aggrieved by any order, ruling, or decision of the board may file a motion for rehearing. Such a motion must be filed within 15 days of the rendition of the order, ruling, or decision complained of. Replies to motions for rehearings must be filed within 25 days after the rendition of the order, ruling, or decision. Unless the board has acted upon a motion for rehearing within 45 days from the time it is filed, the motion shall be overruled as a matter of law. The board may extend the time for filing of motions for rehearings and replies, but in no event shall the board extend the period within which it may act to more than 90 days from the date of rendition of the order, ruling, or decision. Any motion for rehearing pending after the expiration of 90 days from the date of rendition of the order, ruling, or decision complained of shall be overruled as a matter of law.

(2) An order, ruling, or decision is final and appealable when the motion for rehearing is overruled

or when the time for filing a motion has expired and no motion has been filed.

(3) Any party aggrieved by a final order, ruling, or decision of the board shall be entitled to judicial review under the substantial evidence rule. Proceedings for review shall be initiated by the filing of a petition in the District Court of Travis County, Texas, setting forth the particular objection to such decision, ruling, or order against the Texas State Board of Public Accountancy as defendant, such petition to be filed within 30 days after the decision, ruling, or order complained of is final and appealable. Service of citation on the board may be had by delivery of a copy of the petition to the board at its offices in Austin, Travis County, Texas. The board shall not be required to give any bond in any cause or appeal arising hereunder. Neither the board nor any member thereof shall be liable to any person, firm, or corporation charged or investigated by the board for any damages incident to such investigation or any complaint, charge, prosecution, proceeding, or trial of the results thereof.

(g) Upon application in writing and after hearing pursuant to notice, the board may issue a new certificate to a certified public accountant whose certificate shall have been revoked or may permit the reregistration of anyone whose registration has been revoked or may reissue or modify the suspension of any license to practice public accountancy which has been revoked or suspended.

(h) None of the provisions of this Section 22 shall apply to persons who have not applied to the board to take the Uniform CPA Examination or who have not applied for a license, registration, or certificate under the provisions of this Act.

Penalties

Sec. 23. (a) Whenever in the judgment of the board any person who is not the holder of a license to practice public accountancy in this state has engaged in any act or practices which constitute the practice of public accountancy within this state, the board may apply to the district court of the county in which such person resides or has an office to enjoin such person from engaging in the practice of public accountancy, and in such cases the board shall not be required to give bond as a condition precedent to the issuance of such injunctive relief.

(b) Any person who violates any provision of The Public Accountancy Act of 1945, as amended (Article 41a, Vernon's Texas Civil Statutes), or of this Act shall be deemed guilty of a Class B misdemeanor and each violation shall constitute a separate offense. Any complaints filed under the provisions of this section shall be filed in the county where the offense occurred.

Advisory Committees

Sec. 24. (a) The board may appoint advisory committees composed of individuals who are not members of the board. An advisory committee

shall perform the advisory functions assigned to it by the board.

(b) A member of an advisory committee serves without compensation and is entitled to reimbursement for actual and necessary expenses incurred in performing the functions of the committee.

(c) A member of an advisory committee serves at the will of the board.

Confidentiality of Certain Board Files

Sec. 25. Any file maintained or information gathered or received by the board concerning a candidate, licensee, or former licensee shall be available for inspection by that candidate, licensee, or former licensee during normal business hours at the offices of the board in Austin. A candidate, licensee, or former licensee may by written communication authorize the board to make any information about that candidate, licensee, or former licensee available for inspection by designated persons or available for inspection by the public at large. Except upon such written authorization, all information received or gathered by the board concerning the qualifications of any licensee or candidate to register as a public accountant or to receive a certificate as a certified public accountant and all information received or gathered by the board concerning a disciplinary proceeding against a licensee under Section 22 of this Act prior to a public hearing on the matter shall be confidential and shall not be subject to disclosure under Chapter 424, Acts of the 63rd Legislature, 1973, as amended (Article 6252-17a, Vernon's Texas Civil Statutes).

Client-Accountant Communications

Sec. 26. (a) Except by permission of the client or person or entity engaging him or the heirs, successors, or personal representatives of such client or person or entity, a certified public accountant, public accountant, partnership, or corporation holding a license to practice under this Act shall not be required to disclose or divulge information which has come into his possession relative to or in connection with any professional services as a certified public accountant, public accountant, partnership, or corporation. Any information derived from or as the result of such professional services shall be deemed confidential and privileged. However, this section shall not apply to information related to the methods or procedures used in: (1) the preparation of a "financial statement"; (2) management advisory or consulting services; (3) tax returns and supporting schedules; or (4) audits, reviews, and compilations of financial statements.

(b) No information shall be deemed confidential and privileged from disclosure in:

(1) an action against a licensee by the client or entity engaging the licensee;

(2) any disciplinary investigation or proceeding conducted under or pursuant to this Act;

(3) any criminal investigation or proceeding; or

(4) quality control reviews of audits, reviews, and compilations of financial statements conducted in accordance with board rules.

(c) No documentary information, books or records shall be deemed confidential and privileged from examination by the Comptroller of Public Accounts or any agency of the State of Texas pursuant to the authority granted by law.

(d) No disclosure provided for under Subdivisions (1) through (4) of Subsection (b) and Subsection (c) shall constitute a waiver of the privilege established herein.

(e) None of the provisions of Section 26 shall apply to individuals who are not licensed under this Act.

Repeal

By order of the Texas Supreme Court dated November 23, 1982, effective September 1, 1983, adopting the Texas Rules of Evidence, § 26 of this article is deemed to be repealed insofar as it relates to civil actions by the Rules of Practice Act, Acts 1939, 46th Leg., p. 201, § 1, classified as art. 1731a, § 1.

Application of Open Meetings Law and Administrative Procedure and Texas Register Act

Sec. 27. The board is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

Application of Sunset Act

Sec. 28. The Texas State Board of Public Accountancy is subject to the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the board is abolished, and this Act expires effective September 1, 1991.

Transition

Sec. 29. (a) The Texas State Board of Public Accountancy to which this Act refers is a continuation of the Texas State Board of Public Accountancy created by The Public Accountancy Act of 1945, as amended (Article 41a, Vernon's Texas Civil Statutes).

(b) A person holding office as a member of the Texas State Board of Public Accountancy on the effective date of this Act shall continue to hold office for the term for which the member was originally appointed.

(c) The terms of office of all succeeding members of the board expire on January 31 of odd-numbered years, six years after expiration of the previous term of office. The initial appointment under this

Act shall be for such staggered terms as are necessary to provide for the expiration of the terms of one-third of the board members every two years.

(d) After the effective date of this Act the governor shall appoint members to the board in a manner that achieves as soon as possible the membership plan provided in this Act.

Repealer

Sec. 30. The Public Accountancy Act of 1945, as amended (Article 41a, Vernon's Texas Civil Statutes), is repealed.

[Acts 1979, 66th Leg., p. 1479, ch. 646, §§ 1 to 30, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 3264, ch. 859, §§ 1 to 7, eff. June 18, 1981; Acts 1981, 67th Leg., p. 3312, ch. 866, § 1, eff. June 18, 1981.]

Acts 1981, 67th Leg., p. 3312, ch. 866, § 2, provides:

"(a) Section 10, Public Accountancy Act of 1979 (Article 41a-1, Vernon's Texas Civil Statutes), as amended by this Act, does not affect:

"(1) the prior operation of that section;

"(2) any obligation or liability previously acquired, accrued, or incurred under that section;

"(3) any prior violation of that section or any penalty or punishment previously incurred under it; or

"(4) any investigation or proceeding relating to a previously acquired, accrued, or incurred obligation or liability or a previously incurred penalty or punishment; the investigation or proceeding may be instituted, continued, or enforced, and the penalty imposed, as if that section had not been amended by this Act.

"(b) Section 10, Public Accountancy Act of 1979 (Article 41a-1, Vernon's Texas Civil Statutes), as it existed before enactment of this Act, is continued in effect for the purposes of this section as if it had not been amended by this Act."

Art. 41b. Repealed by Acts 1983, 68th Leg., p. 1046, ch. 235, art. 8, § 4(c), eff. Sept. 1, 1983

See, now, Water Code, §§ 50.371, 50.380, and 50.381.

TITLE 3 ADOPTION

Art.

42 to 46b-2. Repealed.

Arts. 42 to 46. Repealed by Acts 1931, 42nd Leg., p. 300, ch. 177, § 11

Arts. 46a to 46b-1. Repealed by Acts 1973, 63rd Leg., p. 1458, ch. 543, § 3, eff. Jan. 1, 1974

Acts 1973, 63rd Leg., p. 1458, ch. 543, repealing these articles, enacts Title 2 of the Texas Family Code.

See, now, Family Code, § 16.01 et seq.

Art. 46b-2. Repealed by Acts 1979, 66th Leg., p. 2429, ch. 842, art. 1, § 2(1), eff. Sept. 1, 1979

Acts 1979, 66th Leg., ch. 842, repealing this article, enacts the Human Resources Code.

For disposition of the subject matter of the repealed article, see Disposition Table preceding the Human Resources Code.

TITLE 3A

AERONAUTICS

AERONAUTICS COMMISSION AND DIRECTOR OF AERONAUTICS

- Art.
 46c-1. Definitions.
 46c-2. Declaration.
 46c-3. Aeronautics Commission, Organization, Membership.
 46c-4. Organization, Meetings, Reports.
 46c-5. Office and Expense—Employees.
 46c-6. Commission Powers and Duties.
 46c-7. Executive Director.
 46c-8. Hearings, Judicial Review, and Court Aid.

MUNICIPAL AIRPORTS ACT

- 46d-1. Definitions.
 46d-2. General Powers of Municipalities in the Establishment, Acquisition, Operation and Maintenance of Airports and Air Navigation Facilities.
 46d-3. Disposal of Airport Property.
 46d-4. Operation and Use Privileges.
 46d-5. Liens.
 46d-6. Delegation of Authority to Airport Officer or Board.
 46d-7. Regulations and Jurisdiction.
 46d-8. Taxation.
 46d-9. Bond Issues—Financing Acquisition Costs and Improvements.
 46d-10. Validation of Prior Acquisitions, Actions and Bond Issues.
 46d-11. Application of Airport Revenues and Sale Proceeds.
 46d-12. Federal and State Aid.
 46d-13. Contracts.
 46d-14. Joint Operations.
 46d-15. Public Purpose, County and Municipal Purpose.
 46d-16. Repealed.
 46d-17. Supplementary Authority.
 46d-18. Airport Zoning.
 46d-19. Interpretation and Construction.
 46d-20. Severability.
 46d-21. Cumulative.
 46d-22. Short Title.

AIRPORT ZONING REGULATIONS

- 46e-1. Definitions.
 46e-2. Airport Hazards Contrary to Public Interest.
 46e-3. Power to Adopt Airport Zoning Regulations.
 46e-4. Relation to Comprehensive Zoning Regulations.
 46e-5. Procedure for Adoption of Zoning Regulations.
 46e-6. Airport Zoning Requirements.
 46e-7. Permits and Variances.
 46e-8. Appeals.
 46e-9. Administration of Airport Zoning Regulations.
 46e-10. Board of Adjustment.
 46e-11. Judicial Review.
 46e-12. Enforcement and Remedies.
 46e-13. Acquisition of Air Rights.
 46e-14. Severability.
 46e-15. Short Title.

OPERATION OF AIRCRAFT

- Art.
 46f-1. Taking Off, Landing or Maneuvering Aircraft on Highway, Road or Street.
 46f-2. Aircraft Licenses.
 46f-3. Operation of Aircraft While Intoxicated.
 46f-4. Use of Aircraft on County Roads.

MISCELLANEOUS

- 46g. Airport Security Personnel; Employment; Commission as Peace Officers.
 46h. Expenditure of Bond Revenues by Joint Boards without Competitive Bidding in Certain Circumstances.
 46i-1. Short Title.
 46i-2. Definitions.
 46i-3. Fund.
 46i-4. Application for Permit.
 46i-5. Commission Determination.
 46i-6. Exemptions.
 46i-7. Permits.
 46i-8. Hearings; Appeals; Enforcement.
 46i-9. Rulemaking Authority; Forms.

AERONAUTICS COMMISSION AND DIRECTOR OF AERONAUTICS

Art. 46c-1. Definitions

When used in this Act, unless expressly stated otherwise:

(a) The term "person" means any individual, firm, partnership, corporation, association, joint stock association or body politic; and includes any trustee, receiver, assignee, agent or authorized representative thereof.

(b) The term "aircraft" means any contrivance now known or hereafter invented which is intended, used or designed for flight in the air.

(c) The term "certificate" means a certificate of public convenience and necessity or a certificate of operating authority issued under this Act.

(d) The term "commission" means the Texas Aeronautics Commission.

(e) The term "air carrier" means every person owning, controlling, operating or managing any aircraft as a common carrier in the transportation of persons or property for compensation or hire which conducts all or part of its operation in the State of Texas; provided that the term "air carrier" as used in this Act shall not include, and this Act shall not apply to, air carriers carrying passengers or property as common carriers for compensation or hire in commerce between a place in this state and a place outside this state.

(f) The term "aeronautics" means the art and science of flight of aircraft of all types; aviation; the operation, navigation, maintenance, construction of aircraft and all component parts thereof; and includes air navigation aids, such as lighting, markings, radio, ground to aircraft, aircraft to ground, aircraft to aircraft, and related communications; navigation and piloting; and air crew and air passenger facilities; and also includes airports and airstrips and the design, construction, repair or maintenance of all or any part thereof and improvements thereto; and the dissemination of information and instruction pertaining to all of the foregoing. [Acts 1945, 49th Leg., p. 580, ch. 344, § 1. Amended by Acts 1961, 57th Leg., p. 850, ch. 379, § 1, eff. Aug. 23, 1961; Acts 1969, 61st Leg., p. 1394, ch. 424, § 1, eff. Sept. 1, 1969; Acts 1981, 67th Leg., p. 2858, ch. 767, § 1, eff. Sept. 1, 1981.]

Art. 46c-2. Declaration

It is hereby declared that the purpose of this Act is to further the public interest and aeronautical progress by providing for the protection, promotion, and development of aeronautics; by cooperating in effecting a uniformity of the laws relating to the development of aeronautics in the several states; by revising existing statutes relative to the development and regulation of aeronautics so as to grant to a state agency such powers and impose upon it such duties that the state may properly perform its functions relative to aeronautics and effectively exercise its jurisdiction over persons and property within such jurisdiction; by assisting in the promotion of a state-wide system of airports; by cooperating with and assisting the political subdivisions of this state in order that those engaged in aeronautics of every character may so engage with the least possible restrictions consistent with the safety and the rights of other person or persons; and by providing for cooperation with the federal authorities in the development of a national system of civil aviation and for coordination of the aeronautical activities of those authorities and the authorities of this state by assisting in accomplishing the purposes of federal legislation and eliminating costly and unnecessary duplication of functions properly in the province of the federal agencies.

[Acts 1945, 49th Leg., p. 580, ch. 344, § 2. Amended by Acts 1969, 61st Leg., p. 1394, ch. 424, § 1, eff. Sept. 1, 1969; Acts 1981, 67th Leg., p. 2858, ch. 767, § 2, eff. Sept. 1, 1981.]

Art. 46c-3. Aeronautics Commission, Organization, Membership

(a) The Texas Aeronautics Commission shall consist of six Commissioners to be appointed by the Governor and confirmed by the Senate. Appointments to the Commission shall be made without regard to the race, creed, sex, religion, or national origin of the appointees. Commissioners are appointed for staggered terms of six years with two Commissioners' terms expiring February 1 of each odd-numbered year. The Governor shall appoint

successors for the Commissioners (who may be reappointed) at the expiration of their terms. Any member appointed to fill a vacancy occurring prior to the expiration of the term to which his predecessor was appointed shall be appointed to only the remainder of such term. Each member shall serve until the appointment and qualification of his successor. Each member is entitled to a per diem as set by legislative appropriation for each day that the member engages in the business of the Commission. A member may not receive any compensation for travel expenses, including expenses for meals and lodging, other than transportation expenses. A member is entitled to compensation for transportation expenses as provided by the General Appropriations Act.

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

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

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

(c) The Texas Aeronautics Commission is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes). Unless continued in existence as provided by that Act the commission is abolished effective September 1, 1993.

(d) A member or employee of the Commission may not be an officer, employee, or paid consultant of a trade association in the aeronautics industry. A member or employee of the Commission may not be related within the second degree by affinity or consanguinity to a person who is an officer, employee, or paid consultant of a trade association in the aeronautics industry.

(e) A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes), may not serve as a member of the Commission or act as the general counsel to the Commission.

(f) It is a ground for removal from the Commission if a member:

(1) does not have at the time of appointment the qualifications required by Subsection (b) of this section for appointment to the Commission;

(2) violates Subsection (d) or (e) of this section; or

(3) fails to attend at least half of the regularly scheduled Commission meetings held in a calendar year, excluding meetings held while the person was not a Commission member.

(g) If a ground for removal of a member of the Commission exists, the Commission's actions during

the existence of the ground for removal are not invalid for that reason.

[Acts 1945, 49th Leg., p. 580, ch. 344, § 3. Amended by Acts 1961, 57th Leg., p. 850, ch. 379, § 2, eff. Aug. 28, 1961; Acts 1969, 61st Leg., p. 1394, ch. 424, § 1, eff. Sept. 1, 1969; Acts of 1977, 65th Leg., p. 1839, ch. 735, § 2.052, eff. Aug. 29, 1977; Acts 1981, 67th Leg., p. 2858, ch. 767, § 2, eff. Sept. 1, 1981; Acts 1983, 68th Leg., p. 2829, ch. 484, art. II, §1, eff. June 19, 1983.]

Section 2 of art. II of the 1983 amendatory act provides:

"(a) A person appointed to the Texas Aeronautics Commission who held office immediately preceding the effective date of this Act and who was eligible to be a member of the commission under the law as it existed at the time of his appointment is entitled to serve the remainder of the term for which he was appointed.

"(b) The term of office succeeding a commission member's term that expires on December 31, 1984, expires on February 1, 1991. The term of office succeeding a commission member's term that expires on December 31, 1986, expires on February 1, 1993. The term of office succeeding a commission member's term that expires on December 31, 1988, expires on February 1, 1995."

Art. 46c-4. Organization, Meetings, Reports

(a) The Commission shall adopt a seal, and make such rules and regulations for its administration, not inconsistent with this Act, as hereby amended, as in its judgment it may deem advisable or necessary, and may from time to time amend such rules and regulations. It shall elect from among its members a chairman, a vice chairman, and a secretary, to serve for one year and annually thereafter shall elect such officers all to serve until their successors are appointed and qualified. It shall fix the date and place for its regular meetings. Four members shall constitute a quorum, and except as hereafter provided, no action shall be taken by less than a majority of the Commission members present. Special meetings may be called as provided by its rules and regulations. All regular and special Commission meetings shall be open to the public. Funds received by the Commission under this Act shall be deposited in the State Treasury to the credit of the General Revenue Fund. The state auditor shall audit the financial transactions of the Commission during each fiscal biennium. Not later than December 1 each year, it shall report in writing to the governor detailed and itemized statements of all revenues and of all expenditures made by or in behalf of the Commission, and shall furnish such other information as it may deem necessary or useful or which may be requested by the Governor. The fiscal year of the Commission shall conform to the fiscal year of the state.

(b) The Commission is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

(c) If the appropriate standing committees of both houses of the legislature acting under Subsection (g), Section 5, Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes), transmit to the Com-

mission statements opposing adoption of a rule under that section, the rule may not take effect, or if the rule has already taken effect, the rule is repealed effective on the date the Commission receives the committee's statements.

[Acts 1945, 49th Leg., p. 580, ch. 344, § 4. Amended by Acts 1961, 57th Leg., p. 850, ch. 379, § 3, eff. Aug. 28, 1961; Acts 1969, 61st Leg., p. 1394, ch. 424, § 1, eff. Sept. 1, 1969; Acts 1981, 67th Leg., p. 2858, ch. 767, § 2, eff. Sept. 1, 1981.]

Art. 46c-5. Office and Expense—Employees

Suitable offices and office equipment shall be provided by the state for the Commission in the City of Austin; and it may maintain temporary offices in any other place in the state that it may designate and may incur the necessary expense for office furniture, stationery, printing, incidental expenses, and other expenses necessary for the enforcement of this Act and the general promotion of aeronautics within the state. Regular meetings shall be held at its offices at Austin, but, whenever the convenience of the public or of the parties may be promoted, or delay or expense may be prevented, it may hold hearings or proceedings at any other place designated by it. The Commission may employ such clerical and other employees and assistants as it may deem necessary for the proper transaction of its business and shall fix their salaries. Provided that the Commission shall not make any obligations or expend any state moneys unless and until an appropriation by the Legislature is made therefor. The Executive Director or his designee shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay authorized by the Executive Director must be based on the system established under this section. The Commission shall maintain an information file about each complaint filed with the Commission. If a written complaint is filed with the Commission, the Commission, at least as frequently as quarterly, shall notify the parties to the complaint of the status of the complaint until final disposition unless the notification would jeopardize an undercover investigation.

[Acts 1945, 49th Leg., p. 580, ch. 344, § 5. Amended by Acts 1969, 61st Leg., p. 1394, ch. 424, § 1, eff. Sept. 1, 1969; Acts 1981, 67th Leg., p. 2858, ch. 767, § 2, eff. Sept. 1, 1981.]

Section 7(b) of the 1981 amendatory act provides:

"The requirement under Section 5, Chapter 344, Acts of the 49th Legislature, Regular Session, 1945 (Article 46c-5, Vernon's Texas Civil Statutes), as amended by this Act, that the executive director of the commission develop a system of annual performance evaluation shall be implemented before September 1, 1982. The requirement under Section 5 that merit pay be based on the performance evaluation system shall be implemented before September 1, 1983."

Art. 46c-6. Commission Powers and Duties

Subd. 1. General. The Commission, and its Executive Director acting under its authority, is empowered and directed to encourage, foster, and assist in the development of aeronautics in this state and to encourage, aid and assist in the establish-

ment of airports and airstrips and air navigational facilities in this state, and, as to lands, or portions thereof, or navigational aids or facilities donated or given to the state, or to the Texas Aeronautics Commission to be held by it in trust for the state, the Texas Aeronautics Commission may control, administer, and have jurisdiction thereover, and may lease the same on the terms hereafter provided. The Commission and its Executive Director may cooperate with and assist the United States, municipalities or other governmental subdivisions of this state, or persons engaged in aeronautics or in the development of aeronautics, and may endeavor to coordinate the aeronautical activities of such others, and, municipalities and governmental subdivisions are authorized to cooperate with the Commission in the development of aeronautics and aeronautical navigational facilities or aids in this state.

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

Subd. 3. Air Carriers. (a) The Commission is hereby granted and vested with the right, power and authority to promulgate and administer economic rules and regulations over air carriers. The Commission shall promulgate and administer rules providing for the safety of air carriers subject to the requirements of this Act. The Commission shall be vested with broad discretion in promulgating such rules and regulations. Without limiting the right, power and authority of the Commission, to the extent necessary to enable it to perform its functions, it shall determine the financial, managerial, and equipment fitness and operational capability of each air carrier, require filing of such reports and other data of air carriers as the Commission may deem necessary, inspect air carrier facilities and equipment, and adopt a program, rules and regulations necessary to effectuate its duties hereunder to the extent that its rules and regulations do not conflict with federal rules and legislation concerning functions within the jurisdiction of federal agencies.

(b) No air carrier shall operate as such, after this Act goes into effect, without having first obtained from the Commission a certificate; provided, however, that all operating rights and privileges granted to any air carrier by the Commission prior to the passage of this Act shall continue in effect, authorizing the same service under the same terms and

conditions as previously granted by the Commission. Upon notice and hearing, certificates shall be subject to revocation or suspension for violation of the Commission's regulations, the provisions of this Act or the regulations or laws of the United States or any authorized agency or board thereof. Proceedings for the refusal, suspension, or revocation of a certificate are governed by the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes). Any such certificates so revoked or suspended may be reinstated upon order of the Commission on its own motion or upon application of the air carrier, when the Commission finds reinstatement to be in the public interest. Prior to issuing or amending a certificate of public convenience and necessity or a certificate of operating authority, the Commission shall consider the encouragement and development of an intrastate air transportation system properly adapted to the present and future needs of the State of Texas, and in addition shall consider the financial responsibility of the air carrier, its proposed points of service or routes and rates or charges, the effect, if any, upon existing air carriers and CAB certificated carriers, and any other factors similarly related to the interest and safety of the public. Nothing in this Act affects any litigation pending on the effective date of this Act.

(b-1) The Commission by rule may establish reasonable classifications of air carriers. In the interest of limiting the scope of regulation, the Commission by rule may exempt any class of air carriers from any or all of the requirements of this Act or from any or all rules promulgated pursuant to this Act if the exemption is just and reasonable and is in the public interest.

(c) No application for a certificate shall be received and filed by the Commission unless the same shall be in writing under oath in original and six copies filed with the Executive Director of the Commission and contain the following information:

(1) The name and address of the applicant and the names and addresses of its officers, if any, and full information concerning the financial condition and physical properties of the applicant.

(2) The complete route or routes over which the applicant desires to operate or intended points of service, together with the description of each aircraft which the applicant intends to use.

(3) A proposed schedule of service and schedule of rates to be charged between the several points or localities to be served.

(4) It shall be accompanied by plats or maps showing the route or routes over which the applicant desires to operate, on which plats or maps shall be delineated the line or lines of any existing air carrier or airlines, whether or not subject to this Act, serving such territory, and shall point out the need for additional air service.

(5) Such other information, exhibits and other data in regard to the application as may be required by duly promulgated rules and regulations of the Commission.

(6) Every application filed with the Commission for a certificate shall be accompanied by a filing fee in an amount determined by the Commission, but not less than \$200, which fee shall be in addition to any other fees and taxes and shall be retained by the Commission, whether the application is approved or not, to defray operating expenses.

Copies of such application shall be transmitted contemporaneously by certified mail, return receipt requested, to the Civil Aeronautics Board, the Federal Aviation Administration and to any air carrier or CAB certificated carrier, which serves, or is authorized to serve, over the routes or to the service points proposed to be served by the applicant. Upon receipt of such application in proper form, the Commission shall set a date for public hearing which may be conducted by the Commission, or at its discretion, by the Executive Director, or any staff member of the Commission.

Any other provision of this Act notwithstanding, carriers certificated by the Civil Aeronautics Board pursuant to the Federal Aviation Act of 1958, as now or hereafter amended,¹ together with any other interested party shall be afforded the right to appear and present evidence and arguments at such hearing on all issues involved in any such hearing. The final determination of such application shall be made by the Commission by written order setting forth its findings and served upon the parties in such manner as the Commission shall specify, and such application may be granted or denied, in whole, or in part. The order of the Commission granting any application and the certificate issued thereunder shall be voidable upon appeal unless the Commission shall set forth in its order full and complete findings of fact pointing out in detail the basis on which it made each of its findings on the factors related to the interest and safety of the public as provided in Subsection (b) of this Subdivision.

(d) Any certificate held, owned or obtained by any air carrier operating under the provisions of this Act may be sold, assigned, leased, transferred or inherited; provided, however, that any proposed sale, lease, assignment or transfer shall be first presented in writing to the Commission for its approval or disapproval and after public notice and public hearing the Commission may disapprove such proposed sale, assignment, lease or transfer if it is found and determined by the Commission that such proposed sale, assignment, lease or transfer is not in good faith or that the proposed purchaser, assignee, lessee or transferee is not in good faith or that the proposed purchaser, assignee, lessee or transferee is not able or capable of continuing the operation of the equipment proposed to be sold, assigned, leased or transferred in such manner as to render the services required by the certificate held, or that

the proposed sale, assignment, lease or transfer is not in the best public interest. The Commission in approving or disapproving any sale, assignment, lease or transfer of any certificate may take into consideration all the requirements and qualifications of a regular applicant required in this Act and apply the same as necessary qualifications of any proposed purchaser, assignee, lessee or transferee. Every application filed with the Commission for an order approving the lease, sale or transfer of any certificate of convenience and necessity shall be accompanied by a filing fee in an amount equal to one-half of the application fee required for a certificate, which fee shall be in addition to any other fees and taxes and shall be retained by the Commission whether the lease, sale or transfer of the certificate is approved or not.

(e) If any air carrier, or other party in interest be adversely affected by any decision, rate, charge, order, rule, act or regulation adopted by the Commission, that party, after failing to get relief from the Commission, may file a petition setting forth its particular objections to the action of the Commission in the District Court of Travis County, Texas, against the Commission as defendant. This action shall have precedence over all other causes on the docket of a different nature. In an appeal of a Commission action other than revocation or suspension of a certificate, the Commission action shall be sustained unless there is no substantial evidence to support it. An appeal of the revocation or suspension of a certificate shall be tried in the same manner as appeals from justice court to the county court. Appeals from any final judgment of the District Court may be taken by any party to the cause in the manner provided for in civil actions generally, but no appeal bond shall be required of the Commission.

(f) Every officer, agent, servant, or employee of any corporation and every other person who violates or fails to comply with or procures, aids or abets in the violation of any provision of this Act or who violates or fails to obey, observe or comply with any lawful order, decision, rule or regulation, direction, demand or requirement of the Commission shall be subject to and shall pay a penalty not exceeding \$100 for each and every day of such violation. The penalty shall be recovered in any court of competent jurisdiction in the county in which the violation occurs. Suit for the penalty or penalties shall be instituted and conducted by the Attorney General of the State of Texas, or by the county or district attorney in the county in which the violation occurs in the name of the State of Texas. Upon violation of any provision of this Act, or upon the violation of any rule, regulation, order or decree of the Commission promulgated under the terms of this Act, any district court of any county where such violation occurs shall have the power to restrain and enjoin the person, firm or corporation so offending from further violating the provisions of this Act or from further violating any of the rules, regulations, or

ders, and decrees of the Commission. Such injunctive relief may be granted upon the application of the Commission, the attorney general, or any district or county attorney or competing air carrier. No bond shall be required when such injunctive relief is sought upon the application of the Commission, attorney general or any district or county attorney. Such relief may be granted in suits for penalties as provided in this section, but suit for penalties shall not be a condition precedent to the injunctive relief provided hereby.

(g) No carrier may limit its liability for loss of or damage to freight or baggage unless the carrier files a limiting tariff with the Commission before the claimed loss or damage. The Commission shall establish specific liability limits under its rule-making authority.

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

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

Subd. 6. Airports and Navigation Aids, Gifts, Leases. (a) To develop aeronautics for the common good, benefit, and safety of the citizens of Texas, and to provide for catastrophe, disaster, or state or national emergency, the state, or the Texas Aeronautics Commission on behalf of the state, is granted the right, under its police power, to accept gifts or donations of all or any parts of lands on, adjacent to, or utilizable as, airports or airstrips, or utilizable as a navigational aid, in the judgment of the Texas Aeronautics Commission, from the United States or any agency thereof or from any governmental, municipal, or other political subdivision of this state, or from any other person, firm, association, group, or corporation. The same shall be administered by the Texas Aeronautics Commission and shall be and remain under its control and jurisdiction. The Tex-

as Aeronautics Commission is hereby granted the right to utilize such portion of the Texas Aeronautics Commission Fund, or other moneys appropriated to it by the Legislature, to construct improvements, facilities or navigational aids thereon as the commission shall deem advisable or necessary. The commission is granted the right to rent or lease such lands and improvements to any governmental or municipal agency or subdivision, or to any other person, firm, association, group, or corporation, provided any such lease so executed by the commission shall be for a term not to exceed 20 years, and provided further, the Texas Aeronautics Commission shall determine, after investigation, and reduce its findings to writing in a book or books to be maintained in the office of the Texas Aeronautics Commission for that purpose: (1) that the lease is desirable or essential for the purpose above stated; (2) that the lessee is financially responsible; and (3) that the amount of monthly or periodic rental payments shall be sufficient to amortize the amount it has expended thereon for improvements within the term of the lease. Any such lease, before the same shall become effective, shall be submitted to, and approved by, the attorney general as to form. Any such lease shall provide that the lessee shall maintain the land, premises and improvements placed thereon by the Texas Aeronautics Commission in accordance with the standards prescribed by the Texas Aeronautics Commission and shall contain a provision that the lease shall immediately terminate and that the lessee shall surrender the premises to the Texas Aeronautics Commission without liability, and without court action, in the event of violation of any of the provisions of the lease, or any rule, regulation or order of the Texas Aeronautics Commission pertaining thereto; and provided further, the Texas Aeronautics Commission shall have the right to utilize the same or any part thereof, for itself or others, without liability or cost, in time of national or state disaster, emergency, or catastrophe, as determined by either the Governor of Texas or the Texas Aeronautics Commission.

(b) Independently and additionally, the Commission shall be authorized to accept any grant, payment, or gift of moneys, funds or property made to it by any person, individual, firm, association, corporation, municipality, county, or other political subdivision of the state, or from the United States, or any department or agency thereof, as to which the donor has prescribed a particular use for one or more aeronautical purposes. The Commission shall utilize any such grant of property in accordance with the terms of the grant, and as to any such payment, or gift of funds or moneys, the Commission shall utilize such moneys for the purpose or purposes prescribed by the donor. A record shall be maintained in the Commission's offices of such properties and funds. Such funds shall be expended only upon general or special order of the Commission, and all checks shall be signed by the Executive Director.

Subd. 7. Investigations, Hearings (General). The Commission shall have the power to conduct and hold investigations, inquiries, and hearings concerning matters covered by the provisions of this Act and the rules, regulations and orders of the Commission, unless specifically provided otherwise herein. Hearings shall be open to the public. Each member of the Commission, the Executive Director and every officer or employee of the Commission, designated by it to hold an inquiry, investigation or hearing, shall have the power to administer oaths, certify to all official acts, issue subpoenas, and order the attendance and testimony of witnesses and the production of papers, books and documents. In the case of the failure of any person to comply with any subpoena or order issued under the authority of this section, the Commission shall notify the attorney general who may bring suit in the name of the state in any district court of Travis County, Texas. The court, if it determines such noncompliance was not justified, shall thereupon order such person to comply with the requirements of the subpoena or order, and failure to obey the order of the court may be punished by the court as a contempt thereof.

Subd. 8. Education, Publications. The Commission may organize and administer a program of aeronautical education in the schools and colleges of the state and for the general public and may prepare and conduct flight clinics for air crews. The programs and clinics may be conducted with or without charge by the Commission. The Commission may issue such aeronautical publications as may be required in the public interest. The Commission shall charge a fee sufficient to recover the cost of preparing and distributing all Commission publications that do not clearly promote public safety.

Subd. 9. Technical Services. In the interest of public safety and welfare, the Commission may, insofar as is reasonably possible, make available its engineering and technical services, with or without charge, to any municipality or person desiring them in connection with the planning, acquisition, construction, improvement, maintenance or operation of airports, air navigation facilities or other aeronautical activities.

Subd. 10. Aviation Facilities Development and Financial Assistance. (a) When in the discretion of the Commission the public interest will best be served, and the governmental function of the state or its political subdivisions relative to aeronautics will best be discharged, it may provide funds, through loan agreements or grant contracts, appropriated to it for that purpose by the Legislature, to any state agency with a governing board that is authorized to operate airports, and to any governmental entity in this state for the establishment, construction, reconstruction, enlargement or repair of airports, airstrips or air navigational facilities. Provided that any such funds must be expended by the governmental entity for the purpose provided

herein and in conformity with the laws of this state and with the rules and regulations which the Commission is hereby authorized to promulgate.

(b) The Commission shall:

(1) prepare and adopt an aviation facilities development program identifying the aviation facility requirements, locations, timing, eligibility for funding, and the investment necessary for a state-wide airport system that, for the least practicable cost, will provide for the state's air transportation needs;

(2) establish and maintain a method for determining priorities among locations and projects eligible to receive state financial assistance for aviation facility development;

(3) prepare and update at least annually a multi-year aviation facilities capital improvement program based on those priorities, with the estimated annual cost of the total program being approximately equal to revenues forecast to be available for aviation facilities development during the year; and

(4) periodically review the adopted capital improvement program to determine the need for revision of system development criteria; addition or deletion of aviation facility requirements; revision of capital improvement program priorities; and the addition, deletion, or revision of the scope of projects in the program.

(c) The aviation facilities capital improvement program shall be the basis for allocation of state financial assistance and for preparation of the Commission's biennial budget request to the Legislature.

(d) Prior to approving any financial assistance under this Act the Commission shall hold a public hearing at which all interested parties shall have an opportunity to be heard. No loan shall be made without a majority vote of the entire Commission in favor thereof. No grant contract shall be made without a two-thirds vote of the entire Commission in favor thereof.

(e) Prior to approving any loan or grant contract the Commission shall require that:

(1) The airport or facility remain in the control of the political subdivision or political subdivisions involved for at least 20 years, and

(2) The political subdivision disclose the source of all funds for the project and its ability to finance and operate the project, and

(3) All loans shall bear interest at the rate of at least three percent per annum and have a term of not longer than 20 years; and the principal and interest derived from the loans shall be placed in the Texas Aeronautics Commission revolving loan fund administered by the Commission for the purpose of future loans and the administration of the loans, and

(4) At least ten percent of the total project cost be provided from sources other than the State of Texas, and

(5) The project be adequately planned.

(f) Loans shall be made in lieu of grants whenever feasible under this subdivision, and in particular the Commission shall consider carefully the making of loans in lieu of grants for revenue-producing improvements.

(g) Under a grant contract, prior to payment by the Commission of the final ten percent of its share of project costs, the sponsor shall have enacted an airport hazard zoning ordinance or order under the Airport Zoning Act, as amended (Article 46c-1 et seq., Vernon's Texas Civil Statutes).

[Acts 1945, 49th Leg., p. 580, ch. 344, § 6. Amended by Acts 1961, 57th Leg., p. 850, ch. 379, § 4; Acts 1965, 59th Leg., p. 397, ch. 196, § 1, eff. Aug. 30, 1965; Acts 1969, 61st Leg., p. 1394, ch. 424, § 1, eff. Sept. 1, 1969; Acts 1973, 63rd Leg., p. 745, ch. 324, § 1, eff. Aug. 27, 1973; Acts 1977, 65th Leg., p. 54, ch. 30, § 1, eff. March 29, 1977; Acts 1977, 65th Leg., p. 308, ch. 142, § 1, eff. May 13, 1977; Acts 1977, 65th Leg., p. 380, ch. 189, § 1, eff. May 20, 1977; Acts 1979, 66th Leg., p. 31, ch. 22, § 1, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 2861, ch. 767, §§ 3 to 5, eff. Sept. 1, 1981.]

149 U.S.C.A. § 1301 et seq.

Validation of certain actions. Acts 1977, 65th Leg., p. 863, ch. 325, § 1, provides:

"All orders previously made, prior to January 1, 1977, by the Texas Aeronautics Commission granting certificates of public convenience and necessity for the operation of intrastate air carriers are hereby in all respects validated, ratified, and confirmed."

Art. 46c-7. Executive Director

Subd. 1. Appointment, Compensation. An Executive Director shall be appointed by the Commission. He shall receive such compensation as may be provided in the biennial department appropriation bill and shall be reimbursed for all traveling and other expenses incurred by him in the discharge of his official duties.

Subd. 2. Powers and Duties. The Executive Director shall be the executive officer of the Commission and under its supervision shall administer the provisions of this Act (and the rules, regulations, and orders established thereunder), and all other laws of the state relative to aeronautics. He shall attend all meetings of the Commission, but shall not have the power to vote. At the direction of the Commission he shall execute all contracts entered into by the Commission which are legally authorized and for which funds are provided by this Act, as amended, or in any appropriation Act.

[Acts 1945, 49th Leg., p. 580, ch. 344, § 8. Amended by Acts 1961, 57th Leg., p. 850, ch. 379, § 6, eff. Aug. 28, 1961; Acts 1969, 61st Leg., p. 1394, ch. 424, § 1, eff. Sept. 1, 1969; Acts 1977, 65th Leg., p. 308, ch. 142, § 2, eff. May 13, 1977; Acts 1981, 67th Leg., p. 2866, ch. 767, § 6, eff. Sept. 1, 1981.]

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

The Commission is authorized to enforce the provisions of this Act, by revocation or suspension of

any lease or permit; in the event of violation of this Act, the Commission shall notify the attorney general thereof, who is authorized to enforce the same by bringing a suit in any of the district courts of the county of the residence of the defendant in such action, and any such court may enforce the same by injunction or other appropriate legal process.

[Acts 1961, 57th Leg., p. 850, ch. 379, § 7, eff. Aug. 28, 1961. Amended by Acts 1969, 61st Leg., p. 1394, ch. 424, § 1, eff. Sept. 1, 1969.]

MUNICIPAL AIRPORTS ACT

Art. 46d-1. Definitions

As used in this Act, unless the text otherwise requires:

(a) "Airport" means any area of land or water which is used, or intended for use, for the landing and take-off of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or right-of-ways, together with all airport buildings and facilities located thereon.

(b) "Air navigation facility" means any facility—other than one owned and operated by the United States—used in, available for use in, or designed for use in, aid of air navigation, including any structures, mechanism, lights, beacons, markers, communicating systems, or other instrumentalities, or devices used or useful as an aid, or constituting an advantage or convenience, to the safe taking-off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport, and any combination of any or all of such facilities.

(c) "Airport hazard" means any structure, object of natural growth, or use of land which obstructs the airspace required for the flight of aircraft in landing or taking-off at an airport or is otherwise hazardous to such landing or taking-off of aircraft.

(d) "Municipality" means any county, or any incorporated city, village or town of this State. "Municipal" means pertaining to a municipality as here-in defined.

(e) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee or other similar representative thereof.

[Acts 1947, 50th Leg., p. 184, ch. 114, § 1.]

Art. 46d-2. General Powers of Municipalities in the Establishment, Acquisition, Operation and Maintenance of Airports and Air Navigation Facilities

(a) Establishment, Operation, Land Acquisition. Every municipality is authorized, out of any appropriations or other moneys made available for such purposes, to plan, establish, develop, construct, enlarge, improve, maintain, equip, operate, regulate, protect and police airports and air navigation facili-

ties, either within or without the territorial limits of such municipality and within or without the territorial boundaries of this State, including the construction, installation, equipment, maintenance and operation at such airports of buildings and other facilities for the servicing of aircraft or for the comfort and accommodation of air travelers, and the purchase and sale of supplies, goods and commodities as an incident to the operation of its airport properties. For such purposes the municipality may use any available property that it may now or hereafter own or control and may, by purchase, gift, devise, lease, eminent domain proceedings or otherwise, acquire property, real or personal, or any interest therein including easements in airport hazards or land outside the boundaries of an airport or airport site, as are necessary to permit safe and efficient operation of the airport or to permit the removal, elimination, obstruction—marking of obstruction—lighting of airport hazards or to prevent the establishment of airport hazards.

(b) Acquisition of Existing Airports. The municipality may by purchase, gift, devise, lease, proceedings or otherwise, acquire existing airports and air navigation facilities, provided however it shall not acquire or take over any airport or air navigation facility owned or controlled by another municipality or public agency of this or any other State without the consent of such municipality or public agency.

(c) Establishment of Airports on Public Waters and Reclaimed Lands. For the purposes of this Act, a municipality may establish or acquire and maintain, within or bordering upon the territorial limits of the municipality, airports in, over and upon, any public waters of this State, any submerged lands under such public waters, and any artificial or reclaimed lands which before the artificial making or reclamation thereof constituted a portion of the submerged lands under such public waters; and may construct and maintain terminal buildings, landing floats, causeways, roadways and bridges for approaches to or connecting with any such airport, and landing floats and breakwaters for the protection thereof.

(d) Limitation on Design and Operation of Air Navigation Facilities. All air navigation facilities established or operated by municipalities shall be supplementary to and coordinated in design and operation with those established and operated by the Federal and State governments.

[Acts 1947, 50th Leg., p. 184, ch. 114, § 2.]

Art. 46d-3. Disposal of Airport Property

Except as may be limited by the terms and conditions of any grant, loan, or agreement pursuant to Section 12 of this Act,¹ every municipality may by sale, lease or otherwise, dispose of any airport, air navigation facility or other property, or portion thereof or interest therein, acquired pursuant to this Act. Such disposal by sale, lease or otherwise, shall be in accordance with the laws of this State, or

provisions of the charter of the municipality, governing the disposition of other property of the municipality, except that in the case of disposal to another municipality or agency of the State or Federal government for aeronautical purposes incident thereto, the sale, lease, or other disposal may be effected in such manner and upon such terms as the governing body of the municipality may deem in the best interest of the municipality.

[Acts 1947, 50th Leg., p. 185, ch. 114, § 3.]

¹ Article 46d-12.

Art. 46d-4. Operation and Use Privileges

(a) Under Municipal Operation. In operating an airport or air navigation facility owned, leased or controlled by a municipality, such municipality may, except as may be limited by the terms and conditions of any grant, loan, or agreement pursuant to Section 12 of this Act,¹ enter into contracts, leases and other arrangements for a term not exceeding forty (40) years with any persons:

(1) granting the privilege of using or improving such airport or air navigation facility or any portion or facility thereof, or space therein for commercial purposes;

(2) conferring the privilege of supplying goods, commodities, things, services or facilities at such airport or air navigation facility; or

(3) making available services to be furnished by the municipality or its agents at such airport or air navigation facility.

In each case the municipality may establish the terms and conditions and fix the charges, rentals or fees for the privileges or services, which shall be reasonable and uniform for the same class of privilege or service and shall be established with due regard to the property and improvements used and the expenses of operation to the municipality.

(b) Under Other Operation. Except as may be limited by the terms and conditions of any grant, loan, or agreement pursuant to Section 12 of this Act, a municipality may by contract, lease or other arrangement, upon a consideration fixed by it, grant to any qualified person for a term not to exceed forty (40) years the privilege of operating, as agent of the municipality or otherwise, any airport owned or controlled by the municipality; provided that no such person shall be granted any authority to operate the airport other than a public airport or to enter into any contracts, leases or other agreements in connection with the operation of the airport which the municipality might not have undertaken under Subsection (a) of this Section.

[Acts 1947, 50th Leg., p. 185, ch. 114, § 4.]

¹ Article 46d-12.

Art. 46d-5. Liens

To enforce the payment of any charges for repairs or improvements to or storage or care of, any personal property made or furnished by the municipi-

pality or its agents in connection with the operation of an airport or air navigation facility owned or operated by the municipality, the municipality shall have liens on such property, which shall be enforceable by the municipality as provided by law.

[Acts 1947, 50th Leg., p. 186, ch. 114, § 5.]

Art. 46d-6. Delegation of Authority to Airport Officer or Board

Any authority vested by this Act in a municipality or in the governing body thereof, for the planning, establishment, development, construction, enlargement, improvement, maintenance, equipment, operation, regulation, protection and policing of airports or other air navigation facilities established, owned or controlled, or to be established, owned or controlled by the municipality may be vested by resolution of the governing body of the municipality in an officer or board or other municipal agency whose powers and duties shall be prescribed in the resolution; provided however, that the expense of such planning, establishment, development, construction, enlargement, improvement, maintenance, equipment, operation, regulation, protection and policing shall be a responsibility of the municipality.

[Acts 1947, 50th Leg., p. 186, ch. 114, § 6.]

Art. 46d-7. Regulations and Jurisdiction

(a) In this section "airport hazard area" means any area of land or water upon which an airport hazard might be established if not prevented as provided in this Act.

(b) Scope. A municipality, which has established or acquired or which may hereafter establish or acquire an airport or air navigation facility, is authorized to adopt, amend and repeal such reasonable ordinances, resolutions, rules, regulations and orders as it shall deem necessary for the management, government and use of such airport or air navigation facility under its control or an airport hazard area relating to the airport, whether situated within or without the territorial limits of the municipality. For the enforcement thereof, the municipality, may, by ordinance or resolution, as may by law be appropriate, appoint airport guards or police, with full police powers, and fix penalties, within the limits prescribed by law, for the violation of the aforesaid ordinances, resolutions, rules, regulations and orders. Said penalties shall be enforced in the same manner in which penalties prescribed by other ordinances, or resolutions of the municipality are enforced. To the extent that an airport, air navigation facility, or airport hazard area controlled and operated by a municipality is located outside the territorial limits of the municipality, it shall, subject to Federal and State laws, rules and regulations, be under the jurisdiction and control of the municipality controlling or operating it, and no other municipality shall have any authority to charge or exact a license fee or occupation tax for operations thereon. Nothing in this Act shall authorize any municipality to adopt or amend any ordinances, resolutions,

rules, regulations, or orders establishing zones or otherwise regulating the height of structures or natural growths in any area, or in any manner, other than as provided in the Airport Zoning Act (Article 46e-1 et seq., Vernon's Texas Civil Statutes).

(c) Conformity to Federal and State Law. No ordinance, resolution, rule, regulation or order adopted by a municipality pursuant to this Act shall be inconsistent with, or contrary to, any Act of the Congress of the United States or laws of this State, or to any regulations promulgated or standards established pursuant thereto.

[Acts 1947, 50th Leg., p. 186, ch. 114, § 7. Amended by Acts 1981, 67th Leg., p. 851, ch. 300, § 1, eff. Aug. 31, 1981; Acts 1983, 68th Leg., p. 5369, ch. 985, § 1, eff. June 19, 1983.]

Art. 46d-8. Taxation

In addition to and exclusive of any taxes which may be levied for the interest and sinking fund of any bonds, notes or time warrants issued under authority of this Act, or any other Act of the Legislature authorizing municipalities to issue such bonds, notes, or warrants for airport purposes, the governing body of any municipality may and is hereby empowered to levy and collect a special tax not to exceed for any one year five cents (5¢) on each One Hundred Dollars (\$100) for the purpose of improving, operating, maintaining and conducting an airport or air navigation facility, or for any other purpose falling within the purview of this Act; provided, however, that nothing in this Act shall be construed as authorizing any municipality to exceed the limits of indebtedness placed upon it under the Constitution.

[Acts 1947, 50th Leg., p. 186, ch. 114, § 8.]

Art. 46d-9. Bond Issues—Financing Acquisition Costs and Improvements

The cost of planning and acquiring, establishing, developing, constructing, enlarging, improving, or equipping, an airport or air navigation facility, or the site therefor, including buildings and other facilities incidental to the operation thereof, and the acquisition or elimination of airport hazards, may be paid for wholly or partly from the proceeds of the sale of bonds of the municipality, as the governing body of the municipality shall determine. For such purposes a municipality may issue general or special obligation bonds, revenue bonds or other forms of bonds, secured or unsecured, including refunding bonds, and levy taxes to provide for the interest and sinking funds of any bonds so issued, the authority hereby given for the issuance of such bonds and levy and collection of such taxes to be exercised in accordance with the provisions of Title 22 of the Revised Civil Statutes of Texas, 1925, Article 701 et seq., and Acts amendatory thereof or supplementary thereto. All bonds issued by a municipality pursuant to this Act which are payable, as to principal and interest, solely from the revenues of an

airport or air navigation facility shall so state on their face. In any suit, action or proceeding involving the security, or the validity or enforceability, of any bonds issued by a municipality, which bonds state on their face that they were issued pursuant to the provisions of this Act and for a purpose or purposes authorized to be accomplished by this Act, such bonds shall be conclusively deemed to have been issued pursuant to this Act for such purpose or purposes.

[Acts 1947, 50th Leg., p. 187, ch. 114, § 9.]

Art. 46d-10. Validation of Prior Acquisitions, Actions and Bond Issues

Any acquisition of property heretofore made, within or without the limits of any municipality of the State, for the purposes authorized by this Act, and any other action heretofore taken by a municipality in the furtherance of such purposes, including but not limited to the making of appropriations, the expenditure of money, the incurring of debts, the acceptance and disbursement of Federal, State or other grants or loans, the issuance of payment and bonds, the execution of leases and contracts, which acquisition or action would have been authorized had this Act been in effect at the time of such acquisition or action, is hereby ratified and made valid. All bonds heretofore issued in furtherance of purposes authorized by this Act and actions ratified by this Section are confirmed as legal obligations of the municipality, and, without prejudice to the general powers granted to the municipality by this Act, such municipality is hereby authorized to issue further bonds for such purposes up to the limit fixed in the original authorization therefor, which bonds shall be legal obligations in accordance with their terms.

[Acts 1947, 50th Leg., p. 187, ch. 114, § 10.]

Art. 46d-11. Application of Airport Revenues and Sale Proceeds

The revenues obtained by a municipality from the ownership, control or operation of any airport or air navigation facility, including proceeds from the sale of any airport or portion thereof or air navigation facility property, shall be deposited in a special fund to be designated the "_____ Airport Fund," which revenues shall be appropriated solely to, and used by the municipality for, the purposes authorized by this Act.

[Acts 1947, 50th Leg., p. 187, ch. 114, § 11.]

Art. 46d-12. Federal and State-Aid

(a) Acceptance Authorized, Conditions. Every municipality is authorized to accept, receive, receipt for, disburse and expend Federal and State moneys and other moneys, public or private, made available by grant or loan or both to accomplish, in whole or in part, any of the purposes of this Act. All Federal moneys accepted under this Section shall be accepted and expended by the municipality upon such terms and conditions as are prescribed by the United

States and as are consistent with State law; and all State moneys accepted under this Section shall be accepted and expended by the municipality upon such terms and conditions as are prescribed by the State. Unless otherwise prescribed by the agency from which such moneys were received, the chief financial officer of the municipality shall, on its behalf deposit all moneys received pursuant to this Section and shall keep them, in separate funds designated according to the purposes for which the moneys were made available, in trust for such purposes.

(b) Aeronautics Commission as Agent. A municipality is authorized to designate the Texas Aeronautics Commission as its agent to accept, receive, receipt for and disburse Federal and State moneys, and other moneys, public or private, made available by grant or loan or both to accomplish, in whole or in part, any of the purposes of this Act; and to designate the said Commission as its agent in contracting for and supervising the planning, acquisition, development, construction, improvement, maintenance, equipment or operation of any airport or other air navigation facility. All contracts made, let or awarded by the Texas Aeronautics Commission acting as agent of a municipality under authority of this Section, shall be made, let or awarded pursuant to the laws governing the making of contracts by or on behalf of the State. Such municipality may enter into an agreement with the said Aeronautics Commission prescribing the terms and conditions of the agency in accordance with such terms and conditions as are prescribed by the United States, if Federal money is involved, and in accordance with the applicable laws of this State. All Federal moneys accepted under this Section by the Texas Aeronautics Commission shall be accepted and transferred or expended by said Commission upon such terms and conditions as are prescribed by the United States. All moneys received by the Texas Aeronautics Commission pursuant to this Subsection shall be deposited in the State Treasury, and unless otherwise prescribed by the agency from which such moneys were received, shall be kept in separate funds designated according to the purposes for which the moneys were made available, and held by the State in trust for such purposes.

[Acts 1947, 50th Leg., p. 188, ch. 114, § 12.]

Art. 46d-13. Contracts

A municipality may enter into any contracts necessary to the execution of the powers granted it, and for the purposes provided by this Act.

[Acts 1947, 50th Leg., p. 188, ch. 114, § 13.]

Art. 46d-14. Joint Operations

(a) Authorization. For the purposes of this Section, unless otherwise qualified, the term "public agency" includes municipality, as defined in this Act, any agency of the State government and of the United States, and any municipality, political subdivision and agency of another State; and the term

"governing body" means the governing body of a county or municipality, and the head of the agency if the public agency is other than a county or municipality, and the term "airport hazard area" means any area of land or water upon which an airport hazard might be established if not prevented as provided in this Act. All powers, privileges and authority granted to any municipality by this Act may be exercised and enjoyed jointly with any public agency of any other State or of the United States to the extent that the laws of such other State or of the United States permit such joint exercise or enjoyment. If not otherwise authorized by law, any agency of the State government when acting jointly with any municipality, may exercise and enjoy all of the powers, privileges and authority conferred by this Act upon a municipality.

(b) Agreement. Any two (2) or more public agencies may enter into agreements with each other for joint action pursuant to the provisions of this Act and any two (2) or more municipalities are specially authorized to make such agreement or agreements as they may deem necessary for the joint acquisition and operation of airports, air navigation facilities, or airport hazard areas. Concurrent action by ordinance, resolution or otherwise of the governing bodies of the participating public agencies shall constitute joint action. Each such agreement shall specify its duration, the proportionate interest which each public agency shall have in the property, facilities and privileges involved, the proportion to be borne by each public agency of preliminary costs and costs of acquisition, establishment, construction, enlargement, improvement, and equipment of the airport, air navigation facility, or airport hazard area, the proportion of the expenses of maintenance, operation, regulation and protection thereof to be borne by each and such other terms as are required by the provisions of this Section. The agreement may also provide for: amendments thereof, and conditions and methods of termination of the agreement; the disposal of all or any of the property, facilities and privileges jointly owned, prior to or upon said property, facilities and privileges, or any part thereof, ceasing to be used for the purposes provided in this Act, or upon termination of the agreement; the distribution of the proceeds received upon any such disposal, and of any funds or other property jointly owned and undisposed of; the assumption or payment of any indebtedness arising from the joint venture which remains unpaid upon the disposal of all assets or upon a termination of the agreement; and such other provisions as may be necessary or convenient.

(c) Joint Board. Public agencies acting jointly pursuant to this Section shall create a joint board which shall consist of members appointed by the governing body of each participating public agency. The number to be appointed, their term and compensation, if any, shall be provided for in the joint agreement. Each such joint board shall organize, select officers for terms to be fixed by the agree-

ment, and adopt and amend from time to time rules for its own procedure. The joint board shall have power to plan, acquire, establish, develop, construct, enlarge, improve, maintain, equip, operate, regulate, protect and police any airport, air navigation facility, or airport hazard area to be jointly acquired, controlled and operated, and such board may exercise on behalf of its constituent public agencies all the powers of each with respect to such airport, air navigation facility or airport hazard area, subject to the limitations of Subsection (d) of this Section.

(d) Limitations on Joint Board.

(1) Expenditures. The total expenditures to be made by the joint board for any purpose in any calendar year shall be determined by a budget approved by the governing bodies of its constituent public agencies on or before the preceding December 1st.

(2) Acquisitions Beyond Sums Allotted. No airport, air navigation facility, airport hazard, or real or personal property, the cost of which is in excess of sums therefor fixed by the joint agreement or allotted in the annual budget, may be acquired by the joint board without the approval of the governing bodies of its constituent public agencies.

(3) Eminent Domain. Eminent domain proceedings under this Section may be instituted only by authority of the governing bodies of the constituent public agencies of the joint board. If so authorized, such proceedings shall be instituted in the names of the constituent public agencies jointly, and the property so acquired shall be held by said public agencies as tenants in common until conveyed by them to the joint board.

(4) Disposal of Real Property, Use of Property by Others. The joint board shall not dispose of any airport, air navigation facility or real property under its jurisdiction except with the consent of the governing bodies of its constituent public agencies. However, the joint board may, without such consent, enter into contracts, leases, or other arrangements for the use and occupancy by others of airport lands and personal property for the purposes specified in Section 4 of this Act upon such terms, for such rentals, revenues, and payments, and for such period or periods of years and with such options of renewal, as shall be approved by the joint board. It is provided, however, that if any such contract, lease, or other arrangement shall be for a term, including any renewal or option terms, in excess of 40 years, the same shall be subject to the approval of each of the governing bodies of the constituent public agencies of the joint board unless the necessity for such approval is waived by resolution of each such governing body.

(5) Police Regulations. Any resolutions, rules, regulations or orders of the joint board dealing with subjects authorized by Section 7 of this Act shall become effective only upon approval of the governing bodies of the constituent public agencies provided that upon such approval, the resolutions, rules,

regulations or orders of the joint board shall have the same force and effect in the territories or jurisdictions involved as the ordinances, resolutions, rules, regulations or orders of each public agency would have in its own territory or jurisdiction.

(6) Taxicab Licensing. Notwithstanding any contrary provisions in H.B. 593, Acts of the 68th Legislature, Regular Session, 1983,¹ a joint airport board established pursuant to Chapter 114, Acts of the 50th Legislature, Regular Session, 1947, as amended (Article 46d-14, Vernon's Texas Civil Statutes), shall have power to license taxicabs picking up passengers at or delivering passengers to the airport.

(7) Regulations. Any resolutions, rules, regulations, or orders of the joint board dealing with subjects authorized by Subdivision (6) of this subsection become effective only upon approval of the governing bodies of the constituent public agencies. Upon the approval, the resolutions, rules, regulations, or orders of the joint board have the same force and effect in the territories or jurisdictions involved as the ordinances, resolutions, rules, regulations, or orders of each public agency would have in its own territory or jurisdiction.

(e) Joint Fund. For the purpose of providing a joint board with moneys for the necessary expenditures in carrying out the provisions of this Section, a joint fund shall be created and maintained, into which shall be deposited the share of each of the constituent public agencies as provided by the joint agreement. Each of the constituent public agencies shall provide its share of the fund from sources available to each. Any Federal, State or other contributions or loans, and the revenues obtained from the joint ownership, control and operation of any airport or air navigation facility under the jurisdiction of the joint board shall be paid into the joint fund. Disbursements from such fund shall be made by order of the board, subject to the limitations prescribed in Subsection (d) of this Section.

[Acts 1947, 50th Leg., p. 188, ch. 114, § 14. Amended by Acts 1981, 67th Leg., p. 852, ch. 300, § 2, eff. Aug. 31, 1981; Acts 1983, 68th Leg., p. 4022, ch. 626, § 2, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 5322, ch. 978, § 1, eff. Sept. 1, 1983.]

¹ Acts 1983, 68th Leg., p. 1161, ch. 263.

Section 2 of Acts 1983, 68th Leg., p. 5323, ch. 978, provided: "Any and all contracts, leases, or other arrangements for the use or occupancy of airport property executed by joint boards created under the Municipal Airports Act (Article 46d-1 et seq., Vernon's Texas Civil Statutes), and all provisions thereof, and executed prior to the effective date of this Act, are hereby validated and confirmed and the same are fully effective and represent the lawful agreements and undertakings of joint boards in accordance with the terms thereof."

Art. 46d-15. Public Purpose, County and Municipal Purpose

The acquisition of any land or interest therein pursuant to this Act, the planning, acquisition, establishment, development, construction, improve-

ment, maintenance, equipment, operation, regulation, protection and policing of airports and air navigation facilities, including the acquisition or elimination of airport hazards, and the exercise of any other powers herein granted to municipalities and other public agencies, to be severally or jointly exercised, are hereby declared to be public and governmental functions, exercised for a public purpose, and matters of public necessity; and in the case of any county, are declared to be county functions and purposes as well as public and governmental; and in the case of any municipality other than a county, are declared to be municipal functions and purposes as well as public and governmental. All land and other property and privileges acquired and used by or on behalf of any municipality or other public agency in the manner and for the purposes enumerated in this Act shall and are hereby declared to be acquired and used for public and governmental purposes and as a matter of public necessity, and, in the case of a county or municipality, for county or municipal purposes, respectively.

[Acts 1947, 50th Leg., p. 190, ch. 114, § 15.]

Art. 46d-16. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(1), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this article, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

For disposition of the subject matter of the repealed article, see Disposition Table preceding Tax Code.

Art. 46d-17. Supplementary Authority

In addition to the general and special powers conferred by this Act, every municipality is authorized to exercise such powers as are necessarily incidental to the exercise of such general and special powers.

[Acts 1947, 50th Leg., p. 191, ch. 114, § 17.]

Art. 46d-18. Airport Zoning

Nothing contained in this Act shall be construed to limit any right, power or authority of a municipality to regulate airport hazards by zoning.

[Acts 1947, 50th Leg., p. 191, ch. 114, § 18.]

Art. 46d-19. Interpretation and Construction

This Act shall be so interpreted and construed as to make uniform so far as possible the laws and regulations of this State and other States and of the government of the United States having to do with the subject of municipal airports.

[Acts 1947, 50th Leg., p. 191, ch. 114, § 19.]

Art. 46d-20. Severability

If any provision of this Act or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or application of this Act which can be given effect without the invalid provision or application,

and to this end the provisions of this Act are declared to be severable.

[Acts 1947, 50th Leg., p. 191, ch. 114, § 20.]

Art. 46d-21. Cumulative

This Act is cumulative of and in addition to all laws of the State of Texas on this subject.

[Acts 1947, 50th Leg., p. 191, ch. 114, § 21.]

Art. 46d-22. Short Title

This Act may be cited as the "Municipal Airports Act."

[Acts 1947, 50th Leg., p. 191, ch. 114, § 22.]

AIRPORT ZONING REGULATIONS

Art. 46e-1. Definitions

As used in this Act,¹ unless the context otherwise requires:

(1) "Airport" means any area of land or water, whether of public or private ownership, designed and set aside for the landing and taking off of aircraft and utilized or to be utilized in the interest of the public for such purposes. The term "Airport" shall also include any area having installations relating to flight and particularly including installations, facilities and base of operations for tracking and/or data acquisition concerning flight. Such areas shall be deemed to be "utilized in the interest of the public" when the owner thereof by contract, license or otherwise permits the use of such areas by the public to an extent that the airport fulfills an essential community purpose. Such areas also shall be deemed to be "utilized in the interest of the public" when utilized by the Government of the State of Texas or an agency thereof or by the Government of the United States or any agency thereof in furtherance of the National Defense or any National Government Program relating to flight.

(2) "Airport Hazard" means any structure or tree which obstructs the air space required for the take off, landing and flight of aircraft or which interferes with visual, radar, radio, or other systems for tracking, data acquisition, monitoring, or control of aircraft.

(3) "Airport hazard area" means any area of land or water upon which an airport hazard might be established if not prevented as provided in this Act.

(4) "Political subdivision" means any municipality, city, town, village or county.

(5) "Person" means any individual, firm, copartnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.

(6) "Structure" means any object constructed or installed by man, including, but without limitation,

buildings, towers, smokestacks, and overhead transmission lines.

(7) "Tree" means any object of natural growth.

(8) "Obstruction" means any structure, growth, or other object, including a mobile object, that exceeds a limiting height established by federal regulations or by a hazard zoning regulation.

(9) "Runway" means a defined area on an airport prepared for landing and taking off of aircraft along its length.

(10) "Compatible land use" means a use of land adjacent to an airport that does not endanger the health, safety, or welfare of the owners, occupants, or users of the land because of levels of noise or vibrations or because of the risk of personal injury or property damage created by the operations of the airport, including the taking off and landing of aircraft.

[Acts 1947, 50th Leg., p. 784, ch. 391, § 1. Amended by Acts 1951, 52nd Leg., p. 17, ch. 12, § 1; Acts 1965, 59th Leg., p. 295, ch. 128, § 1, eff. Aug. 30, 1965; Acts 1981, 67th Leg., p. 2874, ch. 769, § 1, eff. Sept. 1, 1981; Acts 1983, 68th Leg., p. 5363, ch. 984, § 1, eff. Aug. 29, 1983.]

¹ Articles 46e-1 to 46e-15.

Art. 46e-2. Airport Hazards Contrary to Public Interest

It is hereby found that an airport hazard endangers the lives and property of users of the airport and of occupants of land in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking-off and maneuvering of aircraft, thus tending to destroy or impair the utility of the airport and the public investment therein. Accordingly, it is hereby declared: (a) that the creation or establishment of an airport hazard is a public nuisance and an injury to the community served by the airport in question; (b) that it is therefore necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of airport hazards be prevented; and (c) that this should be accomplished, to the extent legally possible, by exercise of the police power, without compensation. It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or property interests therein.

[Acts 1947, 50th Leg., p. 784, ch. 391, § 2.]

Art. 46e-3. Power to Adopt Airport Zoning Regulations

(1) In order to prevent the creation or establishment of airport hazards, every political subdivision having an airport hazard area within its territorial limits may adopt, administer, and enforce, under the police power and in the manner and upon the conditions hereinafter prescribed, airport zoning regula-

tions for such airport hazard area, which regulations may divide such area into zones, and, within such zones, specify the land uses permitted and regulate the types of structures permitted and restrict the height to which structures and trees may be erected or allowed to grow so as not to create an obstruction to flight operations or air navigation.

(2) Where an airport is utilized in the interest of the public to the benefit of a political subdivision or where an airport owned or operated by a defense agency of the federal government or the State of Texas is located within the territorial limits of a political subdivision and any airport hazard area or controlled compatible land use area appertaining to such airport is located outside the territorial limits of said political subdivision, the political subdivision gaining the benefits of the airport's utilization in the public interest or the political subdivision within whose territorial limits the airport owned or operated by a defense agency of the federal government or the State of Texas is situated and the political subdivision within which the airport hazard area or controlled compatible land use area is located may create, by ordinance or resolution duly adopted, a joint airport zoning board, which board shall have the same power as that vested by subsection (1) or (3), as applicable, to adopt, administer, and enforce airport hazard and compatible land use zoning regulations applicable to the airport hazard areas and controlled compatible land use areas in question. Each such joint board shall have as members two (2) representatives appointed by each political subdivision participating in its creation and in addition a chairman elected by a majority of the members so appointed. Where an agency of the State of Texas owns and operates under authority of law an airport located within the airport hazard area or controlled compatible land use area governed by a joint zoning board, such agency shall be entitled to have two (2) representatives on such joint zoning board.

Provided, however, where an airport is utilized in the interest of the public to the benefit of any political subdivision having more than 50,000 inhabitants, according to the last preceding Federal Census, and such airport is located within the territorial limits of such political subdivision and any airport hazard or controlled compatible land use area appertaining to such airport is located outside of the territorial limits of said political subdivision receiving the benefits of the airport's utilization, the political subdivision shall have the same power to adopt, administer, and enforce airport hazard and compatible land use zoning regulations applicable to the airport hazard or controlled compatible land use area in question as that vested by subsections (1) and (3) in the political subdivision within which such area is located. Each hazard or compatible land use zoning regulation shall include a statement that the airport fulfills an essential community purpose.

(3) In this Act, "centerline" means a line extending through the midpoint of each end of a runway; "primary runway" means existing or planned paved

runway(s), as shown in the official Airport Layout Plan (ALP), of at least 3,200 feet on which a majority of the approaches to and departures from the airport occur; "instrument runway" means existing or planned runway(s) of at least 3,200 feet for which there is or is planned to be an instrument landing procedure published by a defense agency of the federal government or by the Federal Aviation Administration; and "controlled area" or "controlled compatible land use area" means that land located outside airport boundaries and within a rectangle bounded by lines located no farther than one and one-half (1.5) statute miles from the centerline of an instrument or primary runway and lines located no farther than five (5) statute miles from each end of the paved surface of an instrument or primary runway.

When an airport is utilized in the interest of the public to the benefit of a political subdivision or when an airport owned or operated by a defense agency of the federal government or by the State of Texas is located within the territorial limits of a political subdivision, the political subdivision may adopt, administer and enforce under the police power using the procedures and subject to the conditions prescribed in this Act, airport compatible land use zoning regulations for the portion of the controlled area located within that political subdivision. The political subdivision may also by ordinance or resolution implement federal laws or rules controlling the use of land located adjacent to or in the immediate vicinity of the airport in connection with compatible land use restrictions. The establishment and enforcement of compatible land use restrictions in the controlled area shall be accomplished in the same manner as prescribed in this Act for airport hazard zoning. Each compatible land use regulation shall include a statement that the airport fulfills an essential community purpose.

[Acts 1947, 50th Leg., p. 784, ch. 391, § 3. Amended by Acts 1961, 57th Leg., p. 689, ch. 323, § 1; Acts 1963, 58th Leg., p. 1367, ch. 521, § 1, eff. Aug. 23, 1963; Acts 1981, 67th Leg., p. 2875, ch. 769, § 2, eff. Sept. 1, 1981; Acts 1983, 68th Leg., p. 5364, ch. 984, § 2, eff. Aug. 29, 1983.]

Art. 46e-4. Relation to Comprehensive Zoning Regulations

(1) Incorporation. In the event that a political subdivision has adopted, or hereafter adopts, a comprehensive zoning ordinance regulating, among other things, the height of buildings, any airport zoning regulations applicable to the same area or portion thereof, may be incorporated in and made a part of such comprehensive zoning regulations, and be administered and enforced in connection therewith.

(2) Conflict. In the event of conflict between any airport hazard zoning regulations adopted under this Act and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, or any other matter, and whether such other regulations were

adopted by the political subdivision which adopted the airport zoning regulations or by some other political subdivision, the more stringent limitation or requirement shall govern and prevail.

(3) Conflict. In the event of a conflict between any airport compatible land use regulation adopted under this Act and any other regulation applicable to the same area, whether the conflict is with respect to the use of land or any other matter and whether the other regulation was adopted by the political subdivision that adopted the airport land use regulation or by some other political subdivision, the airport compatible land use regulation governs.

[Acts 1947, 50th Leg., p. 784, ch. 391, § 4. Amended by Acts 1981, 67th Leg., p. 2876, ch. 769, §§ 3, 4, eff. Sept. 1, 1981.]

Art. 46e-5. Procedure for Adoption of Zoning Regulations

(1) Notice and Hearing. No airport zoning regulations shall be adopted, amended, or changed under this Act except by action of the legislative body of the political subdivision in question, or the joint board provided for in Section 3(2),¹ after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen (15) days notice of the hearing shall be published in an official paper, or a paper of general circulation, in the political subdivision or subdivisions in which is located the airport hazard area to be zoned.

(2) Airport Zoning Commission. Prior to the initial zoning of any airport hazard or compatible land use area under this Act or the amendment of an existing airport zoning regulation, the political subdivision or joint airport zoning board which is to adopt the regulations shall appoint a commission, to be known as the Airport Zoning Commission, to recommend the boundaries of the various zones to be established and the regulations to be adopted therefor. Such commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and the legislative body of the political subdivision or the joint airport zoning board shall not hold its public hearings or take other action until it has received the final report of such commission. Where a city plan commission or comprehensive zoning commission already exists, it may be appointed as the airport zoning commission. At least fifteen (15) days' notice of the hearing shall be published in an official paper or a paper of general circulation, in the political subdivision or subdivisions in which is located the airport hazard or compatible land use area to be zoned.

[Acts 1947, 50th Leg., p. 784, ch. 391, § 5. Amended by Acts 1983, 68th Leg., p. 5367, ch. 984, § 3, eff. Aug. 29, 1983.]

¹ Article 46e-3.

Art. 46e-6. Airport Zoning Requirements

(1) Reasonableness. All airport zoning regulations adopted under this Act shall be reasonable and none shall impose any requirement or restriction which is not reasonably necessary to effectuate the purposes of this Act. In determining what regulations it may adopt, each political subdivision and joint airport zoning board shall consider, among other things, the character of the flying operations expected to be conducted at the airport, the nature of the terrain within the airport hazard area, the character of the neighborhood, and the uses to which the property to be zoned is put and adaptable.

(2) Non-conforming Uses and Structures. No airport zoning regulations adopted under this Act shall require changes in land use or the removal, lowering or other change or alteration of any structure or tree not conforming to the regulations when adopted or amended, or otherwise interfere with the continuance of any non-conforming use, except as provided in Section 7(3).¹ For purposes of this subsection, permitted non-conforming structures include all phases or elements of a multi-phase structure, whether or not actual construction has commenced, which had received a determination of no hazard by the Federal Aviation Administration under Part 77 of the Federal Aviation Regulation (14 Code of Federal Regulations, Part 77) before the airport zoning regulations were adopted or amended under this Act.

[Acts 1947, 50th Leg., p. 784, ch. 391, § 6. Amended by Acts 1981, 67th Leg., p. 2877, ch. 769, § 5, eff. Sept. 1, 1981; Acts 1983, 68th Leg., p. 5368, ch. 984, § 4, eff. Aug. 29, 1983.]

¹ Article 46e-7(3).

Art. 46e-7. Permits and Variances

(1) Permits. Any airport zoning regulations adopted under this Act may require that a permit be obtained before any new structure or use may be constructed or established and before any existing use or structure may be substantially altered or repaired. In any event, however, all such regulations shall provide that before any non-conforming structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher, or replanted, a permit must be secured from the administrative agency authorized to administer and enforce the regulations, authorizing such replacement, change or repair. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a non-conforming structure or tree or non-conforming use to be made or become higher or become a greater hazard to air navigation than it was when the applicable regulation was adopted or than it is when the application for a permit is made. Except as provided herein, all applications for permits shall be granted.

(2) Variances. Any person desiring to erect any structure, or increase the height of any structure, or permit the growth of any tree, or otherwise use

his property in violation of airport zoning regulations adopted under this Act, may apply to the Board of Adjustment for a variance from the zoning regulations in question. Such variances shall be allowed where a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of regulations and this Act; provided, that any variance may be allowed subject to any reasonable conditions that the Board of Adjustment may deem necessary to effectuate the purposes of this Act.

(3) Hazard Marking and Lighting. In granting any permit or variance under this Section, the administrative agency or Board of Adjustment may, if it deems such action advisable to effectuate the purposes of this Act and reasonable in the circumstances, so condition such permit or variance as to require the owner of the structure or tree in question to permit the political subdivision, at its own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

[Acts 1947, 50th Leg., p. 784, ch. 391, § 7.]

Art. 46e-8. Appeals

(1) Any person aggrieved, or taxpayer affected, by any decision of an administrative agency made in its administration of airport zoning regulations adopted under this Act, or any governing body of a political subdivision, or any joint airport zoning board, which is of the opinion that a decision of such an administrative agency is an improper application of airport zoning regulations of concern to such governing body or board, may appeal to the Board of Adjustment authorized to hear and decide appeals from the decisions of such administrative agency.

(2) All appeals taken under this Section must be taken within a reasonable time, as provided by the rules of the Board, by filing with the agency from which the appeal is taken and with the Board, a notice of appeal specifying the grounds thereof. The agency from which the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

(3) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the agency from which the appeal is taken certified to the Board, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in its opinion, cause imminent peril to life or property. In such cases proceedings shall not be stayed otherwise than by order of the Board on notice to the agency from which the appeal is taken and on due cause shown.

(4) The Board shall fix a reasonable time for the hearing of appeals, give public notice and due notice

to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

(5) The Board may, in conformity with the provisions of this Act, reverse or affirm wholly or partly, or modify, the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the administrative agency from which the appeal is taken.

[Acts 1947, 50th Leg., p. 784, ch. 391, § 8.]

Art. 46e-9. Administration of Airport Zoning Regulations

All airport zoning regulations adopted under this Act shall provide for the administration and enforcement of such regulations by an administrative agency which may be an agency created by such regulations or any official, board, or other existing agency of the political subdivision adopting the regulations or of one of the political subdivisions which participated in the creation of the joint airport zoning board adopting the regulations, if satisfactory to that political subdivision, but in no case shall administrative agency be or include any member of the Board of Adjustment. The duties of any administrative agency designated pursuant to this Act shall include that of hearing and deciding all permits under Section 7(1),¹ but such agency shall not have or exercise any of the powers herein delegated to the Board of Adjustment.

[Acts 1947, 50th Leg., p. 784, ch. 391, § 9.]

¹ Article 46e-7.

Art. 46e-10. Board of Adjustment

(1) All airport zoning regulations adopted under this Act shall provide for a Board of Adjustment to have and exercise the following powers:

(a) To hear and decide appeals from any order, requirement, decision, or determination made by the administrative agency in the enforcement of the airport zoning regulations as provided in Section 8.¹

(b) To hear and decide any special exceptions to the terms of the airport zoning regulations upon which such Board may be required to pass under such regulations.

(c) To hear and decide specific variances under Section 7(2).²

(2) Where a zoning board of appeals or adjustment already exists, it may be appointed as the Board of Adjustment. Otherwise, the Board of Adjustment shall consist of five (5) members, each to be appointed for a term of two (2) years and removable for cause by the appointment authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

(3) The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the administrative agent, or to decide in favor of the applicant on any matter upon which it is required to pass under the airport zoning regulations, or to effect any variation in such regulations.

(4) The Board shall adopt rules in accordance with the provisions of the ordinance or resolution by which it was created. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. The Chairman, or in his absence the acting Chairman, may administer oaths and compel the attendance of witnesses. All hearings of the Board shall be public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the Board and shall be a public record.

[Acts 1947, 50th Leg., p. 784, ch. 391, § 10.]

¹ Article 46e-8.

² Article 46e-7.

Art. 46e-11. Judicial Review

(1) Any person aggrieved, or taxpayer affected, by any decision of a Board of Adjustment, or any governing body of a political subdivision or any joint airport zoning board which is of the opinion that a decision of a Board of Adjustment is illegal, may present to a Court of record a verified petition setting forth that the decision is illegal, in whole or in part, and specifying the grounds of illegality. Such petition shall be presented to the Court within ten (10) days after the decision is filed in the office of the Board.

(2) Upon presentation of such petition the Court may allow a writ of certiorari directed to the Board of Adjustment to review such decision of the Board. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the Court may, on application, on notice to the Board and on due cause shown, grant a restraining order.

(3) The Board of Adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by the writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

(4) The Court shall have exclusive jurisdiction to affirm, modify, or set aside the decision brought up for review, in whole or in part, and if need be, to order further proceedings by the Board of Adjustment. In all appeals taken under this Act such case shall be tried and determined de novo on the basis of the facts adduced in the trial of the case in the Court, and the Court independently shall pass upon

both the law and the facts as in an ordinary civil suit.

(5) Costs shall not be allowed against the Board of Adjustment unless it appears to the Court that it acted with gross negligence, in bad faith, or with malice, in making the decision appealed from.

(6) In any case in which airport zoning regulations adopted under this Act, although generally reasonable, are held by a Court to interfere with the use or enjoyment of a particular structure or parcel of land to such an extent, or to be so onerous in their application to such a structure or parcel of land, as to constitute a taking or deprivation of that property in violation of the Constitution of this State or the Constitution of the United States, such holding shall not affect the application of such regulations to other structures and parcels of land.

[Acts 1947, 50th Leg., p. 784, ch. 391, § 11.]

Art. 46e-12. Enforcement and Remedies

In addition, the political subdivision or agency adopting zoning regulations under this Act may institute in any Court of competent jurisdiction, an action to prevent, restrain, correct or abate any violation of this Act, or of airport zoning regulations adopted under this Act, or of any order or ruling made in connection with their administration or enforcement, and the Court shall adjudge to the plaintiff such relief, by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of this Act and of the regulations adopted and orders and rulings made pursuant thereto.

[Acts 1947, 50th Leg., p. 784, ch. 391, § 12.]

Art. 46e-13. Acquisition of Air Rights

In any case in which: (1) it is desired to remove, lower, or otherwise terminate a non-conforming structure or use; or (2) the approach protection necessary cannot, because of constitutional limitations, be provided by airport zoning regulations under this Act; or (3) it appears advisable that the necessary approach protection be provided by acquisition of property rights, rather than by airport zoning regulations, the political subdivision within which the property or non-conforming use is located or the political subdivision owning the airport or served by it may acquire from any person or political subdivision of this State by purchase, grant, or condemnation in the manner provided by Title 52 of the Revised Civil Statutes of Texas, 1925, Articles 3264 to 3271, inclusive, and Acts amendatory thereof or supplementary thereto, such air right, avigation easement, or other estate or interest in the property or non-conforming structure or use in question as may be necessary to effectuate the purpose of this Act.

[Acts 1947, 50th Leg., p. 784, ch. 391, § 13. Amended by Acts 1951, 52nd Leg., p. 17, ch. 12, § 2.]

Art. 46e-14. Severability

If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

[Acts 1947, 50th Leg., p. 784, ch. 391, § 14.]

Art. 46e-15. Short Title

This Act shall be known and may be cited as the "Airport Zoning Act."

[Acts 1947, 50th Leg., p. 784, ch. 391, § 15.]

OPERATION OF AIRCRAFT**Art. 46f-1. Taking Off, Landing or Maneuvering Aircraft on Highway, Road or Street**

Sec. 1. No person may take off, land, or maneuver an aircraft, including heavier than air and lighter than air, on a public highway, road, or street except when it is necessary to prevent serious injury to a person or property or except as provided by Article 46f-4, Revised Civil Statutes of Texas, 1925. However, nothing herein shall prohibit any operation of said aircraft on a public highway, road or street during or within a reasonable time after an emergency.

Sec. 1b. Any violation shall be subject to the provisions of Article 6701d, Section 148(a), Vernon's Texas Civil Statutes.

Sec. 2. A person who violates Section 1 of this Act is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$25 nor more than \$200.

[Acts 1967, 60th Leg., p. 865, ch. 371, eff. Aug. 28, 1967. Amended by Acts 1981, 67th Leg., p. 2672, ch. 723, § 2, eff. Aug. 31, 1981.]

Art. 46f-2. Aircraft Licenses**Definitions**

Sec. 1. In this Act "aircraft" means any contrivance now known or hereafter invented, used or designated for navigation of or flight in the air, except a parachute or other contrivance designed for such navigation but used primarily as safety equipment. The term "public aircraft" means any aircraft used exclusively in the Federal governmental service or the State governmental service. The term "civil aircraft" means any aircraft other than public aircraft. The term "airman" means any individual (including the person in command and any pilot, mechanic, or member of the crew) who engages in the navigation of aircraft while under way and any individual who is in charge of the inspection, overhauling, or repairing of aircraft.

License Required

Sec. 2. The public safety requiring and the advantages of uniform regulation making it desirable in the interest of aeronautical progress that aircraft operating within this State should conform with respect to design, construction, and airworthiness to the standards prescribed by the United States Government with respect to navigation of aircraft subject to its jurisdiction, it shall be unlawful for any person to navigate an aircraft within the State, whether for commercial, pleasure or noncommercial purposes, unless it is licensed and registered by the Department of Commerce of the United States in the manner prescribed by the lawful rules and regulations of the United States Government then in force.

License of Operator

Sec. 3. No person shall serve as an airman in connection with any civil aircraft when such aircraft is flown or operated in this State until he shall have obtained a license under the provisions of the Federal Air Commerce Act of 1926¹ and amendments thereto and the Air Commerce Regulations and Air Traffic Rules pursuant thereto.

¹ 49 U.S.C.A. §§ 171 to 184 (repealed).

Personal Possession of License

Sec. 4. The certificate of the license herein required shall be kept in the personal possession of the licensee when he is operating aircraft within this State, or serving in connection with any civil aircraft flown or operated in this State, and must be presented for inspection upon the demand of any passenger, any peace officer of this State, or any official, manager or person in charge of any airport or landing field in this State upon which he shall land or perform any service.

Government Aircraft Excepted

Sec. 5. The provisions of this act shall not apply to any public aircraft owned by the Government of the United States or by this State. Any person who navigates or serves as an airman in any civil aircraft which has not been licensed and registered by the Department of Commerce of the United States in the manner prescribed by the lawful rules and regulations of the United States Government in force.¹

¹ So in enrolled bill. Last sentence of section 5 is incomplete.

Penalty

Sec. 6. Any person who navigates within this State any civil aircraft without an airman's license, or who serves as an airman in connection with any civil aircraft flown or operated within this State, without an airman's license issued in accordance with the provisions of the Air Commerce Act of 1926 and amendments thereto, shall be guilty of a misdemeanor and punishable by a fine of not more than \$500.00 nor less than \$100.00 or by imprisonment in the county jail for not more than six months

nor less than thirty days, or both; provided, however, that acts or omissions made unlawfully by this article shall not be deemed to include any act or omission which violated the law or lawful regulations of the United States; but it shall not be necessary to allege or prove, as part of the case of the State, that the defendant is not amenable, on account of the alleged violation, to prosecution under the laws of the United States. That he is amenable to such prosecution shall be matter of defense, unless it affirmatively appears from the evidence adduced by the State.

[Acts 1929, 41st Leg., p. 624, ch. 285.]

Art. 46f-3. Operation of Aircraft While Intoxicated

Any person who drives, operates or pilots an airplane, aircraft, heavier-than-aircraft, or lighter-than-aircraft, dirigible or balloon within the airspace of the State of Texas or drives, operates or pilots such craft upon a public airstrip within the State of Texas, while such person is intoxicated or under the influence of intoxicating liquor, shall be guilty of a misdemeanor, and upon conviction, shall be punished by confinement in the county jail for not less than fifteen (15) days nor more than two (2) years, or by a fine of not less than Two Hundred Dollars (\$200) nor more than One Thousand, Five Hundred Dollars (\$1,500) or by both such fine and imprisonment.

[Acts 1963, 58th Leg., p. 69, ch. 46, § 1.]

Art. 46f-4. Use of Aircraft on County Roads

Sec. 1. A commissioners court of a county may enact ordinances to ensure the safe use of county roads by aircraft. The ordinances may:

- (1) limit the kinds of aircraft that may use the roads;
- (2) establish the procedure that a pilot shall follow before using a road, including, but not limited to, requiring the pilot to furnish flagmen at both ends of the road to be used; and
- (3) establish other requirements that the commissioners court considers necessary for the safe use of the roads by aircraft.

Sec. 2. If the ordinances relating to the use of an aircraft on a county road are followed, the pilot of the aircraft may land or take off in the aircraft on the county road and is not subject to the traffic laws of this state during the landing or takeoff.

[Acts 1981, 67th Leg., p. 2671, ch. 723, § 1, eff. Aug. 31, 1981.]

MISCELLANEOUS

Art. 46g. Airport Security Personnel; Employment; Commission as Peace Officers

(a) The governing body of any political subdivision of this state that operates an airport served by a Civil Aeronautics Board certificated air carrier

may establish an airport security force and employ airport security personnel.

(b) A governing body may commission any employee of an airport security force established under this Act as a peace officer if he is certified as qualified to be a peace officer by the Commission on Law Enforcement Officer Standards and Education.

(c) Any person commissioned as a peace officer under this Act shall give an oath and such bond for the faithful performance of his duties as the governing body may require. The bond shall be approved by the governing body and made payable to the political subdivision that operates the airport. It shall be filed with the governing body.

(d) Any peace officer commissioned under this Act shall be vested with all the rights, privileges, obligations, and duties of any other peace officer in this state while he is on the property under the control of the airport, or in the actual course and scope of his employment.

[Acts 1973, 63rd Leg., p. 8, ch. 7, § 1, eff. Aug. 27, 1973. Amended by Acts 1975, 64th Leg., p. 991, ch. 380, § 1, eff. June 19, 1975.]

Art. 46h. Expenditure of Bond Revenues by Joint Boards without Competitive Bidding in Certain Circumstances

Sec. 1. This Act applies to any joint board created under the provisions of Section 14, Municipal Airports Act (Article 46d-14, Vernon's Texas Civil Statutes).

Sec. 2. (a) A joint board covered by this Act is authorized to spend or agree to spend the proceeds of revenue bonds under its control for the acquisition and installation of furniture, fixtures, and equipment to be used at any airport operated by such joint board, without the necessity of inviting, advertising for, or otherwise requiring competitive bids therefor, or requiring or obtaining payment or performance bonds in connection therewith. The provisions of this Act shall apply to such furniture, fixtures, and equipment hereafter purchased, presently in the process of purchase, or on order by (i) the joint board, or (ii) a private entity which will lease such facilities in accordance with the provisions of this Act. In order to qualify under this Act, such furniture, fixtures, and equipment must be, prior to the delivery of such bonds, the subject of a lease from the joint board to a private entity pursuant to the terms of which the lessee is obligated to maintain such furniture, fixtures, and equipment solely at its expense and is unconditionally obligated throughout the term of the bonds to make payments of net rent in such amounts and at such times as will be sufficient to provide for the timely payment of all principal, interest, redemption premiums, and other costs and expenses arising or to arise in connection with the payment of such bonds.

(b) This Act does not apply to the expenditure of the proceeds of bonds unless the bonds provide by their own terms that:

(1) they are payable solely from the net rents required by Subsection (a) of this section; and

(2) they are not payable in any circumstances from tax revenues.

(c) This Act does not apply to the expenditure of the proceeds of bonds that provide for the creation of a contractual mortgage lien against real property owned by any public agencies creating such joint board.

Sec. 3. This Act is permissive only, and any such joint board may promulgate such rules and regulations as it finds to be in the public interest to govern the method and installation of the properties to which this Act relates.

[Acts 1981, 67th Leg., p. 400, ch. 163, § 1, eff. May 20, 1981.]

Art. 46i-1. Short Title

This Act (Articles 46i-1 through 46i-9) may be cited as the Obstruction to Air Navigation Control Act.

[Acts 1983, 68th Leg., p. 4015, ch. 626, § 1, eff. Sept. 1, 1983.]

Art. 46i-2. Definitions

In this Act:

(1) "Airport" means a publicly or privately owned airport with a paved runway that is open for use by the general public to licensed aircraft and that does not require prior approval of the owner for use or an airport operated by the Armed Forces of the United States or by the Texas National Guard. The term does not include a heliport, balloon port, ultralight aircraft port, glider port, or a facility that is used solely for recreational activities.

(2) "Obstruction to airport use" means a structure that, due to its height or location, prevents or hinders safe and efficient use of airspace and proper air navigation required by aircraft in the use of airports in this state, including takeoffs, landings, and flight between airports.

(3) "Structure" means a mobile or permanent object, constructed or installed by man, including but not limited to a building, tower, smokestack, or overhead transmission line.

(4) "Traverse way" means an avenue for surface transportation used by vehicles whose height may create an obstruction to air navigation. The term includes without limitation railways, roads, streets, highways, bridges, rivers, canals, lakes, and channels.

(5) "Paved runway" means a hard surface area that has been prepared for the landing and takeoff of registered aircraft under all weather conditions. The term does not include a surface composed of turf, dirt, or noncompacted materials.

[Acts 1983, 68th Leg., p. 4015, ch. 626, § 1, eff. Sept. 1, 1983.]

Art. 46i-3. Fund

The aviation trust fund is created as a special fund in the State Treasury. The Texas Aeronautics Commission shall administer the fund and may accept donations and contributions for deposit in the fund from private sources and entities. The commission may use the aviation trust fund in the performance of its functions related to aviation safety, including but not limited to the prevention of obstructions to flight.

[Acts 1983, 68th Leg., p. 4015, ch. 626, § 1, eff. Sept. 1, 1983.]

Art. 46i-4. Application for Permit

(a) A person who plans to construct, position, erect, or replace a structure or increase the height of an existing mobile or permanent structure must apply to the commission for a permit before beginning the construction, positioning, erection, placement, or alteration if the structure as planned:

(1) will exceed 200 feet in height above ground level at its site;

(2) will penetrate an imaginary surface extending upward and outward from the nearest point of the nearest runway of each airport with at least one paved runway at a slope of 100 horizontal feet to one vertical foot for a distance of 20,000 horizontal feet; or

(3) would be used as a traverse way for mobile objects of a height that would exceed a standard of Subdivisions (1) and (2) of this subsection, if adjusted upward 17 feet for an interstate highway where overcrossings are designed for a minimum of 17 feet vertical distance; 15 feet for all other public roadways; 10 feet or the height of the highest mobile object that would normally use the road, whichever is greater, for a private road; 23 feet for a railroad; and for a waterway or any other traverse way, an amount equal to the height of the highest mobile object that would normally traverse it.

(b) Each permit application filed with the commission must be accompanied by a filing fee of \$200 to be retained by the commission to defray administrative expenses. Funds remaining after payment of administrative expenses shall be deposited in the aviation trust fund.

(c) The permit application must contain:

(1) a detailed description and accurate drawing to scale of the proposed structure or alteration;

(2) the proposed location of the structure by county and geographical coordinates in degrees, minutes, and seconds as accurately located by a United States Geological Survey 7.5 Minute Quadrangle Map or its equivalent;

(3) the height of the structure above ground level at the site and above mean sea level;

(4) the name, business address, and telephone number of the applicant, including the names and

addresses of corporate officers if the applicant is a corporation, and the names and addresses of all general partners if a partnership; and

(5) the estimated date of completion of the structure.

[Acts 1983, 68th Leg., p. 4015, ch. 626, § 1, eff. Sept. 1, 1983.]

Section 3 of the 1983 Act provides:

"A person is not required to obtain a permit under Section 1 of this Act until September 1, 1984."

Art. 46i-5. Commission Determination

(a) Not later than the 60th day after the application is accepted for filing, the commission shall grant or deny a permit. A political subdivision that owns an airport, the private owner of an airport, or both, if appropriate, and the operator of a military airport that would be affected by a structure for which a permit is required shall be notified of the filing of a permit application and may submit information and participate as a party throughout the permitting process. The commission may accept information from other persons it considers to have a sufficient interest in the application. In determining whether to grant or deny a permit, the commission shall consider:

(1) the height of the existing terrain and structures in the area that might shield the proposed construction or alteration in such a way that the structure would not be an obstruction to air navigation;

(2) the character of flying operations and existing or planned airports in the area;

(3) whether the proposed construction or alteration would cause an increase in the minimum clearance altitude of an established airway or airport maneuvering area or would cause an increase to instrument approach and landing minimums at an airport;

(4) public and private interests and investments in both the proposed structure and in the airport or airway that might be affected by the structure;

(5) the safety of persons on the ground and in the air; and

(6) any other relevant factors.

(b) A presumption that a proposed structure will create an obstruction to airport use arises if the structure:

(1) will exceed a height of 500 feet above ground level at the site of the object;

(2) will be 200 feet above ground level or above the established airport elevation, whichever is higher, within three nautical miles of the established reference point of an airport with a paved runway or within three nautical miles of an airport approach fix, and that height increases in the proportion of 100 feet for each additional nautical mile of distance from the airport or approach fix up to a maximum height of 500 feet;

(3) will be within a federally designated terminal control area or a terminal object clearance area, including an initial approach segment, a departure area, and a circling approach area, that would require an increase in the minimum obstacle clearance altitude for an approach to or the instrument landing minimums for any area airport;

(4) would increase the minimum obstacle clearance altitude within an en route obstacle clearance area, including turn and termination areas, or of a federal airway or approved off-airway route; or

(5) would penetrate the takeoff and landing area of an airport or any imaginary surface established under Federal Aviation Regulation Part 77, Sections 77.25, 77.28, and 77.29.

(c) A mobile object that operates under the control of an airport control tower, under the permission of the airport sponsor, or outside the takeoff or landing area clear zones, for a period not to exceed 60 days, is not an obstruction.

[Acts 1983, 68th Leg., p. 4015, ch. 626, § 1, eff. Sept. 1, 1983.]

Art. 46i-6. Exemptions

This Act does not apply to:

(1) a tower or other structure for which a Federal Communications Commission construction permit, license, or authorization is required;

(2) a structure that before September 1, 1984, received a determination of no hazard by the Federal Aviation Administration under Part 77 of the Federal Aviation Regulations, as amended (14 Code of Federal Regulations, Part 77);

(3) a structure located within the boundaries of a municipality, city, town, village, or county that has enacted airport zoning or other ordinances regulating obstructions to airport use in any part of the municipality, city, town, village, or county before the beginning of construction, positioning, erection, placement, or alteration of the structure;

(4) a structure located on an airport with the airport owner's written consent;

(5) a structure the construction of which was commenced before September 1, 1984; or

(6) a structure within or beneath the terminal control area of an airport that is located in more than one county and is operated by a board composed of city officials of two or more cities.

[Acts 1983, 68th Leg., p. 4015, ch. 626, § 1, eff. Sept. 1, 1983.]

Art. 46i-7. Permits

If the commission determines that the public interest will be served and that the proposed construction or alteration will not be an obstruction to air navigation, the commission shall grant a permit for the proposed construction or alteration. In granting a permit, the commission may require lighting

or other marking of the structure that it determines to be reasonably necessary for safe air navigation.

[Acts 1983, 68th Leg., p. 4015, ch. 626, § 1, eff. Sept. 1, 1983].

Art. 46i-8. Hearings; Appeals; Enforcement

(a) If a permit application is denied by the commission, the commission shall notify the applicant of the denial by certified mail, return receipt requested, at the address shown in the application not later than the 60th day after the day the application is accepted for filing. The determination of existence of an obstruction to air navigation is final 30 days after the notice required under this paragraph is mailed, unless the applicant files a written request for a public hearing not later than the 30th day after the day the notice is mailed. The commission shall include in the notice of denial the reasons for the denial and a copy of all documentation on file concerning the application. On receipt of a request for a hearing the commission shall set a date for hearing and notify all interested parties of the hearing. The hearing and any appeal shall be conducted in accordance with the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

(b) If the commission learns or has reasonable grounds to believe that any person is positioning, erecting, or altering a structure subject to the provisions of this Act for which an application for a permit has not been filed, it may on its own motion issue an order to the person to appear before the commission and show cause why an application for a permit to position, erect, or alter the structure need not be obtained. The order must require the person to cease construction and preparation of the structure pending determination of the need for a

permit by the commission. A date for a hearing shall be set out in the order.

(c) In addition to any other remedy, the commission may institute in a district court in Travis County an action to prevent, restrain, correct, or abate a violation of this Act or of a rule adopted or order issued under this Act. The court may grant the necessary relief by way of injunction or otherwise.

(d) A person who violates this Act or a rule adopted under this Act is subject to a civil penalty not to exceed \$500 for each day of the violation. The penalty may be recovered in a court of competent jurisdiction in the county in which the violation occurs or in a district court of Travis County. Suit for the penalty may be instituted and conducted by the attorney general or by the county or district attorney in the county in which the violation occurs. On violation of this Act, of any rule adopted under this Act, or of an order of the commission, the district court of the county in which the violation occurs may issue an injunction to prevent further violation. Bond is not required if the relief is sought by the commission, the attorney general, or a district or county attorney.

[Acts 1983, 68th Leg., p. 4015, ch. 626, § 1, eff. Sept. 1, 1983.]

Art. 46i-9. Rulemaking Authority; Forms

(a) The commission shall adopt rules for the administration and enforcement of this Act.

(b) The commission shall prescribe and furnish the forms necessary for the administration of this Act.

[Acts 1983, 68th Leg., p. 4015, ch. 626, § 1, eff. Sept. 1, 1983.]

TITLE 4

AGRICULTURE AND HORTICULTURE

Chapter	Article
1. Commissioner of Agriculture	47
2. State Seed and Plant Board	56
3. Pink Bollworm	68
4. Agricultural Seeds	83
5. Commercial Fertilizers	94
6. Fruits and Vegetables	109
7. Nursery Stock	119
7A. Plant Diseases and Pests	135a
7B. Noxious Weeds	135c
8. Experiment Stations	136
9. Soil and Water Conservation and Preservation	165a
9A. Protection of Agricultural Operations [Repealed]	165b-1
10. Milk Producers and Distributors	165-1
11. Cotton	165-4a
12. Rice	165-5
13. Antifreeze	165-6
14. Poultry	165-7
15. Chicken Eggs	165-8
16. Forests	165-9
17. Alcohol Fuels	165-10

CHAPTER ONE. COMMISSIONER OF AGRICULTURE

Art.

47 to 55h. Repealed.

Arts. 47 to 51. Repealed by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 388, repealing these articles, enacts the Agriculture Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Agriculture Code.

Art. 51-1. Repealed by Acts 1943, 48th Leg., p. 81, ch. 64, § 1

Art. 52. Repealed by Acts 1953, 53rd Leg., p. 31, ch. 25, § 1; Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 388, repealing this article, enacts the Agriculture Code.

Arts. 53 to 55a. Repealed by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 388, repealing these articles, enacts the Agriculture Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Agriculture Code.

Art. 55b. Repealed by Acts 1933, 43rd Leg., p. 10, ch. 8, § 1

Arts. 55c to 55g. Repealed by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 388, repealing these articles, enacts the Agriculture Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Agriculture Code.

Acts 1981, 67th Leg., p. 3136, ch. 826, §§ 1 to 8, amended art. 55g without reference to its repeal by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1).

Acts 1983, 68th Leg., p. 987, ch. 235, art. 1, § 3, amended Chapter 252 of the Agriculture Code to conform to Acts 1981, 67th Leg., p. 3136, ch. 826.

Art. 55h. Repealed by Acts 1981, 67th Leg., p. 2595, ch. 693, § 20, eff. Aug. 31, 1981

For disposition of the subject matter of the repealed article, see Disposition Table preceding the Agriculture Code.

CHAPTER TWO. STATE SEED AND PLANT BOARD

Art.

56 to 67b. Repealed.

Arts. 56 to 67a. Repealed by Acts 1975, 64th Leg., p. 348, ch. 149, § 15, eff. Sept. 1, 1975

See, now, Agriculture Code, § 62.001 et seq.

Art. 67b. Repealed by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 388, repealing this article, enacts the Agriculture Code.

For disposition of the subject matter of the repealed article, see Disposition Table preceding the Agriculture Code.

CHAPTER THREE. PINK BOLLWORM

Art.

68 to 82a. Repealed.

Arts. 68 to 74a. Repealed by Acts 1981, 67th leg., p. 1487, ch. 388, § 4(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 388, repealing these articles, enacts the Agriculture Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Agriculture Code.

Art. 75. Repealed by Acts 1975, 64th Leg., p. 567, ch. 225, § 1, eff. May 20, 1975

Arts. 76 to 82a. Repealed by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 388, repealing these articles, enacts the Agriculture Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Agriculture Code.

CHAPTER FOUR. AGRICULTURAL SEEDS.

Art.

83 to 93d-8. Repealed.

Arts. 83 to 93. Repealed by Acts 1929, 41st Leg., p. 678, ch. 304, § 16

Art. 93a. Repealed by Acts 1941, 47th Leg., p. 893, ch. 551, § 12

Arts. 93b to 93d-8. Repealed by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 388, repealing these articles, enacts the Agriculture Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Agriculture Code.

CHAPTER FIVE. COMMERCIAL FERTILIZERS

Art.

94 to 108a. Repealed.

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

Art. 108a. Repealed by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 388, repealing this article, enacts the Agriculture Code.

For disposition of the subject matter of the repealed article, see Disposition Table preceding the Agriculture Code.

CHAPTER SIX. FRUITS AND VEGETABLES

Art.

109 to 118c-3. Repealed.

118d. Unconstitutional.

118e. Repealed.

Arts. 109 to 117. Repealed by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 388, repealing these articles, enacts the Agriculture Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Agriculture Code.

Art. 117a. Repealed by Acts 1953, 53rd Leg., p. 53, ch. 42, § 1

Arts. 118 to 118c-1. Repealed by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 388, repealing these articles, enacts the Agriculture Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Agriculture Code.

Art. 118c-2. Repealed by Acts 1957, 55th Leg., p. 49, ch. 26, § 1

Art. 118c-3. Repealed by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 388, repealing this article, enacts the Agriculture Code.

For disposition of the subject matter of the repealed article, see Disposition Table preceding the Agriculture Code.

Art. 118d. Unconstitutional

This article, derived from Acts 1949, 51st Leg., p. 150, ch. 93; Acts 1951, 52nd Leg., p. 192, ch. 117, establishing the Texas Citrus Commission and defining certain powers, functions and duties of the Commission, was held unconstitutional in its entirety by the Supreme Court. See *State v. Akin Products Co.*, 155 T. 348, 286 S.W.2d 110; *H. Rouw Co. v. Texas Citrus Commission*, 151 T. 182, 247 S.W.2d 231. See, also, *Calvert v. Texas Citrus Commission*, Civ.App., 254 S.W.2d 232; *State v. Akin Products Co.*, Civ.App., 279 S.W.2d 409, affirmed 155 T. 348, 286 S.W.2d 110.

Art. 118e. Repealed by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 388, repealing this article, enacts the Agriculture Code.

For disposition of the subject matter of the repealed article, see Disposition Table preceding the Agriculture Code.

CHAPTER SEVEN. NURSERY STOCK

Art.

119 to 135.1. Repealed.

Arts. 119, 119a. Repealed by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 388, repealing these articles, enacts the Agriculture Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Agriculture Code.

Art. 120. Repealed by Acts 1959, 56th Leg., p. 613, ch. 280, § 2, eff. May 27, 1959

Arts. 121 to 133. Repealed by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 388, repealing these articles, enacts the Agriculture Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Agriculture Code.

Art. 134. Repealed by Acts 1959, 56th Leg., p. 613, ch. 280, § 16, eff. May 27, 1959

Arts. 135, 135.1. Repealed by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 388, repealing these articles, enacts the Agriculture Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Agriculture Code.

CHAPTER SEVEN A. PLANT DISEASES AND PESTS

Art.

135a to 135b-5a. Repealed.

Art.
135b-6. Structural Pest Control Act.
135b-7. Repealed.

Arts. 135a to 135d. Repealed by Acts 1929, 41st Leg., 2nd C.S., p. 21, ch. 15, § 13

Arts. 135a-1 to 135a-4. Repealed by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 388, repealing these articles, enacts the Agriculture Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Agriculture Code.

Art. 135b-1. Repealed by Acts 1963, 58th Leg., p. 30, ch. 23, § 13, eff. March 28, 1963

Art. 135b-2. Repealed by Acts 1951, 52nd Leg., p. 681, ch. 394, § 28

Art. 135b-3. Repealed by Acts 1953, 53rd Leg., p. 858, ch. 349, § 16

Art. 135b-4. Repealed by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 388, repealing this article, enacts the Agriculture Code.

For disposition of the subject matter of the repealed article, see Disposition Table preceding the Agriculture Code.

Art. 135b-5. Repealed by Acts 1975, 64th Leg., p. 1012, ch. 383, § 34, eff. Nov. 1, 1976

Art. 135b-5a. Repealed by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 388, repealing this article, enacts the Agriculture Code.

For disposition of the subject matter of the repealed article, see Disposition Table preceding the Agriculture Code.

Art. 135b-6. Structural Pest Control Act

Citation of Act

Sec. 1. This Act may be cited as the Texas Structural Pest Control Act.

Definitions

Sec. 2. (a) For purposes of this Act a person shall be deemed to be engaged in the business of structural pest control if he engages in, offers to engage in, advertises for, solicits, or performs any of the following services for compensation:

(1) identifying infestations or making inspections for the purpose of identifying or attempting to identify infestations of:

(A) arthropods (insects, spiders, mites, ticks, and related pests), wood-infesting organisms, rodents, weeds, nuisance birds, and any other obnoxious or undesirable animals which may infest households, railroad cars, ships, docks, trucks, airplanes, or other structures, or the contents thereof, or

(B) pests or diseases of trees, shrubs, or other plantings in a park or adjacent to a residence, business establishment, industrial plant, institutional building, or street;

(2) making inspection reports, recommendations, estimates, or bids, whether oral or written, with respect to such infestations; or

(3) making contracts, or submitting bids for, or performing services designed to prevent, control, or eliminate such infestations by the use of insecticides, pesticides, rodenticides, fumigants, or allied chemicals or substances or mechanical devices.

(b) As used in this Act:

(1) "Person" means an individual, firm, partnership, corporation, association, or other organization, or any combination thereof, or any type of business entity.

(2) "Restricted-use pesticide" means a pesticide classified for restricted or limited use by the administrator of the federal Environmental Protection Agency.

(3) "State-limited-use pesticide" means a pesticide classified for restricted or limited use by the state commissioner of agriculture.

(4) "Certified applicator" means an individual who has been licensed and determined by the board to be competent to use or supervise the use of any restricted-use and state-limited-use pesticide covered by his currently valid certified applicator license.

(5) "Direct supervision" means that, in the application of a pesticide, the application is made by an individual acting under the instructions and control of a certified applicator responsible for the actions of that individual and available if and when needed for consultation or assistance although the certified applicator need not be physically present at the time and place of the pesticide application.

(6) "Branch office" means any place of business other than the primary office that has at least one (1) employee during normal business hours who is capable of answering customers' normal questions, scheduling normal inspections or work, or performing structural pest control functions; provided, however, that a facility serving solely as a telephone answering service shall not be a branch office.

(7) "Structural Pest Control Business License" means that license issued to a person entitling that person and his employees to engage in the business of structural pest control under the direct supervision of a certified applicator.

(8) "Device" means an instrument or contrivance, except a firearm, that is designed for trapping, destroying, repelling, or mitigating the effects of a pest or another form of plant or animal life, other than human beings or bacteria, viruses, or other microorganisms that live on or in human beings or animals. The term does not include any equipment used for the application of pesticides if the equip-

ment is sold separately from a device as defined in this subdivision.

(9) "Endorsement of license" means an individual who establishes residence in Texas and who has been determined by the board to meet the qualifications of a certified applicator by taking the appropriate examination in a state other than Texas.

**Board; Members; Chairman; Bylaws; Expenses;
Executive Director; Application of Sunset Act**

Sec. 3. (a) The Texas Structural Pest Control Board is created. The board is composed of nine members, six of whom shall be appointed. Four of the appointed members must be persons who have been engaged in the business of structural pest control for at least five years. No two members shall be representatives of the same business entity. Two members must be representatives of the general public who are not licensed under this Act. These appointments to the board shall be made by the Governor with the advice and consent of the Senate for staggered terms of two years. Appointments to the board shall be made without regard to the race, creed, sex, religion, or national origin of the appointees. The failure of an appointed member of the board to attend at least one-half of the regularly scheduled meetings held by the board each year automatically removes the member from the board and creates a vacancy on the board. In addition to the appointed members, the board shall also consist of the Commissioner of Agriculture, the Commissioner of Health, and the chairman of the Department of Entomology at Texas A & M University, or their designated representatives.

(b) The board shall elect a chairman from its appointed members and shall adopt bylaws governing the conduct of the board's affairs.

(c) Members serve without compensation but are entitled to reimbursement for actual expenses incurred in carrying on the work of the board.

(d) The board shall appoint an executive director who shall administer the provisions of this Act and the rules and regulations promulgated by the board. The executive director shall receive a salary as determined by the board which shall be paid from funds available to the board. A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes), may not act as the general counsel to the board or serve as a member of the board.

(e) The Texas Structural Pest Control Board is subject to the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the board is abolished, and this Act expires effective September 1, 1991.

(f) A member of the board or an employee of the board who carries out the functions of the board may not:

(1) be an executive officer, employee, or paid consultant of a trade association in the structural pest control industry;

(2) be related within the second degree by affinity or within the third degree by consanguinity to a person who is an officer, employee, or paid consultant of a trade association in the structural pest control industry; or

(3) communicate directly or indirectly with a party or the party's representative to a proceeding pending before the board unless notice and an opportunity to participate are given to all parties to the proceeding, if the member or employee is assigned to make a decision, a finding of fact, or a conclusion of law in the proceeding.

(g) A member of the board, except those members who are duly licensed structural pest control operators, may not have personally, nor be related to persons within the second degree by affinity or third degree by consanguinity who have, except as consumers, financial interests in structural pest control businesses as officers, directors, partners, owners, employees, attorneys, or paid consultants of the structural pest control business or otherwise.

(h) The board is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

Licensing Standards; Rules and Regulations; Coordination of Activities; Examinations; Complaints; Contracts of Licensee; Public Information Program

Sec. 4. (a) The board shall develop standards and criteria for licensing individuals engaged in the business of structural pest control. The board may require individuals to pass an examination demonstrating their competence in the field in order to qualify for a Certified Applicator's License. Not later than the 30th day after the day on which a person completes an examination administered by the board, the board shall send to the person his examination results. If requested in writing by a person who fails the examination, the board shall send to the person not later than the 30th day after the day on which the request is received by the board an analysis of the person's performance on the examination.

(b) The board shall develop standards and criteria for issuing Structural Pest Control Business Licenses to persons engaged in the business of structural pest control. Persons engaged in the business of structural pest control must possess a Structural Pest Control Business License for each place of said business, including each branch office. Each structural pest control business licensee shall have in his employment at all times a certified applicator.

(c) The board shall promulgate rules and regulations governing the methods and practices of structural pest control when it determines that the pub-

lic's health and welfare necessitates such regulations in order to prevent adverse effects on human life and the environment. The rules and regulations relating to the use of economic poisons shall comply with applicable standards of the federal government and the state commissioner of agriculture governing the use of such substances.

(d) The board may waive all or part of any examination requirement on a reciprocal basis with any other state or federal agency which has substantially the same standards as those prescribed by the board.

(e) The board shall coordinate its computer, administrative, and licensing functions with the Department of Agriculture if the board determines that the coordination would result in the more practical and efficient performance of those functions.

(f) The board may not promulgate rules restricting advertising or competitive bidding by licensees except to prohibit false, deceptive, or misleading practices by the licensee.

(g) If a written complaint is filed with the board relating to a licensee under this Act, the board, at least as frequently as quarterly, shall notify the complainant of the status of the complaint until the complaint is finally resolved or until litigation has been initiated. All records of complaints shall be filed in the offices of the board.

(h) The board must within 31 days from the date of filing of the complaint determine whether a hearing shall be held on such complaint or whether such complaint shall be dismissed and shall notify both the person who filed the complaint and the person against whom the complaint has been filed of the board's decision.

(i) If the appropriate standing committees of both houses of the legislature acting under Subsection (g), Section 5, Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes), transmit to the board statements opposing adoption of a rule under that section, the rule may not take effect, or if the rule has already taken effect, the rule is repealed effective on the date the board receives the committees' statements.

(j) In each written contract in which a licensee under this Act agrees to perform structural pest control services in this state, the licensee shall include the mailing address and telephone number of the board and a statement that the board has jurisdiction over individuals licensed under this Act.

(k) The board shall establish a public information program for the purpose of informing the public about the practice and regulation of structural pest control in this state. As part of the program, the board shall prescribe and distribute in a manner that it considers appropriate a standard complaint form and shall make available to the general public and other appropriate state agencies the information compiled as part of the program. The program

shall inform prospective applicants for licensing under this Act about the qualifications and requirements for licensing.

Prohibited Acts; Work on Own or Employer's Premises

Sec. 5. (a) No person, except an individual under the direct supervision of a certified applicator, may engage in the business of structural pest control after the effective date of this Act unless he meets the standards set by the board and possesses a valid Structural Pest Control Business License issued by the board.

(b) A person without a license may, on his own premises or on the premises of an employer by whom he was hired primarily to perform other services, use insecticides, pesticides, rodenticides, fumigants, or allied chemicals or substances or mechanical devices designed to prevent, control, or eliminate pest infestations unless that use is prohibited by rule of the United States Environmental Protection Agency or unless the substance used is labeled as a restricted-use pesticide or a state-limited-use pesticide.

Application Forms; List of Study Materials and Seminars; Expiration and Renewal of Licenses; Non-transferability; Arrest and Conviction Records

Sec. 6. (a) All applications for licenses shall be made on forms prescribed and provided by the board, and each applicant shall furnish such information as the board may require for its determination of the applicant's qualifications. The board shall make public a list of study materials and educational seminars that are available to help applicants successfully complete any examination administered under this Act.

(b) All licenses issued by the board before 1981 shall expire on March 1 of each calendar year. Licenses issued by the board during or after 1981 expire on December 31 of each year or on various dates of the year as the board may determine as part of a staggered license renewal system. The board may issue a license for a period of less than one year if necessary to conform the license to a renewal system authorized by this subsection. If the board issues a license for a period of less than one year, the board shall prorate the fee for the license on a monthly basis. A person may renew a license by submitting an application to the board and paying the required renewal fees.

(c) A license issued by the board is not transferable.

(d) The Department of Public Safety shall, upon request, supply the board arrest and conviction records of individuals applying for or holding Structural Pest Control Business Licenses or Certified Applicator's Licenses.

Sec. 6A. Repealed by Acts 1979, 66th Leg., p. 1374, ch. 614, § 10, eff. Aug. 27, 1979.

Fees, New Developments; Proof of Study

Sec. 7. (a) An applicant for an initial or renewal Structural Pest Control Endorsement of License, Business License, or a Certified Applicator's License shall accompany his application with a fee of not more than \$112.50 each, as determined by the board, and a fee of not more than \$30, as determined by the board, for each employee of the applicant who is engaged in structural pest control services.

(b) A licensee whose license has been lost or destroyed or whose name has been changed shall be issued a replacement license after application therefor and the payment of a fee set by the board not to exceed \$30.

(c) The board may retroactively grant a Structural Pest Control Business License or a Certified Applicator's License to the applicant for a renewal license if such applicant pays a late renewal fee of \$37.50 and if his application is filed with the board not more than 30 days after the expiration of his license. If such application is received between 30 and 60 days after the expiration of the applicant's license, the board may retroactively grant the renewal license when said application is accompanied by a renewal fee of \$75. An applicant who applies for a renewal license more than 60 days after the expiration of his license must be reexamined by the board to obtain a license.

(d) Each time an applicant takes a test for a license, he shall pay the board a testing fee of not more than \$37.50, as determined by the board, for each test taken.

(e) If the board determines that new developments in pest control have occurred that are so significant that their proper knowledge is necessary to protect the public, the board may require proof of study either by attendance of approved training courses or by taking additional examinations on the new developments only.

Security Insurance

Sec. 7A. (a) The board may not issue or renew a Structural Pest Control Business License until the license applicant:

(1) files with the board a policy or contract of insurance, approved as sufficient by the board, in an amount of not less than \$25,000 in bodily injury coverage and \$5,000 in property damage coverage insuring him against liability for damages to persons or property occurring as a result of operations performed in the course of the business of structural pest control to premises or any other property under his care, custody, or control; or

(2) files with the board a certificate or other evidence from an insurance company, in the case of an applicant who has an unexpired and uncanceled insurance policy or contract on file with the board,

stating that the policy or contract insures the applicant against liability for acts and damage as described in Subdivision (1) of this subsection and that the amount of insurance coverage is not less than \$25,000 in bodily injury coverage and \$5,000 in property damage coverage.

(b) The policy or contract shall be maintained at all times in an amount not less than \$25,000 in bodily injury coverage and \$5,000 in property damage coverage. Failure to renew the policy or contract or maintain it in the required amount is a ground for suspension or revocation of a Structural Pest Control Business License.

(c) The board by rule may require different amounts of insurance coverage for different classifications of operations under this Act.

Records by Licensee

Sec. 7B. The board may require each licensee to make records, as prescribed by the board, of his use of pesticides. Records required shall be maintained for at least two years on business premises of the licensee and shall be made available for inspection by the board and by its authorized agents during normal business hours.

Disposition of Fees; Report; Audit

Sec. 8. (a) The proceeds from the collection of the fees provided in this Act shall be deposited in a special fund in the State Treasury to be known as the Structural Pest Control Fund, and shall be used for the administration and enforcement of the provisions of this Act. Any balance in the special fund at the end of each State fiscal biennium in excess of appropriations out of that fund for the succeeding biennium shall be transferred to the general revenue fund.

(b) Before September 1 of each year, the board shall file a written report with the legislature and the governor in which the board accounts for all funds received and disbursed by the board during the preceding year.

(c) The state auditor shall audit the financial transactions of the board during each fiscal year.

License Suspension, Revocation and Refusal; Appeal

Sec. 9. (a) The board, after notice and a hearing, may suspend or revoke a license, refuse to examine an applicant, refuse to issue a license, or refuse to renew a license when it finds that the applicant or licensee has substantially failed to comply with the standards and rules and regulations established by the board.

(b) An applicant or licensee may appeal from an order or other action of the board by an action in the district court of Travis County. Notice of appeal must be filed within 30 days of issuance of the order by the board. The hearing in district court shall be governed by the substantial evidence rule.

Civil Penalties and Injunctive Relief

Sec. 10. (a) A person who violates any provision of this chapter or any rule, regulation, permit, or other order of the board is subject to a civil penalty of not less than \$50 nor more than \$1,000 for each act of violation and for each day of violation to be recovered as provided in this chapter. Whenever it appears that a person has violated or is threatening to violate any provision of this chapter, or any rule, regulation, license, or other order of the board, then the board, or the executive director when authorized by the board, may have a civil suit instituted in a district court for injunctive relief to restrain the person from continuing the violation or threat of violation, or for the assessment and recovery of a civil penalty of not less than \$50 nor more than \$1,000 for each act of violation and for each day of violation, or for both injunctive relief and civil penalty.

(b) Upon application for injunctive relief and a finding that a person is violating or threatening to violate any provision of this chapter or any rule, regulation, license, or other order of the board, the district court shall grant the injunctive relief the facts may warrant.

(c) At the request of the board, or the executive director when authorized by the board, the attorney general shall institute and conduct a suit in the name of the State of Texas for injunctive relief or to recover the civil penalty or for both injunctive relief and penalty, as authorized in Subsection (a) of this section.

Criminal Offenses

Sec. 10A. (a) A person commits an offense if he:

- (1) violates any section of this Act;
- (2) violates regulations adopted under Section 4 of this Act; or
- (3) intentionally makes a false statement in an application for a license or otherwise fraudulently obtains or attempts to obtain a license.

(b) Each day of violation is a separate offense.

(c) An offense under this section is a Class C misdemeanor unless the person has been convicted previously of an offense under this section, in which event the offense is a Class B misdemeanor.

Exceptions

Sec. 11. The provisions of this Act shall not apply to nor shall the following persons be deemed to be engaging in the business of structural pest control:

- (1) an officer or employee of a governmental or educational agency who performs pest control services as part of his duties of employment;
- (2) a person who performs pest control work upon property which he owns, leases, or rents as his dwelling;

(3) a nurseryman, holding a certificate from the commissioner of agriculture pursuant to Articles 126 and 126a, Revised Civil Statutes of Texas, 1925, as amended, when doing pest control work on growing plants, trees, shrubs, grass, or other horticultural plants; and

(4) a person or his employee who is engaged in the business of agriculture or aerial application or custom application of pesticides to agricultural lands.

Board as Sole Licensing Authority

Sec. 11A. The Texas Structural Pest Control Board is the sole authority in this state for licensing persons engaged in the business of structural pest control.

Continuation Under Federal Law

Sec. 11B. The Texas Structural Pest Control Act, as amended (Article 135b-6, Vernon's Texas Civil Statutes), is to be continued in effect as approved and required under the United States Environmental Protection Agency Public Law # 92-516 (Federal Insecticide, Fungicide, and Rodenticide Act of October 21, 1972, and subsequently amended).¹

¹ 17 U.S.C.A. § 136 et seq.

Severability

Sec. 12. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

[Acts 1971, 62nd Leg., p. 2363, ch. 726, eff. Aug. 30, 1971. Amended by Acts 1973, 63rd Leg., p. 629, ch. 266, § 27, eff. June 11, 1973; Acts 1975, 64th Leg., p. 2251, ch. 709, §§ 1 to 12, eff. June 21, 1975; Acts 1977, 65th Leg., p. 1452, ch. 590, § 1, eff. Aug. 29, 1977; Acts 1977, 65th Leg., p. 1835, ch. 735, § 2.022, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 1369, ch. 614, §§ 1 to 10, eff. Aug. 27, 1979; Acts 1983, 68th Leg., p. 386, ch. 81, § 14(a), eff. Sept. 1, 1983.]

Acts 1977, 65th Leg., ch. 590, amending § 5 of this article, provides in § 2 as follows:

"This Act takes effect on the date of publication of the United States Environmental Protection Agency's first list of restricted-use or prohibited-use pesticides."

Section 11 of the 1979 amendatory act provided:

"(a) A person holding office as a member of the Texas Structural Pest Control Board on the effective date of this Act continues to hold the office for the term for which the person was originally appointed."

"(b) After August 30, 1979, the governor shall appoint to the board a consumer member for a term expiring on August 30, 1980, and a consumer member for a term expiring on August 30, 1981. As the terms of the incumbent structural pest control members of the board expire, the governor shall appoint two structural pest control members to the board for terms expiring on August 30, 1980, and shall appoint two structural pest control members to the board for terms expiring on August 30, 1981."

Section 14(b) of the 1983 amendatory act provides:

"The increase in fees provided by this section applies to an initial, renewal, or replacement license issued or to an examination administered on or after the effective date of this section."

Art. 135b-7. Repealed by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 388, repealing this article, enacts the Agriculture Code.

For disposition of the subject matter of the repealed article, see Disposition Table preceding the Agriculture Code.

CHAPTER SEVEN B. NOXIOUS WEEDS

Art. 135c. Repealed by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 388, repealing this article, enacts the Agriculture Code.

For disposition of the subject matter of the repealed article, see Disposition Table preceding the Agriculture Code.

CHAPTER EIGHT. EXPERIMENT STATIONS

1. STATE EXPERIMENT STATIONS

Art.

136 to 149k. Repealed.

2. COUNTY FARMS AND STATIONS

150 to 164. Repealed.

3. RAILWAY FARMS AND STATIONS

165. Repealed.

1. STATE EXPERIMENT STATIONS

Arts. 136 to 149k. Repealed by Acts 1971, 62nd Leg., p. 3319, ch. 1024, art. 1, § 3, eff. Sept. 1, 1971

Acts 1971, 62nd Leg., p. 3072, ch. 1024, repealing these Articles, enacts Title 3 of the Texas Education Code.

See, now, Education Code, §§ 88.201 to 88.212.

2. COUNTY FARMS AND STATIONS

Arts. 150 to 164. Repealed by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 388, repealing these articles, enacts the Agriculture Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Agriculture Code.

3. RAILWAY FARMS AND STATIONS

Art. 165. Repealed by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 388, repealing this article, enacts the Agriculture Code.

For disposition of the subject matter of the repealed article, see Disposition Table preceding the Agriculture Code.

CHAPTER NINE. SOIL AND WATER CONSERVATION AND PRESERVATION

Art.

165a to 165m. Unconstitutional.

165a-1 to 165a-10. Repealed.

Arts. 165a to 165m. Unconstitutional

Acts 1981, 42nd Leg., 2nd C.S., p. 2, ch. 2, §§ 1 to 13, constituting these articles, regulating cotton cultivation and making it unlawful to plant cotton on the same land that had been planted in cotton the year preceding, is unconstitutional as taking property without due process of law, as depriving owner of land and tenant of right to contract as to crops to be planted, and as retroactive law impairing the obligation of contracts. *State v. Smith* (Civ.App. 1932) 47 S.W.2d 642.

Art. 165a-1. Repealed by Acts 1941, 47th Leg., p. 491, ch. 308, § 5(A)

Arts. 165a-2 to 165a-7. Repealed by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 388, repealing these articles, enacts the Agriculture Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Agriculture Code.

Arts. 165a-8, 165a-9. Repealed by Acts 1953, 53rd Leg., p. 823, ch. 332, § 13

Art. 165a-10. Repealed by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 388, repealing this article, enacts the Agriculture Code.

For disposition of the subject matter of the repealed article, see Disposition Table preceding the Agriculture Code.

CHAPTER NINE A. PROTECTION OF AGRICULTURAL OPERATIONS [REPEALED]

Art. 165b-1. Repealed by Acts 1981, 67th Leg., p. 2605, ch. 693, § 23, eff. Aug. 1, 1981

See, now, Agriculture Code, § 251.001 et seq.

CHAPTER TEN. MILK PRODUCERS AND DISTRIBUTORS

Art.

165-1. Expired.

165-2. Codes of Fair Competition; Counties of 290,000 to 300,000 and 42,128 to 42,138 Population.

165-3. Milk Grading and Pasteurization.

165-3a. Repealed.

Art. 165-1. Expired

Art. 165-2. Codes of Fair Competition; Counties of 290,000 to 300,000 and 42,128 to 42,138 Population

Legislative Policy

Sec. 1. It is hereby declared to be the policy of the Legislature of Texas to provide for the general welfare in an emergency hereby declared to exist by cooperating with the Federal Government in making effective the provisions of the National Agricultural Adjustment Act¹ and the National Industrial Recovery Act² within this State with reference to producers and distributors of milk and milk products to the end that disorganization of the dairy industry may be corrected and the value of this specialized agri-

cultural commodity stabilized, such emergency being particularly acute in the larger centers of the State; to set up a code of fair practice as hereafter provided; and to eliminate unfair competition and practices in the production and distribution of milk and milk products.

¹ 17 U.S.C.A. §§ 601 to 620.

² Pertinent provisions incorporated in 15 U.S.C.A. §§ 701 to 712, now obsolete.

Definitions

Sec. 2. (a) The term "person" when used under this Act shall mean any individual, firm, co-partnership, or corporation.

(b) The term "producer" shall mean any person regularly engaged in the production of fluid milk for sale.

(c) "Distributors" mean any of the following persons engaged in the business of handling fluid milk:

1. Pasteurizers, bottlers or other processors of fluid milk.

2. Persons distributing fluid milk at wholesale or retail: To hotels, restaurants, stores or other establishments for consumption on the premises; to stores or other establishments for resale; or to consumers irrespective of whether any such person is also a producer of milk.

(d) The term "processor" shall mean any person who receives or buys milk or milk fats for the purpose of changing its nature or character by physical or chemical means into other forms, such as butter, cheese, ice cream, frozen milk, condensed milk, buttermilk, chocolate, or other flavored milk, or milk converted into any other form.

(e) The term "fluid milk" when used under the provisions of this Act shall mean the fresh clean lacteal secretion obtained by the milking of one or more healthy cows which secretion has not been soured nor been skimmed or separated; that it has not less than eight and one-half per cent (8½%) of solids not fat, and not less than three and one-fourth per cent (3¼%) milk fat, nor been churned, nor evaporated, or condensed, nor been reduced to powdered form, nor otherwise processed so as to materially change its original condition.

(f) The term "milk industry" when used in this Act shall mean producers, distributors and processors of milk and milk products as defined in this Act.

(g) The term "milk products" when used under this Act shall mean all products of fluid milk, such as sour and sweet cream, skimmed milk, butter, cheese, ice cream, frozen milk, condensed milk, evaporated milk, powdered milk, powdered skim milk, buttermilk, chocolate milk or other flavored milks.

(h) The term "Commissioner" when used in this Act shall mean the Commissioner of Agriculture of the State of Texas.

(i) The term "Board" when used in this Act shall mean the local Milk Industry Board of the county or counties concerned.

(j) The term "members" when used in this Act shall mean the members of the Milk Industry Board.

(k) The term "milk shed" shall include all producers and producer operators who now hold permits from the Health Department to sell milk in any area or areas affected by this Act.

(l) The term "production area" means that area defined by the Milk Industry Board.

(m) The term "due notice" shall mean the mailing of a notice to all of the parties affected, or in lieu thereof, of an advertisement published in a daily newspaper, or in the event there is no daily newspaper then in any other publication of regular issue, said publication to be published in the territory affected. Said advertisement shall be a display advertisement and shall be of a size at least two (2) columns by six (6) inches. Said notice shall be mailed or shall be published at least five (5) days previous to the time of the hearing and it shall contain information as to the time and place of the hearing, and shall state where a copy of the code or a contemplated change in an existing code may be secured.

(n) A "retail outlet" shall be a person who handles milk and/or milk products for resale to people who customarily do not consume them on the premises where sold.

Milk Industry Board; Approval of Code or Agreement for Fair Competition

Sec. 3. Any representative group engaged in the milk industry, in any county having a population not less than two hundred and ninety thousand (290,000) and not more than three hundred thousand (300,000) and in any county having a population of not less than forty-two thousand one hundred twenty-eight (42,128) and not more than forty-two thousand one hundred thirty-eight (42,138) at such time, may submit to the Board hereinafter authorized a code or agreement of fair competition and trade practices. In each county of the above mentioned class, a local Milk Industry Board of five (5) members shall be elected, as follows: Two (2) members of the Board shall be elected by the contracting producers; two (2) by the contracting distributors; and the fifth member, to represent the consumers, shall be elected by the other four (4). Such fifth member shall be a resident of the sales area and shall have no connection, financially or otherwise, with the distribution of milk or products derived therefrom. The fifth member shall be designated by the Commissioner in the event such member is not elected within five (5) days of the effective date of this agreement by the four (4) members as above provided.

Members representing the contracting producers and contracting distributors, respectively, shall be

elected by the respective parties in a manner to be determined by themselves, provided that a vote of producers representing not less than seventy per cent (70%) of the total volume of milk produced within the production area, for distribution as fluid milk during the calendar month next preceding such election which percentage of distribution shall include ten per cent (10%) of the distributors by number, respectively, shall be necessary for such election. Upon election the names of all the members shall be certified by the party or parties conducting such election to the Commissioner for his approval. The Commissioner may require that such certification include a statement of the manner and vote by which the respective members were elected and the percentage of the total production or sales of fluid milk within the area represented by such vote. Members whose names have been certified to the Commissioner and approved by him shall enter upon the discharge of their duties. The certificate of the Commissioner approving such member shall be prima facie evidence that such member has been elected by the required number and percentage of the total volume of milk of the group from which he was elected. If the Commissioner shall not approve a member, there shall be a vacancy on the Milk Industry Board. Any member may be removed with or without cause, by vote of all producers or distributors, as the case may be, representing a volume of milk equal to at least three-fourths ($\frac{3}{4}$) of the volume and number by which he was originally elected. Any vacancies on the Milk Board shall be filled in the same manner and by the same parties as provided for the original election.

The Milk Industry Board shall be organized by the members by the selection of a chairman, vice-chairman, who shall be members, and a secretary-treasurer who may or may not be a member. The Milk Industry Board shall employ such agents, assistants and clerks as may be necessary to perform its duties. All officers and employees of the Milk Industry Board who handle funds of the Milk Industry Board or who sign or countersign checks upon such funds shall severally give bonds in such amounts and with such sureties as shall be determined by the Milk Industry Board. The cost of such bonds shall be paid by the Milk Board.

The members shall serve without compensation, but shall be entitled to reimbursement for the expenses incurred in the performance of their duties.

Said Board shall then provide for due notice to the parties interested and for a hearing on the proposed code and/or agreement. Said Board shall make such changes and modifications, if any, in such proposed code as in its discretion will tend to effectuate the policies herein declared. Any proposed code and/or agreement that receives the approval on matters affecting the distributors of ten per cent (10%) of their number and sixty per cent (60%) of their volume sold in the milk shed or trade territory affected, and affecting producers of fifty per cent (51%) of their number and seventy per

cent (70%) of their volume represented in the milk shed affected, shall become a duly constituted code upon receiving the approval of the Board. The Board shall not approve a code or an agreement unless said code contains ample protection for consumers, competitors and tends to effectuate the policies herein declared. Every distributor and every processor and every retail outlet for milk or milk products, as defined in this Act, shall apply to the Board for a certificate of authority following the approval of a code and/or agreement to engage in such milk industry in the territory affected, and no distributor or processor or retail outlet after the effective date of said code, codes or agreements shall engage in or carry on any milk industry in any area where such code, codes or agreements are in effect without such certificate of authority. Every person required to procure a certificate of authority shall pay to the Board One Dollar (\$1.00) for each certificate issued, said certificate to be valid for a period of one year from date issued, unless revoked sooner as herein provided.

Violation of Code as Unfair Competition

Sec. 4. After the Board shall have approved such code, codes, or agreements, the provisions thereof shall be the standard of fair competition for such milk industry within the area defined in such code, codes or agreements, and any violations of such standards in any transaction in or affecting the milk industry in such area shall be deemed to be an unfair method of competition within the meaning of this Act.

District Court to Restrain Violations of Code

Sec. 5. Any District Court in the State of Texas having jurisdiction over the territory or any portion thereof where such code, codes or agreements are made effective is hereby invested with jurisdiction, and it is hereby made the duty of said Courts to prevent and restrain violations of any such code, codes or agreements of fair competition approved under this Act by the Board and/or provision of this Act, and it shall not be necessary in such suit for the plaintiff to allege and prove that such plaintiff will suffer irreparable injury, or any damage; nor that it does not have an adequate and complete remedy at law. It shall be the duty of the several District Attorneys authorized to act in said localities to institute, under the direction of the Board, proceedings in equity to restrain such violations.

Amendment of Code or Agreement

Sec. 6. Any code, codes or agreements approved by the Board under the authority of this Act may be amended, changed, enlarged, modified or suspended upon the Board's own motion and upon the approval on matters affecting distribution of ten per cent (10%) of the distributors affected in numbers and sixty per cent (60%) of the volume of the distributors affected and upon the approval on matters affecting production of fifty-one per cent (51%) of

the producers affected and seventy per cent (70%) of the volume affected, or upon the application and approval on matters affecting distribution of ten per cent (10%) of the distributors affected in numbers and sixty per cent (60%) of the volume of the distributors affected, and on matters affecting production of fifty-one per cent (51%) of the producers affected and seventy per cent (70%) of the volume affected. The Board must provide for due notice and public hearing of contemplated changes.

Revocation of Certificate of Authority

Sec. 7. (a) The Board may suspend or revoke such certificate of authority after due notice and opportunity for hearing for violation of the terms and provisions of any code adopted and approved under the authority of this Act.

(b) Any distributor or processor or retail outlet who without such a certificate of authority carries on any transaction in the intrastate handling of milk products for which a certificate of authority is so required shall upon conviction thereof be fined not to exceed Two Hundred Dollars (\$200.00) and each day such violation continues shall be deemed a separate offense.

(c) Any officer, agent or servant of any corporation violating any provision of this Title shall be individually and personally subject to the punishment provided for in Section 7, sub-section (b) of this Act whenever any such officer, agent or servant had knowledge of such violation by the corporation at the time same was committed and where it was at the time of such violation within the power of such officer, agent or servant to prevent same.

Code to Provide for Administration Funds

Sec. 8. Any code, codes or agreements authorized hereunder shall provide for and have authority and power to provide for the necessary funds for the administration thereof. These funds shall include a sum not to exceed two (2) cents per one hundred (100) pounds of milk, or its equivalent, which shall, with all other fees for the certificate of authority, filing of codes or agreements, be paid into the Milk Industry Board, to be used for expenses in the administration of their duties. These funds shall be based on the milk sold as fluid milk and shall be paid by distributors for each calendar month within fifteen (15) days following the last of each month, direct to the Milk Industry Board.

Partial Invalidity

Sec. 9. If any section or provision of this Act shall be declared unconstitutional or invalid for any reason, such decision shall not affect any other provision or portion of this Act, and such other provisions shall remain in full force and effect.

Prima Facie Validity of Acts

Sec. 10. All acts of any such Board shall be prima facie valid.

Anti-trust Laws not Affected

Sec. 11. Provided the provisions of this Act shall not alter, repeal, change, modify or anyway change the purpose of the Anti-trust Laws of the State of Texas.¹

¹ Article 7426 et seq. (Repealed; see, now, Business and Commerce Code, § 15.01 et seq.).

[Acts 1934, 43rd Leg., 3rd C.S., p. 93, ch. 47.]

Art. 165-3. Milk Grading and Pasteurization

Definitions

Sec. 1. The following definitions shall apply in the interpretation and enforcement of this Act:

A. Sanitization. Sanitization is the application of any effective method or substance to a clean surface for the destruction of pathogens, and of other organisms as far as is practicable. Such treatment shall not adversely affect the equipment, the milk or milk product or the health of consumers, and shall be acceptable to the health authority.

B. Milk Producer. A milk producer is any person who operates a dairy farm and provides, sells, or offers milk for sale to a milk plant, receiving station, or transfer station.

C. Milk Hauler. A milk hauler is any person who transports raw milk and/or raw milk products to or from a milk plant, a receiving or transfer station.

D. Milk Distributor. A milk distributor is any person who offers for sale or sells to another any milk or milk products.

E. State Health Officer. The term "State Health Officer" shall mean the Commissioner of Health of the State of Texas.

F. Health Authority. The health authority shall mean the State Health Officer or his representative. The term "Health Authority", wherever it appears in these specifications and requirements, shall mean the appropriate agency having jurisdiction and control over the matters embraced within these specifications and requirements.

G. Dairy Farm. A dairy farm is any place or premises where one or more cows or goats are kept, and from which a part or all of the milk or milk product(s) is provided, sold, or offered for sale to a milk plant, transfer station, or receiving station.

H. Milk Plant and/or Receiving Station. A milk plant and/or receiving station is any place, premises, or establishment where milk or milk products are collected, handled, processed, stored, pasteurized, bottled, or prepared for distribution.

I. Transfer Station. A transfer station is any place, premises, or establishment where milk or milk products are transferred directly from one transport tank to another.

J. Official Laboratory. An official laboratory is a biological, chemical, or physical laboratory which

is under the direct supervision of the State Health Officer or of the officer's designated representative.

K. Officially Designated Laboratory. An officially designated laboratory is a commercial laboratory authorized to do official work by the supervising agency, or a milk industry laboratory officially designated by the supervising agency for the examination of producer samples of Grade "A" raw milk for pasteurization.

L. Person. The word "person" shall mean any individual, plant operator, partnership, corporation, company, firm, trustee, or association.

State Health Officer to Fix Specifications; Fees for Movement, Distribution or Sale; Tests or Inspections by Political Subdivisions

Sec. 2. (a) The State Health Officer is hereby authorized and empowered to define what shall constitute Grade "A" raw milk, Grade "A" raw milk products, Grade "A" pasteurized milk, and Grade "A" pasteurized milk products and to fix specifications, rules or regulations for the production and handling of such milk and milk products, according to the safety and food value of the same and the sanitary conditions under which the same are produced and handled. Such definitions, specifications, rules or regulations shall be based upon and shall be in general harmony with (but need not be identical to) the definitions, specifications, rules or regulations relating to such milk and milk products set forth in the most recent federal definitions, specifications, rules and regulations. Such definitions, specifications, rules or regulations shall be set forth in specifications, rules or regulations promulgated by the State Health Officer in accordance with the procedures prescribed by Section 2A hereof.

(b) No political subdivision or agency of this State other than the Texas Department of Health may impose a license fee on any milk or milk product or on any person for the movement, distribution, or sale of any milk or milk product. The Texas Department of Health may impose only the following fees for the movement, distribution, or sale of milk or milk products:

(1) a permit fee not to exceed \$25 a year for a producer dairy farm;

(2) a permit fee not to exceed \$100 a year for a processing or bottling plant;

(3) a permit fee not to exceed \$100 for a receiving and transfer station; and

(4) a permit fee not to exceed \$50 a year for a milk transport tanker.

(c) A city, county, or other political subdivision may test or inspect milk or milk products, but the political subdivision shall bear the cost of any testing or inspection that it performs.

(d) The State Health Officer may contract with a county or incorporated city to inspect milk and milk products and, to the extent designated by the State

Health Officer, to perform other regulatory functions necessary to enforce this Act. A county or incorporated city is the agent of the State Health Officer in performing duties under this subsection.

Notice and Hearing; Emergency Specifications; Advice; Filing Copy; Effective Date

Sec. 2A. Prior to the adoption, amendment, or repeal of any specification, rule or regulation, the State Health Officer shall:

(1) give at least sixty (60) days notice of his intended action. The notice shall include a statement of either the expressed terms or an informative summary of the proposed action, and the time when, the place where, and the manner in which interested persons may present their views thereon. The notice shall be published not less than forty-five (45) nor more than sixty (60) days prior to such intended action in a newspaper of general circulation in Travis County and in each of the five most populous counties in Texas, according to the latest U. S. Census. In addition, the notice is to be mailed to all persons who have made timely written requests of the agency for advance notice of its specification, rule or regulation making proceedings; provided, however, that failure to mail such notice shall not invalidate any actions taken or specifications, rules or regulations adopted; and

(2) afford all interested persons reasonable opportunity to submit data, views, or arguments, orally or in writing. Opportunity for oral argument must be granted if requested by twenty-five persons, by a governmental subdivision or agency, or by an association having not less than twenty-five members. The State Health Officer shall consider fully all written and oral submissions respecting the proposed specification, rule or regulation. Upon adoption of a specification, rule or regulation, the State Health Officer, if requested to do so by an interested person either prior to adoption or within thirty (30) days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption.

(3) If the State Health Officer finds that an imminent peril to the public health, safety, or welfare requires adoption of a specification, rule or regulation upon fewer than sixty (60) days notice and states in writing his reasons for that find, he may proceed without prior notice or hearing or upon any abbreviated notice and hearing that he finds practicable, to adopt an emergency specification, rule or regulation. The specification, rule or regulation may be effective for a period of not longer than one hundred twenty (120) days renewable once for a period not exceeding sixty (60) days, but the adoption of an identical specification, rule or regulation under Subsections (a)(1) and (a)(2) of this section is not precluded.

(4) No specification, rule or regulation hereafter adopted is valid unless adopted in substantial com-

pliance with this section. A proceeding to contest any specification, rule or regulation on the ground of noncompliance with the procedural requirements of this section must be commenced within two (2) years from the effective date of the specification, rule or regulation.

(5) The State Health Officer may use informal conferences and consultations as means of obtaining the viewpoints and advice of interested persons with respect to contemplated specification, rule or regulation making. The State Health Officer is also authorized to appoint committees of experts or interested persons or representatives of the general public to advise him with respect to contemplated specification, rule or regulation making. The powers of such committees shall be advisory only.

(6) The State Health Officer shall file with the Secretary of State a certified copy of each specification, rule or regulation adopted by him and shall mail a printed copy of each specification, rule or regulation adopted by him to all County and City Health Officers.

(7) Each specification, rule or regulation adopted is effective forty-five (45) days after filing except that: (1) a later date specified in the specification, rule or regulation shall be the effective date; and (2) subject to applicable constitutional or statutory provisions, an emergency specification, rule or regulation becomes effective immediately upon filing, or at a stated date after filing, if the State Health Officer finds that this effective date is necessary because of imminent peril to the public health, safety, or welfare.

(8) Specifications, rules or regulations filed with the Secretary of State shall be made available upon request to any person at prices fixed by the Secretary of State to cover costs of mailing, publication and copying.

Petition

Sec. 2B. Any interested person may petition the State Health Officer requesting the promulgation, amendment, or repeal of a specification, rule or regulation. Within sixty (60) days after submission of a petition, the State Health Officer either shall deny the petition in writing (stating his reasons for the denial) or shall initiate specification, rule or regulation making proceedings in accordance with Section 2A hereof.

Declaratory Judgment

Sec. 2C. The validity or applicability of any specification, rule or regulation including emergency specifications, rules or regulations, may be determined in an action for declaratory judgment in the District Court of Travis County, and not elsewhere, if it is alleged that the specification, rule or regulation, its application, or its threatened application interferes with or impairs or threatens to interfere with or impair, the legal rights or privileges of the plaintiff. The State Health Officer shall be made a

party to the action. A declaratory judgment may be rendered whether or not the plaintiff has requested the State Health Officer to pass upon the validity or applicability of the specification, rule or regulation in question.

Permits for Use of Labels in Advertising or Labeling Milk

Sec. 3. Any person, firm, association or corporation desiring to use Grade "A" labels in representing, publishing or advertising any milk or milk products offered for sale or to be sold within this State, shall make application for a permit to the State Health Officer or the officer's designated representative to use any such label in advertising, representing, or labeling such milk or milk products.

The State Health Officer or the officer's designated representative, after receiving such application as provided for in this section, is hereby authorized and empowered to take the necessary steps to determine and award the grade of the milk or milk products offered for sale by such applicant, according to the requirements of this Act for grade labels. The State Health Officer shall maintain a list of the name or names of all applicants to whom he has awarded permission to use Grade "A" labels, and shall remove from the list the names of persons whose permits have been revoked.

Milk to Conform to Marked Grades; Ordinances Allowing Only Pasteurized Milk and Milk Products

Sec. 4. (a) No milk or milk products sold, produced or offered for sale within this State by any person, firm, association or corporation shall carry a label, device or design marked "Grade A", or any other grade, statement, design or device, regarding the safety, sanitary quality or food value of the contents of the container which is misleading or which does not conform to the definitions and requirements of this Act.

(b) No milk or milk products, except those produced or processed by a person, firm, association or corporation having a permit to use a Grade "A" label under the provisions of this Act and which are produced, treated and handled in accordance with the specifications and requirements fixed and promulgated by the State Health Officer for Grade "A" milk and milk products, shall be represented, published, labeled or advertised as being Grade "A" milk or Grade "A" milk products.

(c) No person may sell to a consumer milk or a milk product labeled Grade "A" that has not been produced or processed by a person who has a Grade "A" permit from the State Health Officer.

(d) An incorporated city or town may by ordinance allow only pasteurized milk and pasteurized milk products to be sold at retail within the city or town.

Construction as to Resale of Milk in Containers

Sec. 5. Nothing in this Act shall be construed as requiring any person, firm, association or corporation to obtain a permit in order to resell or offer for sale in the same container any milk or milk products, representing or advertising the same as a grade of milk or milk products purchased from any person, firm, association or corporation having a permit to so represent or advertise such milk or milk products.

Regulation of Grading and Labeling by State Health Officer; Procedure for Review of Grievance

Sec. 6. (a) The State Health Officer is hereby authorized and empowered to supervise and regulate the grading and labeling of milk and milk products in conformity with the standards, specifications and requirements which he promulgates for such grades, and in conformity with the definitions of this Act; and he and his representatives shall have the power to revoke and re-grade permits when upon examination he or his representative shall find that such permit for the use of any grade label does not conform to the specifications or requirements promulgated by him in conformity to this Act.

(b) The State Health Officer shall establish a procedure by which a person aggrieved by the application of an agency rule or the denial of a license may receive a hearing on the action in question under the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

Sec. 7. Repealed by Acts 1979, 66th Leg., p. 364, ch. 161, § 3, eff. May 15, 1979.

Sampling, Testing and Inspection of Grade "A" Milk and Milk Products

Sec. 7A. It shall be the duty of the State Health Officer or his representative to sample, test, or inspect Grade "A" pasteurized milk and milk products, or Grade "A" raw milk and milk products for pasteurization delivered to any milk plant and/or receiving station, or other place of delivery. Grade "A" pasteurized milk or Grade "A" raw milk for pasteurization which comes from beyond the limits of inspection of this State shall be sampled, tested and/or inspected in order to determine if such Grade "A" pasteurized milk and milk products or Grade "A" raw milk and milk products for pasteurization meets the standards and requirements of the Texas State Department of Health relating to milk and milk products. Such sampling, testing, and inspection of Grade "A" pasteurized milk and milk products or Grade "A" raw milk and milk products for pasteurization shall include, in addition to any other tests that may be required, the following:

- (1) plate count or direct microscopic count;
- (2) antibiotics;
- (3) sediments;

(4) phosphatase;

(5) checks for water or any elements foreign to the natural contents of Grade "A" pasteurized milk or milk products or Grade "A" raw milk or milk products for pasteurization as defined in this Act.

Penalty

Sec. 8. Whoever violates any provision of this Act shall be fined in the sum not less than Twenty-five (\$25.00) Dollars nor more than Two Hundred (\$200.00) Dollars and each separate violation shall constitute a separate offense.

[Acts 1937, 45th Leg., p. 353, ch. 172. Amended by Acts 1967, 60th Leg., p. 1974, ch. 734, §§ 1 to 6, eff. June 18, 1967; Acts 1971, 62nd Leg., pp. 1715 to 1717, ch. 495, §§ 1 to 4, eff. Jan. 1, 1972; Acts 1975, 64th Leg., p. 63, ch. 35, § 1, eff. April 3, 1975; Acts 1979, 66th Leg., p. 362, ch. 161, §§ 1 to 3, eff. May 15, 1979.]

Art. 165-3a. Repealed by Acts 1983, 68th Leg., p. 282, ch. 55, § 2, eff. Aug. 29, 1983

CHAPTER ELEVEN. COTTON**Art.**

165-4. Cotton Research Award Fund.
165-4a to 165-4c. Repealed.

Art. 165-4. Cotton Research Award Fund

Sec. 1. By this Act it is expressly declared to be a State policy that the encouragement and stimulation of new uses for cotton shall be a matter of State-wide importance and concern and that the various agencies of the State Government, and more particularly the various State agricultural departments, agencies, schools, colleges, etc., are hereby directed to take full and sufficient notice and consideration of the policy herein established and set forth, and the activities of all agencies of the State Government, and more particularly those especially mentioned above are hereby directed to be revamped and reorganized so as to conform with the provisions of this Act.

Sec. 2. The Governor of this State is hereby directed as the Chief Executive and Administrative Officer of this State to use his efforts to carry out the policy set forth above.

Sec. 3. In order to assist in carrying out the policy set forth in this Act, there is hereby created the "Cotton Research Award Fund", and there is hereby appropriated to this fund out of any money in the State Treasury not otherwise appropriated the sum of Ten Thousand (\$10,000.00) Dollars. The President of the University of Texas, the President of the A. & M. College, and the President of Texas Technological College are hereby designated as a Board of Trustees of said fund. Said Board of Trustees are hereby appointed and empowered to dispense said fund in keeping with rules and regulations which a majority of said Board may adopt, provided that the same are not in conflict with the provisions of this Act. Said rules and regulations shall be drawn up and published within ninety days

from the effective date of this Act, and among other things, they shall provide for:

(a) An award of not less than Five Thousand (\$5,000.00) Dollars, nor more than Ten Thousand (\$10,000.00) Dollars to any resident Texas citizen, who, by chemical research or other invention or device, discovers any process or method which hereafter brings about an increase in the consumption of cotton annually in an amount equal to or greater than three hundred thousand (300,000) bales of five hundred (500) pounds net weight;

(b) The persons mentioned above are to be the sole judges as to whether the required increase in consumption of cotton above mentioned has actually taken place, and the Comptroller of Public Accounts is hereby authorized to pay warrants drawn on the "Cotton Research Award Fund" when said warrants are signed by a majority of the three persons above mentioned.

[Acts 1939, 46th Leg., p. 1.]

Arts. 165-4a to 165-4c. Repealed by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 388, repealing these articles, enacts the Agriculture Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Agriculture Code.

CHAPTER TWELVE. RICE

Art. 165-5. Texas Rice Development Law. Inoperative

CHAPTER THIRTEEN. ANTIFREEZE

Art. 165-6. Repealed by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 388, repealing this article, enacts the Agriculture Code.

For disposition of the subject matter of the repealed article, see Disposition Table preceding the Agriculture Code.

CHAPTER FOURTEEN. POULTRY

Arts. 165-7, 165-7a. Repealed by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 388, repealing these articles, enacts the Agriculture Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Agriculture Code.

CHAPTER FIFTEEN. CHICKEN EGGS

Art. 165-8. Repealed by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 388, repealing this article, enacts the Agriculture Code.

For disposition of the subject matter of the repealed article, see Disposition Table preceding the Agriculture Code.

CHAPTER SIXTEEN. FORESTS

Art. 165-9. Repealed by Acts 1977, 65th Leg., p. 2690, ch. 871, art. I, § 2(a)(4), eff. Sept. 1, 1977

Acts 1977, 65th Leg., ch. 871, repealing this article, enacts the Natural Resources Code.

For disposition of the subject matter of the repealed article, see Disposition Table preceding the Natural Resources Code.

CHAPTER SEVENTEEN. ALCOHOL FUELS

Art. 165-10. Repealed by Acts 1983, 68th Leg., p. 986, ch. 235, art. 1, § 1(b), eff. Sept. 1, 1983

See, now, Agriculture Code, § 17.001 et seq.

TITLE 5 ALIENS

Art.

166 to 177. Repealed.

Art. 166. Repealed by Acts 1965, 59th Leg., p. 146, ch. 61, § 2, eff. Aug. 30, 1965

Art. 166a. Repealed by Acts 1983, 68th Leg., p. 3729, ch. 576, eff. Jan. 1, 1984

Acts 1983, 68th Leg., ch. 576, repealing this article, enacts the Property Code.

For disposition of the subject matter of the repealed article, see Disposition Table preceding V.T.C.A. Property Code.

Arts. 167 to 177. Repealed by Acts 1965, 59th Leg., p. 146, ch. 61, § 2, eff. Aug. 30, 1965

TITLE 6

AMUSEMENTS—PUBLIC HOUSES OF

- Art.
 178. "Public Houses of Amusement."
 178a. "Public House of Amusement."
 178b. Discrimination Against Reputable Productions.
 178c. Exceptions.
 178d. List of Bookings.
 179. Leases.
 179a. Private Investigator Employed to Determine Attendance or Number of Paid Admissions at Motion Picture Theater Performance; Report to Theater Owner.
 179b. State Law as Governing Contracts for Distribution and Licensing Motion Pictures; Venue.
 179c. Performing Fees for Broadcasting or Televising Records; Reliance and Discharge Based Upon Information Shown on Labels; Assignments.
 179d. Bingo Enabling Act.

Art. 178. "Public Houses of Amusement"

All buildings constructed, fitted and equipped for the purpose of theaters, commonly called theaters, opera houses, play houses, or by whatever name designated, which are and shall hereafter be used for public performances, the production and exhibition of plays, dramas, operas, or other shows of whatever nature, to which admission fees are charged, are hereby declared to be public houses of amusement, and the same shall be subject to regulation by ordinance, statute, or other law. Owners and lessees shall have the right to assign seats to patrons thereof, and to refuse admission to objectionable characters.

[Acts 1925, S.B. 84.]

Art. 178a. "Public House of Amusement"

All buildings constructed, fitted and equipped for the purpose of theaters, commonly called theaters, opera houses, play houses, or by whatever name designated, which are and shall hereafter be used for public performances, the production and exhibition of plays, dramas, operas and other shows of whatever nature to which admission fees are charged, are declared to be public houses of amusement.

[1925 P.C.]

Art. 178b. Discrimination Against Reputable Productions

No owner or lessee, or any manager, agent, employé or representative of the owner or lessee who may be in charge and having the care and management of any house of public amusement, shall discriminate against reputable theaters, operas, shows or other productions by whatever name known. Any owner or lessee, or any manager, agent, em-

ployé, or representative of the owner or lessee in charge of such house who shall fail and refuse to rent, lease and let such house of public amusement for one or more performances upon such terms and conditions as shall not be deemed unreasonable, extortionate or prohibitive to the agent, manager, proprietor or representative, who may in good faith make application therefor, of any reputable theater, opera or show, by whatever name known, shall be fined not less than one hundred nor more than five hundred dollars, one-half of which fine shall be paid to the complainant, the balance to go to the jury fund of the county in which such prosecution is had; and in addition, such person so convicted may be committed to the county jail for not more than ten days. Each violation of any provision of this article is a separate offense.

[1925 P.C.]

Art. 178c. Exceptions

If at the time of the application to lease or rent such house of public amusement for said purposes, it shall be shown by the owner, lessee or other person in charge thereof that said house of public amusement has in good faith been already leased, let or rented to other persons or parties, and that other bookings have in good faith been made for the date or dates so applied for, and not with the intention of evading the provisions of this chapter, then the penalties provided by the preceding article shall not be imposed.

[1925 P.C.]

Art. 178d. List of Bookings

Owners, lessees, managers or other persons in charge of such houses of public amusement shall make and keep in convenient form a list of all bookings of shows for such houses, with the dates specifically set out therein, and said list of bookings shall be exhibited upon request, to all persons applying therefor who in good faith desire to lease or rent such house or houses for the purposes indicated in the first article of this chapter. Each owner, lessee or other person in charge of such house who shall fail or refuse to keep and exhibit such list of bookings as required herein, shall be fined not less than ten nor more than twenty dollars. Each such failure or refusal is a separate offense.

[1925 P.C.]

Art. 179. Leases

Upon the failure of¹ refusal of any lessee, or his assigns, of any such public house of amusement to comply with the law governing such places of amusement, or upon conviction of the violation of any provision of the Penal Code relating to discrimination in the booking of plays, opera shows, or other productions, by whatever name known, which are and shall hereafter be used for public performances, he shall forfeit his lease and all rights and privileges thereunder.

[Acts 1925, S.B. 84.]

¹ So in enrolled bill and R.S.1925. Probably should read "or."

Art. 179a. Private Investigator Employed to Determine Attendance or Number of Paid Admissions at Motion Picture Theater Performance; Report to Theater Owner

Sec. 1. Any person employed as a private investigator or confidential investigator for the purpose of determining or attempting to determine the attendance or number of paid admissions at any motion picture theater performance in this state shall furnish to the owner or general manager of such theater, or theaters, checked, a report of his finding on the next succeeding day and within three (3) days after such check, a written copy of his finding or report.

Sec. 2. No evidence obtained by any investigator, nor testimony of such investigator, shall be admissible as evidence in any court, or proceedings of any kind, unless there is compliance with the provisions of Section 1 of this Act.

[Acts 1957, 55th Leg., p. 476, ch. 227.]

Art. 179b. State Law as Governing Contracts for Distribution and Licensing Motion Pictures; Venue

Sec. 1. From and after the effective date of this Act, every contract or agreement relating to distribution of films or licensing of motion pictures or films which are shown in any theater in the State of Texas shall be construed in accordance with the laws of this State.

Sec. 2. Venue of suits arising out of such license agreements shall be in the county where such film was licensed to be shown or in the county where the principal office of the exhibitor under such license agreement is located. Any provision of such agreement attempting to fix venue elsewhere shall be void.

[Acts 1957, 55th Leg., p. 1345, ch. 456.]

Art. 179c. Performing Fees for Broadcasting or Televising Records; Reliance and Discharge Based Upon Information Shown on Labels; Assignments

Sec. 1. Any person, corporation or other entity performing, playing, broadcasting or televising any

record or recording under circumstances which require the payment of a licensing fee or performing fee shall have the right to rely on the information shown on the label of such recording or record in the payment or accounting for such fees, in the absence of actual written notice to the contrary, as provided in Section 3 hereof, and payment in reliance on such information and in accordance with the licensing or performing agreement applicable to the particular recording or record as shown by such label shall operate as a discharge of the obligation of such person, corporation or other entity in the payment of any and all licensing or performing fees for the performing, playing, broadcasting or televising of such record or recording.

Sec. 2. No assignment or transfer by any means whatsoever of the rights to a licensing or performing fee for any record or recording shall be binding upon any person, corporation or other entity performing, playing, broadcasting or televising any such record or recording, unless actual written notice, as provided in Section 3 hereof, of such assignment or transfer be given to such person, corporation or other entity, and payment in accordance with the last actual notice received and in accordance with the licensing or performing agreement applicable to the particular recording or record shall operate as a discharge of the obligation of such person, corporation or other entity in the payment of any and all licensing or performing fees for the performing, playing, broadcasting or televising of such record or recording.

Sec. 3. Notice of the assignment or transfer hereinabove referred to shall be in writing, identify the record or recording, give the name and address of the assignee or transferee and the effective date of such assignment or transfer.

[Acts 1963, 58th Leg., p. 731, ch. 269, eff. Aug. 23, 1963.]

Art. 179d. Bingo Enabling Act**Short Title**

Sec. 1. This Act may be cited as the Bingo Enabling Act.

Definitions

Sec. 2. In this Act:

(1) "Governing body" means the commissioner court with regard to a county or justice precinct or the city council or other chief legislative body with regard to an incorporated city or town.

(2) "Bingo" or "game" means a specific game of chance, commonly known as bingo or lotto, in which prizes are awarded on the basis of designated numbers or symbols on a card conforming to numbers or symbols selected at random.

(3) "Nonprofit organization" means an unincorporated association or society or a corporation that is incorporated or holds a certificate of authority under the Texas Non-Profit Corporation Act, as

amended (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes), that:

(A) does not distribute any of its income to its members, officers, or governing body, other than as reasonable compensation for services;

(B) for at least three years:

(i) has had a governing body or officers elected by a vote of members or by a vote of delegates elected by the members; or

(ii) has been affiliated with a state or national organization organized to perform the same purposes; and

(C) has obtained a 501(c) exemption from the Internal Revenue Service.

(4) "Fraternal organization" means a nonprofit organization that is organized to perform and engages primarily in performing charitable, benevolent, patriotic, employment-related, or educational functions and that:

(A) has been organized within Texas for at least three years;

(B) during the three-year period has had a bona fide membership actively and continuously engaged as an organization in furthering its authorized purposes;

(C) has not authorized any person on behalf of its membership, governing body, or officers to support or oppose a particular candidate for public office by making political speeches, passing out cards or other political literature, writing letters, signing or circulating petitions, making campaign contributions, or soliciting votes; and

(D) is not an organization whose members are predominantly veterans or dependents of veterans of the armed services of the United States.

(5) "Religious society" means a church, synagogue, or other organization or association that is organized primarily for religious purposes and that has been in existence within Texas for at least 10 years.

(6) "Veterans organization" means a nonprofit organization whose members are veterans or dependents of veterans of the armed services of the United States and that is chartered by the United States Congress and organized to advance the interests of veterans, or active duty personnel of the armed forces of the United States and their dependents.

(7) "Person" means an individual, partnership, corporation, or other group, however organized.

(8) "Volunteer fire department" means an association that:

(A) operates fire-fighting equipment;

(B) is organized primarily to provide and actively provides fire-fighting services; and

(C) does not pay its members compensation other than nominal compensation.

(9) "Charitable purposes" means one or more of the following causes, deeds, or activities to which the net proceeds derived from the playing of bingo are dedicated:

(A) those that benefit needy or deserving persons in this state, indefinite in number, by enhancing their opportunity for religious or educational advancement, by relieving them from disease, suffering, or distress, or by contributing to their physical well-being, by assisting them in establishing themselves in life as worthy and useful citizens, or by increasing their comprehension of and devotion to the principles on which this nation was founded and enhancing their loyalty to their government;

(B) those that initiate, perform, or foster worthy public works in this state or enable or further the erection or maintenance of public structures in this state;

(10) "Net proceeds" means:

(A) in relation to the gross receipts from one or more occasions of bingo, the amount that remains after deducting the reasonable sums necessarily and actually expended for advertising, security, repairs to premises and equipment, bingo supplies and equipment, prizes, stated rental, or mortgage and insurance expenses, if any, bookkeeping or accounting services, fees for personnel as permitted under Subsection (c) of Section 19 of this Act, janitorial services and utility supplies and services, if any, license fees, and the gross receipts tax; and

(B) in relation to the gross rent or other consideration received by an organization licensed to conduct bingo for the use of its premises, fixtures, or equipment by another licensee, the amount that remains after deducting the reasonable sums necessarily and actually expended for janitorial services and utility supplies directly attributable to the use of the premises, fixtures, or equipment, if any.

(11) "Authorized organization" means a religious society, a nonprofit organization (other than an organization whose membership is predominantly veterans or their dependents organized to advance the interests of veterans, active duty personnel, or their dependents) whose predominant activities are for the support of medical research or treatment programs, a fraternal or veterans organization, or a volunteer fire department.

(12) "Authorized commercial lessor" means a person, including a licensee permitted to conduct bingo under this Act, who owns or is a lessee of premises on which bingo is or will be conducted and that he offers for leasing to an authorized organization. The term does not include:

(A) a person convicted of a felony, criminal fraud, or a crime of moral turpitude;

(B) a public officer who receives any consideration, direct or indirect, as owner or lessor of premises offered for the purpose of conducting bingo; or

(C) a firm or corporation in which a person covered by Paragraph (A) or (B) of this subdivision or a person married or related in the first degree to such a person has greater than a 10 percent proprietary, equitable, or credit interest or in which such a person is active or employed.

This subdivision does not prevent any firm or corporation that is not organized for pecuniary profit and no part of the net earnings of which inure to the benefit of any individual, member, or shareholder, from being an authorized commercial lessor solely because a public officer or a person married or related in the first degree to a public officer is a member of, active in, or employed by the firm or corporation.

(13) "Gross receipts" means the total amount received from the sale, rental, transfer, or use of bingo cards and entrance fees charged at locations in which bingo is conducted.

(14) "Municipal secretary" means the officer of a municipality who performs the duties of city secretary, regardless of the officer's title.

(15) "Municipality" means an incorporated city or town.

(16) "Political subdivision" means a county, justice precinct, or municipality.

(17) "Licensee" means the holder of an annual license, commercial lessor's license, temporary license, or temporary authorization issued under this Act.

(18) "Distributor" means:

(A) a person who obtains by purchase or other manner bingo equipment, devices, or supplies for use in bingo games subject to this Act and who sells or otherwise furnishes those items with or without merchandise to be awarded as prizes to another person for resale, display, or operation of the equipment, devices, or supplies; or

(B) a manufacturer who furnishes by sale or other manner bingo equipment, devices, or supplies not manufactured by him to another person for resale, display, or operation of those items.

(19) "Manufacturer" means:

(A) a person who assembles from raw materials or subparts a completed piece of bingo equipment, devices, or supplies for use in bingo games subject to this Act and who furnishes by sale or other manner those items to a distributor or retail outlet; or

(B) a person who converts, modifies, adds to or removes parts from any bingo equipment, item, device, or assembly to further its promotion or sale for or use in a bingo game subject to this Act.

(20) "Representative" means a person who represents a distributor or a manufacturer in any activity connected with selling or furnishing bingo equipment, devices, or supplies for use in bingo games subject to this Act.

(21) "Substantial interest" means the interest a person has in an organization, association, or business as follows:

(A) if, with respect to a sole proprietorship, an individual or his marital community owns, operates, manages, or conducts directly or indirectly any part of the organization, association, or business;

(B) if, with respect to a partnership, the individual or his marital community has a right to a share in any of the profits or potential profits of the partnership activities;

(C) if, with respect to a corporation, an individual or his spouse is an officer or director of or the individual or his marital community is a holder directly or beneficially of 10 percent or more of any class of stock of the corporation;

(D) if, with respect to an organization not covered by Paragraph (A), (B), or (C) of this subdivision, an individual or his spouse is an officer in or manages the business affairs of the organization or the individual or his marital community owns or controls 10 percent or more of the assets of the organization; or

(E) if an individual or his marital community provides 10 percent or more of the capital, whether in cash, goods, or services, for the operation of a business, association, or organization during a calendar year.

(22) "Bingo equipment" means equipment actually used, made, or sold for the purpose of use in bingo games for which consideration is charged to play and for which prizes are awarded and includes machines or other devices from which balls or other items are withdrawn to determine the letters and numbers or other symbols to be called, the balls or items themselves, bingo cards, and any other device commonly used in the direct operation of the game. "Bingo equipment" does not include a bingo game set commonly manufactured and sold as a child's game for a retail price of \$20 or less unless the set or a part of the set is actually used in a bingo game subject to regulation under this Act.

Authorization for Gross Receipts Tax

Sec. 3. (a) The commissioners court of a county that has voted to legalize bingo or in which a justice precinct has voted to legalize bingo by order may impose a two percent gross receipts tax on the conduct of bingo games within the county.

(b) The governing body of a municipality that has voted to legalize bingo by ordinance may impose a two percent gross receipts tax on the conduct of bingo games within the municipality.

(c) Any municipality within which one or more justice precincts have voted to legalize bingo and which municipality has not voted to prohibit bingo may impose a two percent gross receipts tax on the conduct of bingo games within the municipality.

(d) If a county and a municipality are authorized to impose and have imposed a gross receipts tax on the conduct of bingo games under this section on the same gross receipts:

(1) the tax imposed by the county is at the rate of one percent of the taxable gross receipts instead of the rate provided by Subsection (a) of this section; and

(2) the tax imposed by the municipality is at the rate of one percent of the taxable gross receipts instead of the rate provided by Subsections (b) and (c) of this section.

Ordering Election

Sec. 4. (a) The governing body of a county, justice precinct, or municipality shall order and hold an election under this Act in the appropriate political subdivision if the governing body is presented with a petition for an election that meets the requirements of this Act. A governing body may order and hold an election under this Act on its own motion.

(b) The governing body of a political subdivision may not order an election under this Act for a political subdivision earlier than two years after another election on the same ballot proposition was held for the same political subdivision. If a petition for an election is submitted and it is not possible to order an election under this Act as requested by the petition without violating this subsection, the petition has no legal effect.

Petition

Sec. 5. (a) A petition for a legalization election must have a statement substantially as follows preceding the space reserved for signatures on each page: "This petition is to require that an election be held in (name of political subdivision) to legalize bingo names authorized under the Bingo Enabling Act." A petition for a prohibitory election must have a statement substantially as follows preceding the space reserved for signatures on each page: "This petition is to require that an election be held in (name of political subdivision) to prohibit bingo games authorized under the Bingo Enabling Act."

(b) A petition is valid only if it is signed by registered, qualified voters of the political subdivision in a number equal to or greater than 10 percent of the number of votes cast for governor by qualified voters of the political subdivision in the most recent general election at which that office was filled, or the amount specified in the document governing the administration of the political subdivision, whichever is less. If boundaries of the political subdivision do not coincide exactly with boundaries of election precincts in effect for the election,

the officer verifying the petition may use any reasonable method to estimate the number of votes for governor cast by qualified voters of the political subdivision.

(c) Each signer must enter beside his signature the date he signs the petition. A signature may not be counted if the signer fails to do so or if the date of signing is earlier than the 90th day before the date the petition is submitted to the governing body.

(d) In addition to the signature and date of each qualified voter, the following information must also be provided: current voter registration number, printed name, and residence address including zip code.

Verification of Petition

Sec. 6. (a) Not later than the fifth day after the date a petition for election is received in the office of the governing body, the governing body shall submit the petition for verification to the county clerk if the petition is applicable to a county or justice precinct or to the municipal secretary if the petition is applicable to a municipality.

(b) The officer to whom the petition is submitted for verification shall determine whether the petition is signed by the required number of registered voters of the political subdivision for which the election is requested. Not later than the 30th day after the date the petition is submitted to the officer for verification, the officer shall certify in writing to the governing body whether the petition is valid or invalid. If the officer determines that the petition is invalid, he shall state all reasons for that determination.

Date of Election

Sec. 7. (a) If the officer responsible for certifying a petition certifies that a petition is valid, the governing body shall order that an election be held in the appropriate political subdivision on a date not later than the 60th day after the date of the officer's certification and shall notify the comptroller of public accounts by certified mail, return receipt requested, that an election has been ordered.

(b) If no uniform election day as specified in Section 9b, Texas Election Code (Article 2.01b, Vernon's Texas Election Code), occurs within the 60-day period, the election shall be held on the next date specified within that section.

Ballot Proposition

Sec. 8. (a) In an election to legalize bingo games covered by this Act in a political subdivision, the ballot shall be prepared to provide for voting for or against the proposition: "Legalizing bingo games for charitable purposes as authorized by the Bingo Enabling Act in (name of political subdivision)."

(b) In an election to prohibit bingo games covered by this Act in a political subdivision, the ballot shall be prepared to provide for voting for or against the

proposition: "Prohibiting bingo games for charitable purposes as authorized by the Bingo Enabling Act in (name of political subdivision)."

Effect of Election

Sec. 9. (a) In a legalization election, if a majority of the qualified voters voting on the question vote in favor of legalization, the holding of bingo games as authorized by this Act is legalized throughout the political subdivision effective the 10th day after the date the result of the election is officially declared, except that the legalization does not apply to any part of the political subdivision for which Section 10 of this Act requires a contrary status.

(b) In a prohibitory election, if a majority of the qualified voters voting on the question vote in favor of prohibition, the holding of bingo games as authorized by this Act is prohibited throughout the political subdivision effective the 10th day after the date the result of the election is officially declared, except that the prohibition does not apply to any part of the political subdivision for which Section 10 of this Act requires a contrary status.

(c) If a majority of the qualified voters voting on the question in a legalization election do not favor legalization, or if a majority of the qualified voters voting on the question in a prohibitory election do not favor prohibition, the election has no effect on the status under this Act of the political subdivision in which the election is held.

(d) The governing body of a political subdivision in which a bingo election has been held shall within 10 days after the election give written notification to the comptroller of public accounts of the results of the election. If a majority of the qualified voters vote to legalize bingo in the political subdivision, the governing body shall furnish the comptroller with a map prepared by the governing body indicating the boundaries of the political subdivision in which the playing of bingo may be conducted.

Determination of Local Option Status

Sec. 10. (a) In determining whether bingo games authorized by this Act are permitted in an area, the rules prescribed by this section apply.

(b) The games are permitted in an area only as the result of a successful legalization election held under this Act.

(c) To the extent that the results of local option elections held by different types of political subdivisions conflict with regard to the same territory, the relative dates of the elections are of no consequence and the following rules apply:

(1) the status of an area as determined by a municipal election prevails over a contrary status as determined by a justice precinct or county election; and

(2) the status of an area as determined by a justice precinct election prevails over the status of an area as determined by a county election.

(d) To the extent that two or more local option elections held at the justice precinct level apply to the same territory, the most recent election prevails.

(e) If a municipality has established a status under this Act by a municipal election, territory annexed to the municipality after that status is established assumes the status under this Act of the rest of the municipality. Territory detached from such a municipality assumes the status the territory would have had if it had never been a part of the municipality. If the detached territory is added to another municipality that has established a status by a municipal election, the territory assumes the status of the municipality to which it is added.

(f) The addition of territory to or detachment of territory from a justice precinct does not affect the statutes under this Act of the added or detached territory, except that in a county with a population of more than two million, according to the most recent federal census, the added or detached territory assumes the status of the justice precinct of which it becomes a part. The abolition of a justice precinct does not affect the status under this Act of the territory formerly within the justice precinct.

Restrictions on Bingo Games

Sec. 11. (a) The conduct of bingo games authorized under this Act is subject to the restrictions prescribed by this section regardless of whether the restrictions are contained in a local ordinance.

(b) A person, other than an authorized commercial lessor or except a person who leases or otherwise makes available a hall or other premises to an organization that has been issued a temporary license, may not lease or otherwise make available for conducting a bingo game subject to this Act a hall or other premises for any consideration, direct or indirect.

(c) A bingo game may not be conducted on or within any leased premises if rental under the lease is to be paid, in whole or part, on the basis of a percentage of the receipts or net proceeds derived from the operation of the game or by reference to the number of people in attendance at a game.

(d) The net proceeds of any game of bingo and of any rental of premises for bingo shall be exclusively devoted to the charitable purposes of the organization permitted to conduct the game. The proceeds of any game of bingo or of any rental may not be used to support or oppose a particular candidate or a slate of candidates for public office or in favor of or in opposition to any measure submitted to a vote of the people.

(e) A prize may not exceed the sum or value of \$500 in any single game of bingo.

(f) A series of prizes offered or awarded on any one bingo occasion may not aggregate more than \$2,500.

(g) A person other than a bona fide member of a licensed authorized organization may not conduct, promote, administer, or assist in conducting, promoting, or administering, a bingo game.

(h) A person may not be denied admission to a game or the opportunity to participate in a game because of race, color, creed, religion, national origin, sex, or handicap or because the person is not a member of the licensed authorized organization that is conducting the game.

(i) Bingo games may not be conducted at more than one location on property owned or leased by a licensed authorized organization.

(j) No more than two affiliated organizations may be licensed to conduct bingo at the same location.

(k) A game of chance other than bingo may not be conducted or allowed during an occasion when bingo is played.

(l) A licensee may not offer or provide to a person the opportunity to play bingo without charge unless all persons that play the game are given the opportunity to play without charge.

(m) An authorized organization may conduct bingo only in the county where the organization is principally located. For purposes of this subsection, an organization is principally located in the county within which it has its primary business office. If the organization has no business office, the organization is principally located in the county of the principal residence of its chief executive officer.

(n) A person other than a licensed manufacturer, distributor, or representative may not furnish by sale or other manner bingo equipment, devices, or supplies for use in bingo games subject to this Act.

(o) A licensed authorized organization may not obtain by purchase or other manner bingo equipment, devices, or supplies for use in bingo games subject to this Act except from a manufacturer, distributor, or representative licensed by the comptroller of public accounts.

Application for License

Sec. 12. (a) To conduct bingo, an applicant for a license must file with the comptroller of public accounts a written application in a form prescribed by the comptroller, duly executed and verified, which must include:

(1) the name and address of the applicant and sufficient facts relating to its incorporation and organization to enable the comptroller of public accounts to determine whether it is an authorized organization;

(2) the names and addresses of its officers and the place where and the time when the applicant

intends to conduct bingo under the license applied for;

(3) in case the applicant intends to lease premises for this purpose from other than an authorized organization, the name and address of the licensed commercial lessor of such premises, and the capacity or potential capacity for public assembly purposes of space in any premises presently owned or occupied by the applicant;

(4) the amount of rent to be paid or other consideration to be given directly or indirectly for each occasion for use of the premises of another authorized organization licensed under this Act to conduct bingo or for use of the premises of a licensed commercial lessor;

(5) all other items of expense intended to be incurred or paid in connection with the conducting, promoting, and administering of games of bingo and the names and addresses of the persons to whom, and the purposes for which, they are to be paid;

(6) the specific purposes to which the net proceeds of the games are to be devoted and in what manner and a statement that the net proceeds will go to one or more of the authorized charitable purposes under this Act;

(7) a designation of an active member or members of the applicant organization under whom the game or games of bingo will be conducted, accompanied by a statement executed by the member or members so designated that he or they will be responsible for the conduct of bingo games in accordance with the terms of the license and this Act;

(8) a statement that a copy of the application has been sent to the appropriate governing body; and

(9) the name and address of each person who will work at the proposed bingo games and receive consideration for the work, the nature of the work to be performed, and a statement as to whether or not the person has been convicted of a felony, gambling offense, criminal fraud, or a crime of moral turpitude.

(b) An applicant for a license to act as an authorized commercial lessor must file with the comptroller of public accounts a verified written application on a form prescribed by the comptroller, which must include:

(1) the name and address of the applicant and of all other persons who have a financial interest in or who are in any capacity a real party in interest in the applicant's business as pertains to this Act;

(2) a designation and address of the premises intended to be covered by the license sought;

(3) the lawful capacity for public assembly purposes;

(4) a statement that a copy of the application has been sent to the appropriate governing body; and

(5) a statement that the applicant complies with the specifications prescribed by Section 2(12) of this Act.

(c) At any time the comptroller of public accounts, the governing body, or the attorney general may make a written request of a commercial lessor to disclose any of the following information:

(1) the cost of the premises and appraised value for property tax purposes or annual net lease rent, whichever is applicable;

(2) gross rentals received and itemized expenses for the immediately preceding calendar or fiscal year, if any;

(3) gross rentals, if any, derived from bingo during the last preceding calendar or fiscal year;

(4) the computation by which the proposed rental schedule was determined;

(5) the number of occasions on which the applicant anticipates receiving rent for bingo during the ensuing year or shorter period if applicable and proposed rent for each such occasion;

(6) estimated gross rental income from all other sources during the ensuing year; and

(7) estimated expenses itemized for the ensuing year and the amount of each item allocated to bingo rentals.

(d) An authorized organization may receive a temporary license for the conduct of bingo games on filing with the comptroller of public accounts an application, on a form prescribed by the comptroller, accompanied by a \$25 license fee. A temporary license is valid for four hours during any one day. An organization may receive no more than six temporary licenses in a calendar year. An organization operating under a temporary license is subject to the gross receipts tax authorized by this Act and the other provisions of this Act to the extent they can be made applicable.

(e) A copy of each application under this Act shall be sent to the appropriate governing body before a license is issued.

(f) In addition to the application form, the applicant or licensee shall submit any supplemental information requested by the comptroller of public accounts. Failure to submit requested supplemental information when required is a ground for denial of the license sought or for revocation of a license held.

Investigation; Matters to be Determined; Issuance of License; Fees; Duration of License

Sec. 13. (a) The comptroller of public accounts shall investigate the qualifications of each applicant and the merits of each application promptly after the filing of the application.

(b) On preliminary approval of an application, the comptroller of public accounts may issue a temporary authorization for the activity requested for any

period of not more than 60 days. The effective period may be extended by the comptroller on written request filed before the end of the period of temporary authorization except as limited by Subsection (h) of this section.

(c) The comptroller of public accounts shall issue to an applicant a license for the conduct of bingo, or a license renewal, on payment of a license fee in accordance with Subdivision (1) of Subsection (d) of this section, if the comptroller determines that:

(1) the member or members of the applicant designated in the application to conduct bingo are active members of the applicant;

(2) the person or persons under whose name the game or games of bingo will be conducted, and all persons who will work and receive consideration for their work at the proposed bingo games, have never been convicted of a felony, gambling offense, criminal fraud, or a crime of moral turpitude;

(3) the games are to be conducted in accordance with this Act;

(4) the proceeds of the games are to be disposed of as provided by this Act;

(5) no prize will be offered or given in excess of the sum or value of \$500 in any single game and that the aggregate of all prizes offered and given in all of the games conducted on a single occasion under the license will not exceed the sum or value of \$2,500.

(6) the applicant has made and can demonstrate significant progress toward the accomplishment of the purposes of the organization during the 12-month period preceding the date of application for a license or license renewal; and

(7) all persons who will conduct, promote, administer, or assist in conducting, promoting, or administering the proposed bingo games are active, bona fide members of the applicant organization.

(d) The fees for a license to conduct bingo and a commercial license to lease bingo premises shall be set by the comptroller of public accounts in an amount reasonable to defray administrative costs, but not less than the following:

(1) license to conduct bingo:

(A) Class A (annual gross receipts of \$25,000 or less)—\$100;

(B) Class B (annual gross receipts of more than \$25,000 but not more than \$50,000)—\$200;

(C) Class C (annual gross receipts of more than \$50,000 but not more than \$75,000)—\$300;

(D) Class D (annual gross receipts of more than \$75,000 but not more than \$100,000)—\$400;

(E) Class E (annual gross receipts of more than \$100,000 but not more than \$150,000)—\$600;

(F) Class F (annual gross receipts of more than \$150,000 but not more than \$200,000)—\$900;

(G) Class G (annual gross receipts of more than \$200,000 but not more than \$250,000)—\$1,200;

(H) Class H (annual gross receipts of more than \$250,000 but not more than \$300,000)—\$1,500;

(I) Class I (annual gross receipts of more than \$300,000 but not more than \$400,000)—\$2,000; and

(J) Class J (annual gross receipts of more than \$400,000)—\$2,500; and

(2) commercial license to lease bingo premises:

(A) Class A (annual gross rentals from licensed organizations of not more than \$12,000)—\$100;

(B) Class B (annual gross rentals from licensed organizations of more than \$12,000 but not more than \$20,000)—\$200;

(C) Class C (annual gross rentals from licensed organizations of more than \$20,000 but not more than \$30,000)—\$300;

(D) Class D (annual gross rentals from licensed organizations of more than \$30,000 but not more than \$40,000)—\$400;

(E) Class E (annual gross rentals from licensed organizations of more than \$40,000 but not more than \$50,000)—\$500;

(F) Class F (annual gross rentals from licensed organizations of more than \$50,000 but not more than \$60,000)—\$600;

(G) Class G (annual gross rentals from licensed organizations of more than \$60,000 but not more than \$70,000)—\$700;

(H) Class H (annual gross rentals from licensed organizations of more than \$70,000 but not more than \$80,000)—\$800;

(I) Class I (annual gross rentals from licensed organizations of more than \$80,000 but not more than \$90,000)—\$900; and

(J) Class J (annual gross rentals from licensed organizations of more than \$90,000)—\$1,000.

(e) At the end of the license period, a recapitulation shall be made between the licensee and the comptroller of public accounts in respect of the gross receipts or gross rentals actually recorded during the license period and the fee paid, and any deficiency of fee shown to be due shall be paid by the licensee and any excess of fee shown to have been paid shall be credited to the licensee in a manner prescribed by the comptroller by rule.

(f) The comptroller of public accounts may not issue a license to an applicant seeking to conduct bingo on the premises of a licensed commercial lessor if the premises presently owned or occupied by the applicant are adequate and suitable for conducting bingo games. The burden is on the applicant to establish by clear and convincing proof that the premises it presently owns or occupies are not adequate and suitable for conducting games. It is the intent of this subsection to encourage licensed organizations to use their own facilities if possible,

to discourage the commercialization of bingo, and to maximize the availability of bingo proceeds for application by an authorized organization to its authorized purposes.

(g) The comptroller of public accounts shall issue a license permitting a commercial lessor applicant to lease premises for the conduct of bingo to an authorized organization or organizations specified in the application during the period therein specified or such shorter period as the comptroller determines, but not to exceed one year, on payment of a license fee in accordance with Subdivision (2) of Subsection (d) of this section if the comptroller determines that:

(1) the applicant seeking to lease a hall or premises for the conduct of bingo to an authorized organization is qualified to be licensed under this Act;

(2) the applicant satisfies the requirements for an authorized commercial lessor as prescribed by Section 2(12) of this Act;

(3) the rent to be charged is fair and reasonable;

(4) there is no diversion of the funds of the proposed lessee from the lawful purposes as prescribed by this Act;

(5) the person whose signature or name appears in the application is in all respects the real party in interest and is not an undisclosed agent or trustee for the real party in interest; and

(6) the leasing of a hall or premises for the conduct of bingo is to be in accordance with this Act.

(h) A license issued under this Act may not be effective for more than one year. A temporary authorization issued under Subsection (b) of this section may not be effective for more than one year from its original issuance date.

(i) When a license is issued by the comptroller of public accounts, a copy of the license shall immediately be sent by the licensee to the appropriate governing body for filing in a central file containing each license issued under this Act. In addition, the licensee must, within 10 days, give written notice of the issuance of the license to the police department of the city or town in which bingo is to be conducted, if it is to be conducted within a city or town, or to the sheriff of the county in which bingo is to be conducted, if it is to be conducted outside a city or town. A bingo game may not be commenced until the notification has been made in accordance with this subsection.

(j) A license may not be transferred by a licensee.

(k) The issuance of a license or temporary authorization by the comptroller of public accounts does not grant a vested right in the license, the temporary authorization, or the privileges conferred.

Application and Issuance of License to Manufacture Bingo Supplies, Devices, and Equipment; Bond; Fees; Matters to be Determined; Duration of License

Sec. 13a. (a) A manufacturer may not sell or supply to a person within this state or for use

within this state bingo cards, boards, sheets, pads, or other supplies, devices, or equipment designed to be used in playing bingo or engage in any intrastate activities involving those items without holding a license from the comptroller of public accounts. An applicant for a license must file with the comptroller a verified written application on a form prescribed by the comptroller, which must include:

(1) the name and address of the applicant and the name and address of each of its separate locations where bingo supplies, devices, or equipment is manufactured;

(2) the name and home address of all owners of the applicant's business, if the business is not a corporation, or, if it is a corporation, the name and home address of each officer and director and of each person owning at least 10 percent of any class of stock in the corporation;

(3) a full description of each type of bingo supply, equipment, or device that the applicant intends to manufacture or market in this state and the brand name, if any, under which each item will be sold;

(4) the name, business name and address, and home address of the registered agent for service in this state if the applicant is a foreign corporation;

(5) the names and addresses of all suppliers and distributors licensed under this Act in which the applicant has a financial interest and the details of that financial interest, including an indebtedness between the applicant and the licensed supplier or distributor of \$500 or more;

(6) whether the applicant or any of the persons required to be named in the application have been convicted in this state or any other state of a felony, criminal fraud, gambling, or a gambling-related offense or a crime of moral turpitude;

(7) whether the applicant or any of the persons required to be named in the application is an owner, officer, director, shareholder, agent, or employee of a commercial lessor licensed under this Act;

(8) whether the applicant or any of the persons required to be named in the application is a public officer or public employee in this state;

(9) the name of each state in which the applicant is or has been licensed to manufacture, distribute, or supply bingo equipment, devices, or supplies, each of those license numbers, the period of time licensed, and whether or not a license was revoked, suspended, withdrawn, cancelled, or surrendered, and, if so, the reasons for the action taken; and

(10) any other information the comptroller may request.

(b) An applicant for a manufacturer's license under this section must give the comptroller of public accounts a cash bond or a bond in the amount of \$10,000 issued by a surety company chartered or authorized to do business in this state. The bond must provide for forfeiture to the state on the manufacturer's failure to comply with this Act or

any rules promulgated by the comptroller or on suspension or revocation of the manufacturer's license.

(c) The comptroller of public accounts shall issue to an applicant a license for the manufacture of bingo supplies, devices, or equipment on payment of a \$3,000 license fee if the comptroller determines that:

(1) neither the applicant nor any of the persons required to be named in the application has been convicted of a felony, criminal fraud, or gambling, a gambling-related offense, or a crime of moral turpitude;

(2) neither the applicant nor any of the persons required to be named in the application is a public officer or public employee of this state;

(3) neither the applicant nor any of the persons required to be named in the application is an owner, officer, director, shareholder, agent, or employee of a commercial lessor licensed under this Act;

(4) the applicant is not a firm or corporation in which a person described by Subdivision (1), (2), or (3) of this subsection, or a person married or related in the first degree to one of those persons, has greater than a 10 percent proprietary, equitable, or credit interest or in which one of those persons is active or employed;

(5) the applicant intends to ship bingo equipment, devices, or supplies for use or resale in this state only to distributors, representatives, or authorized organizations licensed by the comptroller; and

(6) the applicant has never had a license to manufacture, distribute, or supply bingo equipment, devices, or supplies revoked by any other state.

(d) In addition to the basic licensee fee, the comptroller of public accounts may require an additional fee in an amount necessary to defray the cost of a background investigation, including the inspection of manufacturing plants and locations. The comptroller may establish by rule the conditions and procedure for payment of additional fees.

Application and Issuance of Distributor's License and Representative's License; Matters to be Determined; Fees; Duration of License

Sec. 13b. (a) To sell, distribute, or supply bingo equipment, devices, or supplies for use in licensed bingo games in this state, each distributor and each representative of a distributor or manufacturer must obtain a license from the comptroller of public accounts. A sole owner, a partner, an officer, or an owner of a substantial interest in a corporation licensed as a distributor or as a manufacturer is not required to be licensed as a representative in order to sell or supply the distributor's or manufacturer's products or services. Office, clerical, or warehouse personnel employed by the distributor or manufacturer who have contact with the public and potential customers only occasionally and only by telephone or at the distributor's or manufacturer's premises

when working under the immediate and direct supervision of the owner, a partner, or an officer of a corporation licensed as a distributor or manufacturer are exempt from the licensing requirement. A manager or supervisor who is not a sole owner, a partner, an officer, or an owner of a substantial interest in a licensed distributor or licensed manufacturer whose duties and responsibilities include the supervision of selling, supplying, or promoting the distributor's or manufacturer's products must be licensed as required by this section. A distributor or manufacturer shall take all measures necessary to prevent an unlicensed person from representing it.

(b) Each distributor and representative must file with the comptroller of public accounts a written application on a form prescribed by the comptroller, duly executed and verified, that includes the following information:

- (1) the full name and address of the applicant;
- (2) if a distributor, the name and address of each location operated by the distributor;
- (3) if a noncorporate distributor, the name and home address of all owners;
- (4) if a corporate distributor, the names and addresses of officers, of directors, and of stockholders that own at least 10 percent of the shares of any class of stock;
- (5) if a foreign corporation, the name, business name and address, and home address of its registered agent for service in this state;
- (6) if a representative, the names and addresses of all distributors and manufacturers the applicant represents; and
- (7) if a distributor's or manufacturer's representative, a sworn statement on the application by the distributor or manufacturer acknowledging the employment relationship.

(c) The following persons are not eligible for a license under this section:

- (1) a person convicted of a felony, criminal fraud, or a crime of moral turpitude;
- (2) a person who is or has been a professional gambler or gambling promoter;
- (3) an elected or appointed public officer or a public employee;
- (4) an operator or proprietor of a commercial hall licensed under this Act; or
- (5) a firm or corporation in which a person defined in Subdivision (1), (2), (3), or (4) of this subsection or in which a person married or related in the first degree to one of those persons has greater than a 10 percent proprietary, equitable, or credit interest or in which one of those persons is active or employed.

(d) The fee for a distributor's license is \$1,000. The fee for a representative's license is \$150.

General Provisions

Sec. 13c. (a) A license issue under Section 13a or 13b of this Act is subject to the restrictions prescribed by this section.

(b) The license is effective for one year unless revoked or suspended by the comptroller of public accounts.

(c) The comptroller of public accounts may require the licensee to keep records and file reports as prescribed by the comptroller's rules.

(d) The comptroller of public accounts may examine the books and records of an applicant for a license or of a licensee. Any information obtained shall not be disclosed except as necessary to carry out the provisions of this Act.

(e) It is an offense for an unlicensed person to sell or attempt to induce the sale of bingo equipment, devices, or supplies to a person licensed to conduct bingo games.

(f) An applicant for a license shall, during pendency of the application, notify the comptroller of public accounts immediately of any change respecting any facts set forth in the application. If a change occurs after issuance of a license, the change must be reported to the comptroller within 10 days of the date of the change. In addition, a licensee shall notify the comptroller of a change in its organization, structure, or mode of operation, of a change in the identify of persons named or required to be named in the application, of a change in the nature or extent of their interest, or of any other change respecting facts set forth in the application, within 10 days after the date of the change. Failure to give a required notice is cause for denial of a pending license or suspension or revocation of a license that has been granted.

Prohibited Practices

Sec. 13d. A manufacturer, distributor, or supplier may not, by express or implied agreement with another manufacturer, distributor, or supplier, fix the price at which bingo equipment, devices, or supplies used or intended to be used in connection with any bingo game conducted under this Act may be sold. The price of these items in the competitive market place shall be established by the manufacturer, distributor, or supplier and may not be established directly or indirectly in concert with one another.

Hearing; Amendment of License

Sec. 14. (a) A person whose application for a license is denied by the comptroller of public accounts may make a written request for a hearing. At the hearing, the applicant is entitled to be heard on the qualifications of the applicant and the merits of the application, and the burden of proof is on the applicant to establish by a preponderance of the evidence its eligibility for a license.

(b) A license issued under this Act may be amended on application to the comptroller of public accounts, and on payment of a \$25 fee, if the subject matter of the proposed amendment could lawfully and properly have been included in the original license. A licensee may not change the location or times of its bingo games until it has surrendered its original license and received an amended license from the comptroller.

(c) An amended license is effective only for the duration of the period remaining under the original license.

Form and Contents of License; Display of License

Sec. 15. (a) Each license to conduct bingo shall include:

(1) the name and address of the licensee and the names and addresses of the member or members of the licensee under whom the games will be conducted;

(2) an indication of the place where and the time when the games are to be conducted;

(3) the specific purposes to which the net proceeds of the games are to be devoted; and

(4) a statement of whether any prize is to be offered and the amount of any authorized prize.

(b) Each license issued for the conduct of any game shall be conspicuously displayed at the place where the game is conducted at all times during the conduct of the game.

(c) Each license to lease premises for conducting bingo shall contain a statement of the name and address of the licensee and the address of the premises, and each license shall be conspicuously displayed on the premises at all times during the conduct of bingo.

(d) Each location must be separately licensed.

Control and Supervision; Suspension of Licenses; Inspection of Premises

Sec. 16. (a) The comptroller of public accounts shall have broad authority and shall exercise strict control and close supervision over all games of bingo conducted in this state to the end that the games are fairly conducted and the proceeds derived from the games are used for the purposes authorized in this Act. The comptroller by rule shall provide procedures for the approval of bingo cards and no licensee may use or distribute a bingo card unless it has been approved by the comptroller.

(b) The comptroller may suspend or revoke any license issued under this Act for failing to comply with this Act. The comptroller may by rule establish grounds for the emergency, summary suspension of a license issued under this Act and in compliance with that rule may suspend a license, pending a hearing on the suspension or revocation, for a period not to exceed 90 days.

(c) A proceeding to summarily suspend a license issued under this Act is initiated by the comptroller of public accounts by serving notice to the licensee informing it of the right to a hearing before the comptroller. The notice must be personally served on an officer, operator, or agent of the licensee or sent by certified or registered mail, return receipt requested, to the licensee's mailing address as it appears on the comptroller's records. The notice must state the alleged violations that constitute grounds for summary suspension. The suspension is effective at the time of service of the notice. If notice is served in person, the licensee shall immediately surrender the license to the comptroller or his agent. If notice is served by mail, the licensee shall immediately return the license to the comptroller.

(d) If a license is summarily suspended under this section, a hearing shall be held, if demanded by the licensee, within 20 days of the date the comptroller of public accounts receives written notice of the demand. At the hearing, the licensee shall show cause why the license should not be permanently revoked.

(e) The comptroller or his officers or agents and state, city, or county peace officers may enter and inspect the contents of premises where a game of bingo is being conducted or where it is intended that a game is to be conducted, or where any equipment used or intended for use in the conduct of a game is found.

(f) The comptroller shall by rule establish the number and type of bingo games which may be played during an occasion.

Participation by Persons Under 18

Sec. 17. (a) A person under the age of 18 years may not play a game of bingo conducted under a license issued under this Act unless the person is accompanied by his parent or guardian, except that a licensee may prohibit all persons under the age of 18 from entering the licensed premises by posting a written notice to that effect at the place where the game is conducted.

(b) A person under the age of 18 years may not conduct or assist in the conduct of any game of bingo conducted under any license issued under this Act.

Frequency and Times of Games

Sec. 18. A game of bingo may not be conducted under any license issued under this Act more often than three days per calendar week, not to exceed four hours per 24-hour period. Only one bingo occasion per day may be conducted under each license issued under this Act. No more than two organizations may conduct a game of bingo in one place on one day. If two organizations conduct games of bingo in one place on one day, these occasions must be announced separately, and an intermission of at least 30 minutes must occur between the games. A game conducted under a tem-

porary license may not be conducted in violation of this section.

**Persons Operating and Conducting Games;
Equipment; Expenses; Compensation**

Sec. 19. (a) Only an active and bona fide member of a licensed, authorized organization may conduct, promote, or administer a game of bingo. A person may not assist in conducting, promoting, or administering a game of bingo except:

- (1) an active member of an organization to which a license has been issued;
- (2) a member of an organization that is an auxiliary to the licensee;
- (3) a member of an organization of which the licensee is an auxiliary;
- (4) a member of an organization that is affiliated with the licensee by being, with it, auxiliary to another organization; and
- (5) bookkeepers, accountants, cashiers, ushers, or callers.

(b) A game of bingo may not be conducted with any equipment except that owned by the licensed authorized organization or used without payment of any compensation therefor by the licensee.

(c) Items of expense may not be incurred or paid in connection with the conduct of any game of bingo under any license issued under this Act except those that are reasonable and are necessarily expended for advertising, security, repairs to premises and equipment, bingo supplies and equipment, prizes, stated rental or mortgage and insurance expenses, if any, bookkeeping, legal, or accounting services related to bingo, fees in amounts authorized by the comptroller of public accounts for callers, cashiers, and ushers, janitorial services and utility supplies and services, if any, and license fees.

(d) Repealed by Acts 1983, 68th Leg., p. 3469, ch. 575, § 17, eff. Sept. 1, 1983.

**Special Checking and Savings Accounts for
Bingo Proceeds**

Sec. 19a. (a) An organization receiving an annual license to conduct bingo shall establish and maintain one regular checking account designated the "bingo account" and may also maintain an interest-bearing savings account designated the "bingo savings account." All funds derived from the conduct of bingo, less the amount awarded as cash prizes, shall be deposited in the bingo account. No other funds may be deposited in the bingo account. Deposits must be made no later than the next business day following the day of the bingo occasion on which the receipts were obtained. All accounts must be maintained in a financial institution in Texas.

(b) Funds from the bingo account must be withdrawn by preprinted, consecutively numbered checks or withdrawal slips, signed by a duly autho-

rized representative of the licensee and made payable to a person or organization. Checks must be imprinted with the words "Bingo Account" and must contain the organization's bingo license number on the face of the check. There must also be noted on the face of the check or withdrawal slip the nature of the payment made. No check or slip may be made payable to "cash," "bearer," or a fictitious payee. All checks, including voided checks and slips, must be kept and accounted for.

(c) Checks drawn on the bingo account must be for one or more of the following purposes:

- (1) the payment of necessary and reasonable bona fide expenses permitted under Subsection (c) of Section 19 of this Act incurred and paid in connection with the conduct of bingo;
- (2) the payment of necessary and reasonable compensation incurred and paid in connection with the conduct of bingo for personnel permitted under Subsection (c) of Section 19 of this Act;
- (3) the disbursement of net proceeds derived from the conduct of bingo to charitable purposes; and
- (4) the transfer of net proceeds derived from the conduct of bingo to the bingo savings account pending a disbursement to a charitable purpose.

(d) The disbursement of net proceeds on deposit in the bingo savings account to a charitable purpose must be made by transferring the intended disbursement back into the bingo account and then withdrawing the amount by a check drawn on that account as prescribed in this section.

(e) Proceeds given to a person or an organization for a charitable purpose may not be used by the donee:

- (1) to pay for services rendered or materials purchased in connection with the conducting of bingo by the donor organization; or
- (2) for a cause, a deed, or an activity that would not constitute a charitable purpose if the activity were conducted by the donor organization.

(f) Gross receipts derived from the conduct of bingo may not be commingled with other funds of the licensed organization. Except as permitted by Subdivisions (3) and (4) of Subsection (c) of this section, gross receipts may not be transferred to another account maintained by the licensed organization.

(g) A licensed organization that has ceased to conduct bingo for any reason and has unexpended bingo funds shall disburse those funds to a charitable purpose within one year after the date of cessation of the conduct of bingo.

(h) Net proceeds may not be used directly or indirectly by a licensed authorized organization to support or oppose a candidate or slate of candidates for public office, to support or oppose a measure submitted to a vote of the people, or to influence or attempt to influence legislation.

(i) The comptroller of public accounts may by rule provide for different record-keeping procedures for licensees by class based on the amount of gross receipts of licensees.

Reporting and Due Date of Taxes

Sec. 20. The gross receipts taxes authorized to be imposed by a political subdivision under this Act are due and payable by the licensee or any person conducting bingo games without a license to the comptroller of public accounts monthly on or before the 15th day of the month succeeding each monthly reporting period. The report must be filed under oath on forms prescribed by the comptroller.

\$2,500 Exemption

Sec. 21. The first \$2,500 of gross receipts from the conduct of bingo within each reporting period is exempted from the tax authorized by this Act.

Computation of Tax

Sec. 22. A licensee required to report gross receipts taxes to the comptroller of public accounts under this Act, or any other person liable for gross receipts taxes under this Act, shall compute the taxes by multiplying the gross receipts from the conduct of bingo games by two percent, but may exclude \$2,500 from the gross receipts of bingo games conducted during the reporting period.

Report of Receipts, Expenses

Sec. 23. (a) Each licensee conducting bingo games shall submit quarterly to the comptroller of public accounts a report under oath containing the following information:

- (1) the amount of the gross receipts derived from the games;
- (2) each item of expense incurred or paid;
- (3) each item of expenditure made or to be made, the name and address of each person to whom each item has been paid or is to be paid, with a detailed description of the merchandise purchased or the services rendered;
- (4) the net proceeds derived from the games;
- (5) the use to which the proceeds have been or are to be applied; and
- (6) a list of prizes offered and given, with their respective values.

(b) Each licensee shall maintain records to substantiate the contents of each report.

(c) A copy of each report shall be furnished to the appropriate governing body.

(d) A person is not eligible for a license or a license renewal unless all required reports, tax returns, and requested information have been filed with the comptroller of public accounts.

(e) The comptroller of public accounts may by rule provide for different tax-reporting periods and

record-keeping procedures for licensees by class based on the amount of gross receipts received by a licensee.

Administration, Collection, Enforcement, and Operation of the Tax

Sec. 24. The comptroller of public accounts shall perform all functions incident to the administration, collection, enforcement, and operation of any tax imposed under this Act.

Delivery of Return; Remittance

Sec. 25. A licensee required to file a tax return shall deliver the monthly return with a remittance of the net amount of the tax due to the office of the comptroller of public accounts.

Transmittals, Refunds, and Collections

Sec. 26. (a) Each jurisdiction's share of all gross receipts taxes collected under this Act by the comptroller of public accounts shall be transmitted to the treasurer or the officer of the jurisdiction performing the functions of that office by the comptroller of public accounts payable to the jurisdiction periodically as promptly as feasible. Transmittals required under this Act shall be made at least twice in each state fiscal year. The funds so transmitted may be used by the jurisdiction for any purpose for which the general funds of the jurisdiction may be used.

(b) Before transmitting funds under Subsection (a) of this section, the comptroller shall deduct two percent of the sum collected from each jurisdiction during such period and shall deposit the funds in the state treasury to the credit of a special fund to be known as the bingo enforcement fund. The fund may be used only for the administration and enforcement of this Act.

(c) The comptroller of public accounts is authorized to retain in the suspense account of any jurisdiction a portion of the jurisdiction's share of the tax collected under this Act. The balance so retained in the suspense account may not exceed five percent of the amount remitted to the jurisdiction. The comptroller is authorized to make refunds from the suspense account of any jurisdiction for overpayments made to such accounts and to redeem dishonored checks and drafts deposited to the credit of the suspense account of the jurisdiction.

(d) When any jurisdiction imposes the gross receipts tax and thereafter abolishes the tax, the comptroller of public accounts may retain in the suspense account of the jurisdiction for one year five percent of the final remittance to each such jurisdiction at the time of termination of collection of the tax in the jurisdiction to cover possible refunds for overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of the account. After one year has elapsed after the effective date of abolition of the tax in the jurisdiction, the comptroller shall remit the balance

in the account to the jurisdiction and close the account.

Examination of Records; Disclosure of Information

Sec. 27. (a) The governing body and the attorney general may examine or cause to be examined the records of:

(1) any authorized organization that is or has been licensed to conduct bingo, so far as the organization's activities may relate to bingo, including the maintenance, control, and disposition of net proceeds derived from bingo or from the use of its premises for bingo, and may examine any manager, officer, director, agent, member, or employee thereof under oath in relation to the conduct of any game under any license, the use of its premises for bingo, or the disposition of proceeds derived from bingo; and

(2) any licensed authorized commercial lessor so far as the activities of the lessor may relate to leasing premises for bingo and may examine the lessor or any manager, officer, director, agent, or employee thereof under oath in relation to such leasing.

(b) The comptroller of public accounts, or any person authorized in writing by him, may examine the books, papers, records, equipment, and place of business of any licensee under this Act and may investigate the character of the business of the person in order to verify the accuracy of any return, statement, or report made, or, if no return is made by the person, to ascertain and determine the amount required to be paid. The comptroller may set and charge to the licensee a fee in an amount reasonably necessary to recover the cost of an investigation or audit authorized under this Act.

(c) If the comptroller of public accounts determines that this Act is not being complied with, he shall notify the attorney general and the governing body of the appropriate political subdivision.

Information Available for Public Inspection

Sec. 28. All applications, returns, reports, statements, and audits submitted to or conducted by the comptroller of public accounts and the governing body are available for public inspection.

Penalties for Failure to Pay or Report

Sec. 29. (a) If any person fails to file a return as required by this Act or fails to pay to the comptroller of public accounts taxes imposed under this Act when the return or payment is due, the person shall forfeit five percent of the amount due as a penalty, and after the first 30 days, he shall forfeit an additional five percent.

(b) Delinquent tax shall draw interest at the rate of 10 percent a year, beginning 60 days from the due date.

Recomputation of Tax

Sec. 30. If the comptroller of public accounts is not satisfied with the return or returns of the tax or the amount of tax required to be remitted to the state by a person, he may compute and determine the amount required to be paid on the basis of the facts contained in the return or returns or report of receipts and expenses or on the basis of any information within his possession or which may come into his possession.

Determination if No Return Made

Sec. 31. If any licensee fails to make a required return, or if any person conducts bingo without a license, the comptroller of public accounts shall make an estimate of the gross receipts of the licensee or person conducting bingo without a license. The estimate shall be made for the period in respect to which the licensee or other person failed to make a return and shall be based on information that is in the comptroller's possession or may come into his possession. On the basis of this estimate, the comptroller shall compute and determine the amount required to be paid to the state, adding to the sum a penalty of 10 percent of the amount. One or more determinations may be made for one or more periods.

Jeopardy Determination

Sec. 32. (a) If the comptroller of public accounts believes that the collection of any tax or any amount of tax required to be remitted to the state or the amount of any determination will be jeopardized by delay, he shall make a determination of the tax or amount of tax required to be collected, noting that fact upon the determination. The amount determined is due and payable immediately.

(b) If the amount specified in the determination is not paid within 20 days after service of notice thereof on the licensee against whom the determination is made, the amount becomes final at the expiration of the 20 days unless a petition for redetermination is filed within the 20 days. A delinquency penalty of 10 percent of the tax or amount of the tax and interest at the rate of .10 percent a year shall attach to the amount of the tax or the amount of the tax required to be collected.

Application of Tax Laws

Sec. 33. Chapter 1, Title 122A, Taxation—General, Revised Civil Statutes of Texas, as amended,¹ applies to the administration, collection, and enforcement of the tax imposed under this Act except as modified by this Act.

¹ Repealed; see, now, Tax Code, § 101.001 et seq.

Appeals on Denial of License

Sec. 34. (a) Any applicant for, or holder of, any license issued or to be issued under this Act aggrieved by any action of the comptroller of public accounts relating to licensing under this Act may

appeal to a district court of Travis County from the determination of the comptroller by filing with the comptroller, the governing body, and the attorney general a written notice of appeal within 30 days after the determination or action appealed from, and on the hearing of the appeal, the evidence, if any, taken before the comptroller of public accounts and any additional evidence may be produced and shall be considered in arriving at a determination of the matters in issue.

(b) The district court may order the comptroller of public accounts to issue a license to an applicant or reform a license issued to an applicant or order that the application be reconsidered by the comptroller if the court finds that the comptroller abused his discretion in his decision on the application.

Exemption From Prosecution

Sec. 35. (a) A person lawfully conducting or participating in the conduct of bingo or permitting the conduct on any premises owned or leased by him or it under any license lawfully issued under this Act is not liable to prosecution or conviction for violation of any provision of the Penal Code, as amended, or any other law or ordinance to the extent that such conduct is specifically authorized by this Act. The immunity does not extend to any person knowingly conducting or participating in the conduct of bingo under any license obtained by any false pretense or by any false statement made in any application for license or otherwise or permitting the conduct on any premises owned or leased by him or it of any game of bingo conducted under any license known to him or it to have been obtained by any false pretense or statement.

(b) A licensee under this Act may possess paraphernalia, devices, or equipment that is required to conduct bingo games.

(c) Repealed by Acts 1983, 68th Leg., p. 3473, ch. 575, § 23, eff. Sept. 1, 1983.

Offenses; Forfeiture of License; Ineligibility to Apply for License

Sec. 36. (a) A person commits an offense and forfeits a license issued under this Act if the person:

(1) makes a false statement in an application for a license authorized to be issued under this Act;

(2) fails to maintain records that fully and truly record all transactions connected with the conducting of bingo, the leasing of premises to be used for the conduct of bingo, or the manufacture, sale, or distribution of bingo supplies, devices, or equipment;

(3) falsifies or makes any false entry in any books or records so far as they relate to the conduct of bingo, to the disposition of bingo proceeds, to the application of rent received by any authorized organization, or to the gross receipts realized from the manufacture, sale, or distribution of bingo supplies, devices, or equipment;

(4) diverts or pays any portion of the net proceeds of any game of bingo to any person except in furtherance of one or more of the lawful purposes prescribed by this Act; or

(5) violates this Act or a term of a license issued under this Act.

(b) An offense under this section is a Class C misdemeanor, unless the person has been convicted previously under this section, in which event it is a Class B misdemeanor.

(c) A person whose license is forfeited under this section may not apply for another license under this Act until one year has elapsed from the date of forfeiture.

Seizure and Sale

Sec. 37. (a) At any time within three years after a person is delinquent in the payment of any amount of required tax due, the comptroller of public accounts may collect the amount as provided by this section.

(b) The comptroller of public accounts shall seize any property, real or personal, of the person and sell the property, or a sufficient part of it, at public auction to pay the amount due with any interest or penalties on account of the seizure and sale. Any seizure made to collect a tax due shall be only of property of the licensee not exempt from execution under the laws of this state.

(c) Notice of the sale and the time and place of the sale shall be given to the delinquent person in writing at least 20 days before the date set for the sale as provided by this subsection. The notice shall be enclosed in an envelope addressed to the person, in case of a sale for limited sales tax due, at his last known address or place of business, and in case of a sale for use taxes due, at his last known residence or place of business in this state. It shall be deposited in the United States mail, postage prepaid. The notice shall also be published for at least 10 days before the date set for the sale in a newspaper of general circulation published in the county in which the property seized is to be sold. If there is no newspaper of general circulation in the county, notice shall be posted in three public places in the county at least 20 days before the date set for the sale. The notice shall contain a description of the property to be sold, a statement of the amount due, including interest, penalties, and costs, the name of the delinquent, and the further statement that unless the amount due, interest, penalties, and costs are paid on or before the time fixed in the notice for the sale, the property, or so much of it as may be necessary, will be sold in accordance with the law and the notice.

(d) At the sale, the comptroller of public accounts shall sell the property in accordance with law and the notice and shall deliver to the purchaser a bill of sale for the personal property and a deed for any real property sold. The bill of sale or deed vests

the interest or title of the person liable for the amount in the purchaser. The unsold portion of any property seized may be left at the place of sale at the risk of the person liable for the amount.

(e) If on the sale the money received exceeds the total of all amounts, including interest, penalties, and costs due the state, the comptroller of public accounts shall return the excess to the person liable for the amounts and obtain his receipt. If any person having an interest in or lien on the property files with the comptroller before the sale notice of his interest or lien, the comptroller shall withhold any excess pending a determination of the rights of the respective parties thereto by a court of competent jurisdiction. If for any reason the receipt of the person liable for the amount is not available, the comptroller shall deposit the excess money with the state treasurer, as trustee for the owner, subject to the order of the person liable for the amount, his heirs, successors, or assigns.

Bonds or Securities

Sec. 38. (a) Each licensee under this Act shall furnish to the comptroller of public accounts a cash bond, a bond from a surety company chartered or authorized to do business in this state, certificates of deposit, certificates of savings or U.S. treasury bonds or, subject to the discretion and approval of the comptroller, an assignment of negotiable stocks or bonds, or such other security as the comptroller may deem sufficient to secure the payment of required taxes under this Act. The comptroller of public accounts shall fix the amount of the bond or security in each case, taking into consideration the amount of money that has or is expected to become due from the licensee under this Act. The amount of the bond or security required by the comptroller may not exceed three times the amount the licensee's average monthly reports.

(b) On failure to pay taxes imposed under this Act, the comptroller of public accounts may notify both the licensee and any surety of the delinquency by jeopardy or deficiency determination. If payment is not made when due, the comptroller may forfeit the bond or security or any part thereof.

(c) If the licensee ceases to conduct bingo games and relinquishes his license, the comptroller of public accounts shall authorize the release of all bonds and security on his determination that no amounts of tax remain due and payable under this Act.

Unlawful Bingo or Game

Sec. 39. (a) For the purposes of this section, "bingo" or "game" means a specific game of chance, commonly known as bingo or lotto, in which prizes are awarded on the basis of designated numbers or symbols on a card conforming to numbers or symbols selected at random, whether or not a person who participates as a player furnishes something of value for the opportunity to participate.

(b) Any person conducting, promoting, or administering a game commits a felony of the third degree unless the person is conducting, promoting, or administering a game:

(1) in accordance with a valid license issued under this Act;

(2) within the confines of a home for purposes of amusement or recreation when:

(A) no player or other person furnishes anything of more than nominal value for the opportunity to participate;

(B) participation in the game does not exceed 15 players; and

(C) the prizes awarded or to be awarded are nominal; or

(3) on behalf of an organization of persons 60 years of age or over, a senior citizens' association, or the patients in a hospital or nursing home or residents of a retirement home solely for the purpose of amusement and recreation of its members, residents, or patients, when:

(A) no player or other person furnishes anything of more than nominal value for the opportunity to participate; and

(B) the prizes awarded or to be awarded are nominal.

(c) This section applies to all political subdivisions regardless of local option status.

(d) A game exempted by Subdivision (2) or (3) of Subsection (b) of this section does not need to be licensed.

Fraudulent Award of Prizes

Sec. 40. (a) A person commits an offense if the person participates in the award of a prize to a player in a bingo game knowing that the award of the prize is made in a manner that disregards, to any extent, the random selection of numbers or symbols.

(b) An offense under this section is a felony of the third degree.

(c) It is a defense to prosecution under this section that no participant in the game furnished anything of value for the opportunity to participate in the game.

Application of Penal Code

Sec. 41. Section 47.09, Penal Code applies to any prosecution for a violation of this Act.

Civil Remedies and Penalties

Sec. 42. (a) If the comptroller of public accounts, the governing body, or the attorney general has reason to believe that this Act has been or is about to be violated, the comptroller of public accounts, the governing body, or the attorney general may petition the court for injunctive relief to re-

strain any such violations. Venue for the injunctive relief is in the district courts of Travis County, Texas.

(b) If the court finds that this Act has been violated by any person, the court shall issue a temporary restraining order, and after due notice and hearing a temporary injunction and after a final trial a permanent injunction to restrain such violations.

(c) If the court finds that this Act has been knowingly violated, the court shall order all proceeds from the illegal bingo game or games to be forfeited to the appropriate governing body as a civil penalty.

[Acts 1981, 67th Leg., 1st C.S., p. 85, ch. 11, §§ 1 to 42, eff. Nov. 10, 1981. Amended by Acts 1983, 68th Leg., p. 737, ch. 173, § 1, eff. May 20, 1983; Acts 1983, 68th Leg., p. 3443, ch. 575, §§ 1 to 22, 24, 25, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 4521, ch. 739, § 1, eff. June 19, 1983.]

TITLE 7

ANIMALS

1. CRUELTY TO ANIMALS

- Art.
180. Definitions.
181. Cruelty to Fowls.
182. Cruelty to Animals.
182a. Disposition of Cruelly Treated Animals.
183 to 185. Repealed.
186. Impound Animal.
187 to 189. Repealed.

2. DESTRUCTION OF ANIMALS

190. Buy Poison.
190a. Bounty for Destruction of Predatory Animals in Certain Counties.
190a-1. Bounties on Coyote Scalps in McMullen County.
190a-2. Bounties for Destruction of Wolves and Predatory Animals in Henderson, Angelina and Trinity Counties.
190b. Bounties for Destruction of Predatory Animals in Certain Counties.
190c. Destruction of Predatory Animals in Counties Having Population of 11,800 to 12,000, Bounties.
190d. Wolf Bounties in Shackelford County.
190d-1. Wolf Bounties in Panola County.
190e. Bounties on Wolf Scalps in Jack and Other Counties.
190f. Destruction of Ravens and Predatory Animals in Callahan and Other Counties.
190g. Bounties on Rattlesnakes and Predatory Animals in Bell County.
190g-1. Bounties on Rattlesnakes and Predatory Animals in Burnet County.
190g-2. Bounties on Rattlesnakes and Predatory Animals in Certain Counties.
190g-3. Bounties on Rattlesnakes and Predatory Animals in Williamson County.
190g-4. Bounties on Rattlesnakes and Predatory Animals in Certain Counties.
190h. Bounties on Predatory Animals and Rattlesnakes in All Counties.
190i. Rabid Foxes and Other Wild Animals; Bounties; State Health Officer's Duties.
190j. Bounties on Rabbits in Borden County.
191. Prairie Dogs.
192. Repealed.
192a. Repealed.
192b. Cooperation Between State and Federal Agencies in Destruction of Predatory Animals.

3. LIVESTOCK REMEDIES

- 192-1. Repealed.

4. MISCELLANEOUS

- 192-2. Permitting Bad Dog to Run at Large.
192-3. Unregistered Dogs Prohibited From Running at Large.

1. CRUELTY TO ANIMALS

Art. 180. Definitions

As used in this subdivision, the word "animal" includes every living dumb creature; the words "torture" and "cruelty" include every act, omission or neglect whereby unnecessary or unjustifiable pain or suffering is caused, permitted or allowed to continue when there is a reasonable remedy or relief. The words "owner" and "person" include corporations, and the knowledge and acts of agents and employes of corporations in regard to animals transported, owned, used by or in custody of the corporation shall be held to be the knowledge and acts of such corporation.

[Acts 1925, S.B. 84.]

Art. 181. Cruelty to Fowls

Whoever receives live fowls, poultry or other birds for transportation or to be confined on wagons or stands, or by the owners of grocery stores, commission houses or other market houses, or by other persons when to be closely confined, shall place same immediately in coops, crates or cages made of open slats or wire on at least three sides and of such height that the fowls can stand upright without touching the top, have troughs or other receptacle easy of access at all times by the birds confined therein, and so placed that their contents shall not be defiled by them, in which troughs or other receptacles clean water and suitable food shall be constantly kept; keep such coops, crates or cages in a clean and wholesome condition; place only such numbers in each coop, crate or cage as can stand without crowding one another, but have room to move around; not expose same to undue heat or cold, and remove immediately all injured, diseased or dead fowls or other birds.

[Acts 1925, S.B. 84.]

Art. 182. Cruelty to Animals

It shall be unlawful for any person to overdrive, wilfully overload, drive when overloaded, overwork, torture, torment, deprive of necessary sustenance, unnecessarily or cruelly beat, or needlessly mutilate or kill any animal or carry any animal in or upon any vehicle, or otherwise, in a cruel or inhuman manner, or cause or procure the same to be done, or who having the charge or custody of any animal unnecessarily fails to provide it with proper food, drink or cruelly abandons it.

[Acts 1925, S.B. 84.]

Art. 182a. Disposition of Cruelly Treated Animals

Sec. 1. In this Act "cruelly treated" means tortured, seriously overworked, unreasonably abandoned, unreasonably deprived of necessary food, care, or shelter, cruelly confined, caused to fight with another animal, or otherwise cruelly treated.

Sec. 2. (a) If a county sheriff, constable, or deputy constable or an officer who has responsibility for animal control in an incorporated city or town has reason to believe that an animal has been or is being cruelly treated, he may apply to a justice court in the county where the animal is located for a warrant to seize the animal. On a showing of probable cause to believe that the animal has been or is being cruelly treated, the court shall issue the warrant and set a time within 10 days for a hearing in the court to determine whether the animal has been cruelly treated. The officer executing the warrant shall cause the animal to be impounded and shall give written notice to the owner of the animal of the time and place of the justice court hearing.

(b) If the owner of the animal is found guilty in county court of a violation of Section 42.11, Penal Code, involving the animal, this finding is prima facie evidence at the hearing that the animal has been cruelly treated. Statements of an owner made at a hearing provided for in this Act are not admissible in a trial of the owner for a violation of Section 42.11, Penal Code. After all interested parties have been given an opportunity to present evidence at the hearing, if the court finds that the owner of an animal has cruelly treated the animal, the court shall order a public sale of the animal by auction. If the court does not find that the owner of the animal has cruelly treated the animal, the court shall order the animal returned to the owner.

Sec. 3. (a) Notice of an auction ordered as provided in this Act must be posted on a public bulletin board where other public notices are posted for the city, town, or county. At the auction, a bid by the former owner of the animal or his representative may not be accepted.

(b) Proceeds from the sale of the animal shall be applied first to the expenses incurred in caring for the animal during impoundment and in conducting the auction. The officer conducting the auction shall pay any excess proceeds to the justice court ordering the auction. The court shall cause the excess proceeds to be returned to the former owner of the animal.

(c) If the officer is unable to sell the animal at auction, he may cause the animal to be destroyed or may give the animal to a nonprofit animal shelter, pound, or society for the protection of animals.

Sec. 4. An owner of an animal ordered sold at public auction as provided in this Act may appeal the ruling by giving notice of appeal in justice court within 10 days of the hearing. Appeal is by means of a hearing in county court in the county where the

animal was impounded. At the hearing in county court, the court may assess costs of the hearing. During the pendency of an appeal under this section the animal shall not be sold, destroyed, or given away as provided in Sections 2 and 3 of this Act.

[Acts 1975, 64th Leg., p. 197, ch. 77, §§ 1 to 4, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2066, ch. 456, § 1, eff. Aug. 31, 1981.]

Arts. 183 to 185. Repealed by Acts 1975, 64th Leg., p. 197, ch. 77, § 5, eff. Sept. 1, 1975

See, now, art. 182a.

Art. 186. Impound Animal

Every person who under the laws of this State or of any municipality thereof shall impound or cause to be impounded any animal in any pound or corral shall supply it during such confinement with sufficient wholesome food and water. If any animal so impounded shall continue to be without necessary food and water for more than twelve successive hours it shall be lawful for any person as often as necessary to enter into or upon said pound or corral and supply such animal with necessary food and water; the reasonable cost for such food and water may be collected by him from the owner of such animal which shall not be exempt from levy and sale upon execution issued upon a judgment therefor.

[Acts 1925, S.B. 84.]

Arts. 187 to 189. Repealed by Acts 1975, 64th Leg., p. 197, ch. 77, § 5, eff. Sept. 1, 1975

See, now, art. 182a.

2. DESTRUCTION OF ANIMALS**Art. 190. Buy Poison**

1. May buy poison.—The commissioners court of each county may purchase the necessary poisons and accessories required by the citizens of such county for the purpose of destroying prairie dogs, wild cats, gophers, ground squirrels, wolves, coyotes, rats, English sparrows and ravens, and pay for the same out of the general fund of the county, and may furnish the same at cost or free to such citizens. If the court shall elect to sell the same, the proceeds shall be turned into the treasury to the credit of the general fund.

2. Notice of putting out poison.—Said court shall designate a certain day or days for putting out poison, giving notice of same by posting up notices in public places, such as school houses, gins and mills, or other public places, and also publishing the same in at least one county newspaper, if there be one, for three successive issues. Said notices shall be given at least twenty days prior to the first day of the time designated to put out the poison. Said notice shall state the time of putting out poison, and that the poisons can be secured from the commissioners court, and the terms on which it can be had.

3. Commissioner of Agriculture.—The Commissioner of Agriculture shall furnish said court with formulas and instructions for preparing the poisons and plants for using the same, and shall, upon the request of any such court, as soon as practicable after receiving such request, demonstrate and give instructions how to prepare the poison and when and how to apply the same.

4. Duty of land holder.—Every land holder whose premises are infested with any of such pests shall procure poison and apply the same as set forth in the plans furnished by the Commissioner of Agriculture.

5. Duty of lessee or tenant.—Every lessee or tenant holding premises by contract shall secure the poison and destroy all such pests. All such expenses incurred by such tenant or lessee in thus destroying such pests shall be charged against the owner of the land and collectible as other valid debts.

[Acts 1925, S.B. 84.]

Art. 190a. Bounty for Destruction of Predatory Animals in Certain Counties

It shall hereafter be lawful for the Commissioners Court of McCulloch, San Saba, Lampasas, Mills, Erath, Limestone, Jasper, Hood, Bastrop, Brazos, Grimes, Sterling, and Childress Counties to pay out of the General Fund of said Counties, bounties for the destruction of wolves, wild cats, and other predatory animals within said Counties as hereinafter provided.

On the petition of two hundred resident freeholders of any one of said Counties, being presented to the Commissioners Court of such County, the Commissioners Court may, by resolution entered upon its Minutes, provide for the destruction of such animals and the amount of bounty to be paid for the destruction of each of said predatory animals and the method of providing such destruction so as to entitle the person destroying such predatory animals to receive said bounty. Provided, that in the Counties of Sterling and Childress, the Commissioners Court is authorized to act upon a petition of as many as fifty (50) resident freeholders of said County.

The amounts paid as bounties for the destruction of predatory animals in said Counties shall be paid by warrant drawn upon the General Fund of the County by the Judge of such County on the filing with him of such proof as the Commissioners Court may require.

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., p. 151, ch. 100, § 1; Acts 1929, 41st Leg., p. 208, ch. 90, § 1; Acts 1929, 41st Leg., 2nd C.S., p. 43, ch. 27, § 1; Acts 1930, 41st Leg., 4th C.S., p. 46, ch. 26, § 1; Acts 1941, 47th Leg., p. 1298, ch. 572, § 1.]

Art. 190a-1. Bounties on Coyote Scalps in McMullen County

The Commissioners' Court of McMullen County, in order to preserve game, is hereby authorized to pay out of the general fund, bounties on the scalps of coyotes, in such sum as they deem necessary not to exceed Fifty (\$50.00) Dollars for each scalp. Said Commissioners' Court may require such proof and adopt such rules and regulations as are necessary in order to protect the interest of the County and make assurance that one coyote has been killed for each scalp paid for.

[Acts 1939, 46th Leg., Spec.L., p. 515, § 1.]

Art. 190a-2. Bounties for Destruction of Wolves and Predatory Animals in Henderson, Angelina and Trinity Counties

It is hereafter lawful for the Commissioners Court of Henderson, Angelina and Trinity Counties to pay out of the General Fund of said Counties bounties for the destruction of wolves and predatory animals within said Counties as hereinafter provided.

The Commissioners Court may by Resolution entered upon its minutes provide for the destruction of such wolves and predatory animals and the amount of bounty to be paid for the destruction of such, and the method of providing such destruction so as to entitle the person destroying same to receive said bounty. The amount paid as bounty for destruction of wolves and predatory animals in said Counties shall be paid by warrant drawn upon the General Fund of the County by the Judge of such County on the filing with them of such proof as the Commissioners Court may require.

[Acts 1957, 55th Leg., p. 797, ch. 332, § 1.]

Art. 190b. Bounties for Destruction of Predatory Animals in Certain Counties

Counties to Which Applicable

Sec. 1. It shall hereafter be lawful for the Commissioners' Court of Clay, Archer, Baylor, Young, Wise, Wilbarger, Wichita, Coryell, Callahan, Jackson, Eastland, Wharton, Taylor, and Brazos Counties to pay out of the General Fund of said counties, bounties for the destruction of wolves, wildcats and other predatory animals within said counties, as hereinafter provided.

Amount of Bounty

Sec. 2. On petition of two hundred resident freeholders of any one of said counties, being presented to the Commissioners' Court of such county, the Commissioners' Court may, by resolution entered upon its minutes, provide that any person who shall kill or catch in any of the above counties any wolf, coyote, jack-rabbit, panther or wildcat shall be paid not to exceed \$5.00 for each panther, wolf or wildcat scalp, and not to exceed ten cents (10c) for each jack-rabbit scalp.

Payment of Bounty

Sec. 3. The amounts paid as bounties for the destruction of predatory animals in said counties shall be paid by warrant drawn upon the General Fund of the County Judge of such county on the filing with him of such proof as the Commissioners' Court may require.

[Acts 1929, 41st Leg., p. 69, ch. 35.]

Art. 190c. Destruction of Predatory Animals in Counties Having Population of 11,800 to 12,000, Bounties**Bounty Authorized**

Sec. 1. That from and after the passage of this Act it shall be lawful for the Commissioners' Court of any county in this State having a population of not less than 11,800 and not more than 12,000 according to the last 1920 Federal Census, to pay a bounty for the destruction of wolves, wildcats and other predatory animals within said County.

Payment of Bounty

Sec. 2. That the payment of the Bounties herein authorized shall be made from a fund created by the levy of taxes which the Commissioners' Court of said county is hereby authorized to levy, at a rate of not to exceed one-fourth of one mill on the total assessed valuation of the county.

[Acts 1929, 41st Leg., 1st C.S., p. 257, ch. 107.]

Art. 190d. Wolf Bounties in Shackelford County

The Commissioners' Court of Shackelford County, in order to preserve game, is hereby authorized to pay out of the general fund, bounties on the scalps of wolves, in such sum as they deem necessary not to exceed Fifty (\$50.00) Dollars for each scalp. Said Commissioners' Court may require such proof and adopt such rules and regulations as are necessary in order to protect the interest of the County and make assurance that one wolf has been killed for each scalp paid for.

[Acts 1930, 41st Leg., 5th C.S., p. 191, ch. 48, § 1.]

Art. 190d-1. Wolf Bounties in Panola County

The Commissioners Court of Panola County, in order to preserve game, is hereby authorized to pay out of the General County Fund bounties on wolves killed in the County at not to exceed Twenty-five Dollars (\$25) for each wolf killed. Said Commissioners Court may require such proof and adopt such rules and regulations as are necessary in order to protect the interest of the County and make assurance that one animal has been killed for each wolf paid for.

[Acts 1959, 56th Leg., p. 561, ch. 251, § 1, eff. May 26, 1959.]

Art. 190e. Bounties on Wolf Scalps in Jack and Other Counties

In Wise, Jack and Young Counties the Commissioners' Court of the County, in order to preserve game, is hereby authorized to pay out of the General County Fund bounties on the scalps of wolves killed in the county, not to exceed Fifty Dollars for each scalp. Said Commissioners' Court may require such proof and adopt such rules and regulations as are necessary in order to protect the interest of the county and make assurance that one animal has been killed for each scalp paid for.

[Acts 1930, 41st Leg., 4th C.S., p. 88, ch. 47, § 1.]

Art. 190f. Destruction of Ravens and Predatory Animals in Callahan and Other Counties

It is hereafter lawful for the Commissioners Courts of Callahan, Eastland, and Taylor Counties to pay out of the General Fund of said Counties bounties for the destruction of ravens, rabbits, rattlesnakes, and other predatory animals within said Counties as hereinafter provided.

The Commissioners Courts may by resolution entered upon its minutes provide for the destruction of such ravens, rabbits, rattlesnakes, and other predatory animals and the amount of bounty to be paid for the destruction of such, and the method of providing such destruction so as to entitle the person destroying same to receive said bounty. The amount paid as bounty for destruction of ravens, rabbits, rattlesnakes, and other predatory animals in said Counties shall be paid by warrant drawn upon the General Fund of the Counties by the Judges of such Counties on the filing with them of such proof as the Commissioners Courts may require.

[Acts 1937, 45th Leg., p. 500, ch. 251, § 1.]

Art. 190g. Bounties on Rattlesnakes and Predatory Animals in Bell County

It is hereafter lawful for the Commissioners Court of Bell County to pay out of the General Fund of said County bounties for the destruction of rattlesnakes and predatory animals within said County as hereinafter provided.

The Commissioners Court may by resolution entered upon its minutes provide for the destruction of such rattlesnakes and predatory animals and the amount of bounty to be paid for the destruction of such, and the method of providing such destruction so as to entitle the person destroying same to receive said bounty. The amount paid as bounty for destruction of rattlesnakes and predatory animals in said County shall be paid by warrant drawn upon the General Fund of the County by the Judge of such County on the filing with them of such proof as the Commissioners Court may require.

[Acts 1937, 45th Leg., 1st C.S., p. 1804, ch. 28, § 1.]

Art. 190g-1. Bounties on Rattlesnakes and Predatory Animals in Burnet County

It is hereafter lawful for the Commissioners Court of Burnet County to pay out of the General Fund of said County bounties for the destruction of rattlesnakes and predatory animals within said County as hereinafter provided.

The Commissioners Court may by resolution entered upon its minutes provide for the destruction of such rattlesnakes and predatory animals and the amount of bounty to be paid for the destruction of such, and the method of providing such destruction so as to entitle the person destroying same to receive said bounty. The amount paid as bounty for destruction of rattlesnakes and predatory animals in said County shall be paid by warrant drawn upon the General Fund of the County by the Judge of such County on the filing with them of such proof as the Commissioners Court may require.

[Acts 1941, 47th Leg., p. 36, ch. 23, § 1.]

Art. 190g-2. Bounties on Rattlesnakes and Predatory Animals in Certain Counties

It is hereafter lawful for the Commissioners Courts of Crockett, Sutton, Menard, Mason, Kimble, Kerr, Bandera, Real, Edwards, Schleicher, Tom Green, Irion, Medina, Webb, and Zapata Counties to pay out of the General Fund of said Counties bounties for the destruction of rattlesnakes and predatory animals within said Counties as hereinafter provided.

The Commissioners Court in each County above named may by resolution entered upon its minutes provide for the destruction of such rattlesnakes and predatory animals and the amount of bounty to be paid for the destruction of such, and the methods of providing such destruction so as to entitle the person destroying same to receive said bounty. The amount paid as bounty for destruction of rattlesnakes and predatory animals in said Counties shall be paid by warrant drawn upon the General Fund by the Judge of such Counties on the filing with them of such proof as the Commissioners Court may require.

[Acts 1941, 47th Leg., p. 671, ch. 413, § 1.]

Art. 190g-3. Bounties on Rattlesnakes and Predatory Animals in Williamson County

It is hereafter lawful for the Commissioners Court of Williamson County to pay out of the General Fund of said County bounties for the destruction of rattlesnakes and predatory animals within said County as hereinafter provided.

The Commissioners Court may by Resolution entered upon its minutes provide for the destruction of such rattlesnakes and predatory animals and the amount of bounty to be paid for the destruction of such, and the method of providing such destruction so as to entitle the person destroying same to receive said bounty. The amount paid as bounty for

destruction of rattlesnakes and predatory animals in said County shall be paid by warrant drawn upon the General Fund of the County by the Judge of such County on the filing with them of such proof as the Commissioners Court may require.

[Acts 1945, 49th Leg., p. 47, ch. 29, § 1.]

Art. 190g-4. Bounties on Rattlesnakes and Predatory Animals in Certain Counties

Sec. 1. The Commissioners Courts of San Patricio, Bee, Aransas, and Refugio Counties, Texas, in order to preserve game, and to protect the interest of livestock and poultry raisers of said Counties, is hereby authorized to pay out of the general fund of said Counties bounties for the destruction of rattlesnakes, wolves, coyotes, panthers, bobcats, and other predatory animals; said bounty to be set by the Commissioners Courts of San Patricio, Bee, Aransas, and Refugio Counties, Texas, at an amount not to exceed Five Dollars (\$5) per animal for wolves, coyotes, panthers, and bobcats; Fifty (50) Cents for coons, skunks, opossum, and like animals, and Ten (10) Cents for rattlesnakes; said Commissioners Courts, by resolution entered upon the minutes of the Commissioners Courts, to specify the amount of bounty to be paid for each of the said predatory animals and for rattlesnakes not to exceed the amounts as set forth above; and to prescribe such proof and regulations as are necessary in order to protect the interests of such Counties.

Sec. 2. Such bounties as may be prescribed by the Commissioners Courts of San Patricio, Bee, Aransas, and Refugio Counties, for the destruction of rattlesnakes and predatory animals, shall be paid upon warrant drawn by the County Judge on the general fund of said Counties.

[Acts 1945, 49th Leg., p. 154, ch. 105.]

Art. 190h. Bounties on Predatory Animals and Rattlesnakes in All Counties

Sec. 1. From and after the effective date of this Act all County Commissioners Courts throughout the State of Texas may pay a bounty not to exceed Five Dollars (\$5) out of the General Fund of the County for the killing of all Jaguar, Cougar, Ocelot, Jaguarondi, Bob Cat, Gray Wolf, Red Wolf, Florida Wolf, Coyote, Javelina and Rattlesnake. The Commissioners Courts shall have authority to determine what animals are predatory within said County and said Court may further determine eligibility of persons to whom bounties will be paid.

Sec. 2. The amounts paid as bounties for the destruction of predatory animals in any county shall be paid by a warrant drawn upon the General Fund of the county by the Judge of said county upon the filing with him of such proof as the Commissioners Court may require.

[Acts 1945, 49th Leg., p. 83, ch. 59.]

Art. 190i. Rabid Foxes and Other Wild Animals; Bounties; State Health Officer's Duties

Sec. 1. It shall be the duty of the State Health Officer to determine and define the boundaries of all areas of the State in which foxes or other wild animals infected with rabies exist in sufficient numbers to be a menace to the health of that area. Such determinations shall be based upon a finding of fact by the State Health Officer; providing further that the State Health Officer shall cause to be published in a newspaper within each county within the defined area that a bounty exists in the county concerned.

Sec. 2. When the State Health Officer finds that the health of such area is menaced by rabies because of rabid foxes or other wild animals, and defines the area where such menace exists, he shall pay a bounty of Two Dollars (\$2) for each and every fox or other wild animal destroyed in the defined area. For purposes of such payments the Health Officer shall have the power to require such evidence as proof of the destruction of a fox or other wild animal as he shall deem necessary.

Sec. 3. When the number of rabid foxes or other wild animals in any defined area is reduced to the extent that the destruction of such foxes or other wild animals is no longer necessary then the State Health Officer shall cease payment of the bounties, and shall serve notice to the public in the area concerned through publication in at least one (1) newspaper in each county concerned.

Sec. 4. For purposes of administering the provisions of this Act and for payment of the bounties so provided, there is appropriated out of the General Revenue Fund from moneys, not otherwise appropriated, Fifteen Thousand Dollars (\$15,000) to the State Health Officer, any excess to be returned to the General Revenue Fund after eradication of rabid foxes or other wild animals. A budget for the appropriation herein made shall be submitted to and approved by the Legislative Audit Committee before any funds may be disbursed.

Sec. 5. It shall be lawful for any person to kill, take, hunt, catch or destroy wild foxes or other wild animals at any time in the affected area, as determined by the State Health Officer, and the hides and pelts of any wild foxes or other wild animals so taken within such defined area may be sold during the trapping season.

Sec. 6. All laws or parts of laws in conflict herewith are hereby specifically repealed.

Sec. 7. If it shall be held by any Court of competent jurisdiction that any section, sentence, or part of this Act is invalid, it is nevertheless declared to be the legislative intent that this Act would have been and the same is hereby enacted regardless of any such invalidity of any part thereof.

[Acts 1947, 50th Leg., p. 229, ch. 133.]

Art. 190j. Bounties on Rabbits in Borden County

The Commissioners Court of Borden County, in order to prevent property damage, is hereby authorized to pay out of the General County Fund bounties on wild rabbits killed in the County at not to exceed Ten Cents (10¢) for each wild rabbit killed. Said Commissioners Court may require such proof and adopt such rules and regulations as are necessary in order to protect the interest of the County and make assurance that one (1) animal has been killed for each rabbit paid for.

[Acts 1959, 56th Leg., p. 580, ch. 263, § 1, eff. May 26, 1959.]

Art. 191. Prairie Dogs

Prairie dogs are hereby declared to be a public nuisance.

[Acts 1925, S.B. 84. Amended by Acts 1971, 62nd Leg., p. 1537, ch. 407, § 1, eff. Aug. 30, 1971.]

Art. 192. Repealed by Acts 1929, 41st Leg., 1st C.S., p. 235, ch. 96, § 14

Art. 192a. Repealed by Acts 1929, 41st Leg., 1st C.S., p. 235, ch. 96, § 14

Art. 192b. Cooperation Between State and Federal Agencies in Control of Predatory Animals and Rodents

State to Cooperate

Sec. 1. The State of Texas will cooperate through The Texas A & M University System with the appropriate officers and agencies of the United States in the control of coyotes, mountain lions, bobcats, the Russian boar, and other predatory animals and in the control of prairie dogs, pocket gophers, jack rabbits, ground squirrels, rats and other rodent pests for the protection of livestock, food and feed supplies, crops and ranges.

Sec. 2. Repealed by Acts 1981, 67th Leg., p. 670, ch. 261, § 2, eff. Aug. 31, 1981.

Expenditure of Appropriation

Sec. 3. The funds appropriated for administration of this Act shall be expended in amounts as authorized by the Board of Regents of The Texas A & M University System and disbursed by warrants issued by the State Comptroller upon vouchers or payrolls certified by the Director of Extension of the System.

Sec. 4. Repealed by Acts 1981, 67th Leg., p. 670, ch. 261, § 2, eff. Aug. 31, 1981.

Cooperative Agreement

Sec. 5. The Director of Extension of the System is hereby authorized and directed to execute a cooperative agreement with the appropriate officers or agencies of the United States for carrying out such cooperative work in predatory animal and rodent control in such manner and under such regulations as may be stated in such agreement.

Appropriations by Commissioners Court

Sec. 6. The Commissioners Court of any county within the State or the governing body of any incorporated city or town within the State is empowered and authorized at its discretion to appropriate funds for the prosecution of the predatory animal and rodent control work contemplated by this Act and in cooperation with State and Federal authorities to employ labor and to purchase and provide supplies required for the effective prosecution of this work.

Sale of Furs, Skins and Specimens

Sec. 7. All furs, skins and specimens of value taken by hunters or trappers paid from State funds shall be sold under rules prescribed by The Texas A & M University System and the proceeds of such sales shall be credited and added to the fund set up for predatory animal and rodent control; provided that any specimen may be presented free of charge to any State, county or Federal institution for scientific purposes.

Bounty Prohibited

Sec. 8. No bounty is to be collected from any county or other source for animals taken by hunters or trappers operating under this Act. Scalps of all animals taken are to be destroyed and all skins of commercial value sold, and every precaution taken to prohibit the collection of bounty by any person herein mentioned.

Sec. 9. Repealed by Acts 1981, 67th Leg., p. 670, ch. 261, § 2, eff. Aug. 31, 1981.

Construction with Other Laws

Sec. 10. The provisions, restrictions and penalties of Section 72.005, Parks and Wildlife Code,¹ shall not be construed as applying to hunters and trappers under this Act, provided they are acting in performance of duties contemplated under the terms of this Act.

¹ Repealed; see, now, Parks and Wildlife Code, § 71.004(b).

Tampering with Traps; Penalty

Sec. 11. Any person who shall maliciously or wilfully tamper with any of said traps, or any part thereof, or remove the same from the position in which the same was placed by the hunter or trapper, shall be fined not less than Fifty (\$50.00) Dollars nor more than Two Hundred (\$200.00) Dollars.

Stealing Traps; Penalty

Sec. 12. Any person who shall steal or fraudulently take any trap belonging to the State of Texas or United States Department of the Interior shall be deemed guilty of a misdemeanor and shall be fined not less than One Hundred (\$100.00) Dollars and not more than Two Hundred (\$200.00) Dollars.

Stealing Animals from Traps; Penalty

Sec. 13. Any person who shall steal or take away from any trap any animal mentioned in this Act that may be therein shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than One Hundred (\$100.00) Dollars and not more than Two Hundred (\$200.00) Dollars; and such animals shall be regarded as the property of the State of Texas and complaints alleging violations shall allege the ownership of the animal in the State of Texas, and the only proof necessary for establishing ownership shall consist in proving that the animal was taken from a trap which had been set by a trapper or hunter authorized by this Act.

[Acts 1929, 41st Leg., 1st C.S., p. 235, ch. 96. Amended by Acts 1951, 52nd Leg., p. 540, ch. 317, § 1; Acts 1961, 57th Leg., p. 285, ch. 156, § 1, eff. Aug. 28, 1961; Acts 1981, 67th Leg., p. 669, ch. 261, § 1, eff. Aug. 31, 1981.]

3. LIVESTOCK REMEDIES

Art. 192-1. Repealed by Acts 1971, 62nd Leg., p. 1805, ch. 534, § 8, eff. June 1, 1971

4. MISCELLANEOUS

Art. 192-2. **Permitting Bad Dog to Run at Large**

Any owner, keeper, or person in control of any dog accustomed to run, worry or kill goats, sheep or poultry, knowing such dog to be so accustomed who shall permit such dog to run at large shall be fined not to exceed one hundred dollars. Each time such dog runs at large is a separate offense.

[1925 P.C.]

Art. 192-3. **Unregistered Dogs Prohibited From Running at Large**

Registration; Identification Tag

Sec. 1. From and after the effective date of this Act, it shall be unlawful for the owner or any person, having control of any dog six (6) months or more of age, to permit or allow said dog to run at large, unless such dog shall have been by such owner or person having control of said dog duly registered with the County Treasurer of the county in which said dog runs at large, and shall have securely fastened about its neck a dog identification tag showing its registration and duly assigned to said dog by the County Treasurer of said county in the manner hereinafter set forth. It shall be the duty of the Commissioners Court to furnish the County Treasurer the necessary dog identification tags numbered consecutively from one up and each such identification tag shall, also, have printed or impressed on it the name of the county in which said tag is issued. At the time any dog is registered hereafter under the provisions of this Act, it shall be the duty of the County Treasurer to assign to such dog a registration number and deliver to the owner or person having control of said dog the necessary dog identification tag as herein provided

for. The County Treasurer shall, also, issue to the person registering any dog a certificate showing that said dog has been duly registered under this Act.

The County Treasurer shall likewise be furnished with a substantial and well-bound book for registration of dogs which book shall show the age, breed, color, and sex of each dog so registered, together with the date of registration.

Unmuzzled Dogs Prohibited from Running at Large at Night

Sec. 2. From and after the effective date of this Act it shall be unlawful for the owner of any dog to allow such dog to run at large between sunset and sunrise of the following day, unless such dog has securely fastened about his mouth a leather or metallic muzzle as will effectively prevent such dog from killing or injuring sheep, goats, calves, or other domestic animals or fowls.

Killing of Dogs for Attacking Domestic Animals Authorized

Sec. 3. Any dog, whether registered and tagged or not, when found attacking any sheep, goats, calves, and/or other domestic animals or fowls, or which has recently made, or is about to make such attack on any sheep, goats, calves, and/or other domestic animals and fowls, may be killed by anyone present and witnessing or having knowledge of such attack and without liability in damage to the owner of such dog. Any dog, whether registered and tagged or not, known or suspected to be a killer of sheep, goats, calves, or other domestic animals or fowls, is hereby declared to be a public nuisance and such dog may be detained or impounded by any person until the owner may be notified, and until all damage done by said dog shall have been determined and paid to the proper parties. Any dog known to have attacked, killed or injured any sheep, goat, calf, or other domestic animal or fowl, shall be killed by the owner of such dog, and upon failure of such owner so to do, any sheriff, deputy sheriff, constable, police officer, magistrate, or County Commissioner is authorized to kill such dog, and such officer is further authorized to go upon the premises of the owner of such dog for such purpose.

The owner of any sheep, goats, or other domestic animals, subject to the ravages of sheep-killing dogs, may place poison on the premises where such sheep, goats, and other domesticated animals are kept, after posting notices of such poison at each place of entrance to said premises.

Annual Registration Tax; Disposition of Money

Sec. 4. Each dog so registered shall be subject to a tax of One Dollar (\$1) which shall be paid to the County Treasurer at the time of such registration and shall cover the costs of registration and identification tag, and shall be good for the period of one year from date of such registration. Upon the

removal of a dog from one county to another, the owner may present his registration certificate to the County Treasurer of the county to which such dog is removed and receive without additional cost a registration certificate effective to the end of the year for which such dog was registered in the other county and likewise in any other county to which such dog may be removed. The tax so collected shall be placed in a special fund and shall be used only for defraying the expenses of administration of this Act in such county and for reimbursing the owner or owners of sheep, goats, calves, and/or other domestic animals, and/or fowls that may have been killed in such county by dogs not owned by the person seeking reimbursement. Such payment shall be made on order of the Commissioners Court and only on satisfactory proof. Such payment shall be made in the amount, and at such time as the said Commissioners Court may determine, and in the event that such fund shall be insufficient to reimburse all injured parties in full, payment shall be made pro rata. The County Treasurer shall keep an accurate record showing all amounts coming into said fund and disbursements therefrom. Provided, that any dog brought into the county for breeding purposes, trial, or show for a period of not exceeding ten (10) days shall not be required to be registered. Provided further, that upon sale or transfer of ownership of a dog, the registration certificate shall be transferred to the new owner.

Penalty

Sec. 5. The owner of any dog who shall willfully fail or refuse to register such dog, or who shall willfully fail or refuse to allow a dog to be killed when ordered by the proper authorities so to do, or who shall willfully violate any provision of this Act, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined in any sum not exceeding One Hundred Dollars (\$100), or by confinement in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.

Local Option; Election Procedure

Sec. 6. This Act shall not be effective in any county unless and until the qualified property tax-paying voters of such county, by a majority vote at an election held for such purposes, shall have voted therefor. Upon a petition signed by one hundred (100), or a majority of the qualified property tax-paying voters of a county, the Commissioners Court shall order an election to be held throughout such county in not less than ten (10) nor more than twenty (20) days to determine whether or not the registration of and the tax on dogs shall be required in such county. Notice of such election shall be given by the publication of said notice one time in a newspaper of general circulation in the English language in said county. But if there be no newspaper in the English language and of general circulation published in the said county, then such notice shall be posted at the courthouse door for a period of not less than one week before such election. At

such election those favoring the putting into force of this law in such county shall have written or printed on their ballots the words: "For Registration of and Tax on Dogs" and those opposed to the proposition shall have written or printed on their ballots the words: "Against the Registration of and Tax on Dogs." If a majority of those voting at such election shall be in favor of such registration and tax, then such law shall become effective within ten (10) days from the date on which the result of such election shall have been declared. Returns of such election shall be made by the presiding officers of same within three (3) days after such election, and in duplicate to the County Judge and County Clerk. The Commissioners Court shall canvass such returns and declare the result not later than the first Monday after such returns are made, and if the vote be in favor of the registration of and tax on dogs, then the County Judge shall issue his proclamation declaring the result of said election and putting the same into force and effect in said county, which proclamation shall be published one time in a newspaper of general circulation in the English language in said county. But if there be no newspaper in the English language and of general circulation published in said county, then such proclamation shall be posted at the courthouse door.

When an election under this Section shall have been held and the result of same has been adverse to the registration of and tax on dogs, then no other election shall be held on the same subject for a period of six (6) months. But if the result shall be for the registration of and tax on dogs, then no election for the repeal of same shall be held for a period of two (2) years. The returns of such election shall be preserved for one year after such election.

When an election, under this Act, shall have been held and the results shall be for the registration of and tax on dogs, each owner or person having control of any dog of the age of six (6) months or more in said county shall, within thirty (30) days from the date of the proclamation herein provided for, register said dog with the County Treasurer of said county under the provisions of this law.

Partial Invalidity

Sec. 7. If any provision, paragraph, or sentence of this Act shall be held invalid, such invalidity shall not affect or invalidate the remaining provisions, paragraphs, and sentences of this Act.

[Acts 1937, 45th Leg., p. 1119, ch. 450.]

TITLE 8

APPORTIONMENT

SENATORIAL DISTRICTS

Art.

193. Repealed.
193a. Senatorial Districts.
194, 194a. Repealed.

REPRESENTATIVE DISTRICTS

- 195 to 195a-2. Repealed.
195a-3. Unconstitutional.
195a-4 to 195a-7. Repealed.
195a-8. Representative Districts.
196. Returns Made to Whom.

CONGRESSIONAL DISTRICTS

197. Superseded.
197a to 197f. Repealed.
197g. Congressional Districts.

SUPREME JUDICIAL DISTRICTS

198. Supreme Judicial Districts.

JUDICIAL DISTRICTS

199. Judicial Districts.
199a. Judicial Districts Act of 1969.
200. Amendments Affecting Judicial Districts.

ADMINISTRATIVE JUDICIAL DISTRICTS

- 200a. Administrative Judicial Districts.
200b. Judicial Administration in Certain Counties.
200c. Senior District Court Judges, Dallas County.
200d. Trial by Special Judge in District Court Civil Cases.

SENATORIAL DISTRICTS

- Art. 193. Repealed by Acts 1965, 59th Leg., p. 719, ch. 342, § 35, eff. Aug. 30, 1965

Art. 193a. Senatorial Districts

Sec. 1. The State of Texas is apportioned into Senatorial Districts as provided in the following sections. Each district is entitled to elect one member to the Senate of the State of Texas.

Sec. 2. District 1 is composed of Bowie, Camp, Cass, Delta, Fannin, Franklin, Harrison, Hopkins, Lamar, Marion, Morris, Red River, and Titus Counties.

Sec. 3. District 2 is composed of Gregg, Panola, Rusk, Shelby, Smith, Upshur, Van Zandt, and Wood Counties.

Sec. 4. District 3 is composed of Anderson, Angelina, Cherokee, Hardin, Henderson, Jasper, Nacogdoches, Navarro, Newton, Polk, Sabine, San Augustine, and Tyler Counties.

Sec. 5. District 4 is composed of Jefferson and Orange Counties.

Sec. 6. District 5 is composed of Brazos, Burleson, Chambers, Fayette, Freestone, Grimes, Houston, Lee, Leon, Liberty, Madison, Montgomery, Robertson, San Jacinto, Trinity, Walker, and Waller Counties.

Sec. 7. District 6 is composed of that part of Harris County included in the following:

BEGINNING at the point where U.S. Highway 290 intersects the common line between Harris and Waller Counties;

THEN southeast along the U.S. Highway 290 to the Texas and New Orleans Railroad;

THEN east along the Texas and New Orleans Railroad to Heights Boulevard;

THEN south along Heights Boulevard to Waugh Drive;

THEN south along Waugh Drive to Buffalo Bayou;

THEN east along Buffalo Bayou to McKee Street;

THEN north along McKee Street to Lyons Avenue;

THEN east along Lyons Avenue to Hardy Street;

THEN north along Hardy Street to the Houston Belt and Terminal Railroad;

THEN east along the Houston Belt and Terminal Railroad to Jensen Drive;

THEN north along Jensen Drive to Halls Bayou;

THEN east along Halls Bayou to the T. & N.O. Railroad;

THEN south along the T. & N.O. Railroad to Laura Koppe Road;

THEN east along Laura Koppe Road to Missouri Pacific Railroad (B.S.L. & W. Railroad);

THEN northeast along Missouri Pacific Railroad (B.S.L. & W. Railroad) to the west shore line of Lake Houston;

THEN north along the west shore line of Lake Houston to Atascocita Road;

THEN northeast along Atascocita Road to the common line between Harris and Liberty Counties;

THEN northwest along the common line between Harris and Liberty Counties to the common line between Harris and Montgomery Counties;

THEN west along the common line between Harris and Montgomery Counties to the common line between Harris and Waller Counties;

THEN south along the common line between Harris and Waller Counties to the point intersected by U.S. Highway 290, the point of origin.

Sec. 8. District 7 is composed of that part of Harris County included in the following:

BEGINNING at the point where the Barbers Hill Road intersects the common line between Harris and Liberty Counties;

THEN west along the Barbers Hill Road to the Crosby-Lynchburg Road;

THEN south along the Crosby-Lynchburg Road to the H.N.S. Railroad;

THEN east and south along the H.N.S. Railroad to the San Jacinto River;

THEN southeast along the San Jacinto River to the Ship Channel (Buffalo Bayou);

THEN west along the Ship Channel (Buffalo Bayou) to Brays Bayou;

THEN south and west along Brays Bayou to the Gulf Freeway;

THEN northwest along the Gulf Freeway to Pierce Street;

THEN northwest along Pierce Street to Main Street;

THEN southwest along Main Street to Holcombe Boulevard;

THEN east along Holcombe Boulevard to Old Spanish Trail;

THEN east along Old Spanish Trail to Griggs Road;

THEN southeast along Griggs Road to Cullen Boulevard;

THEN southwest along Cullen Boulevard to Chocolate Bayou Road;

THEN south along Chocolate Bayou Road to Sims Bayou;

THEN east along Sims Bayou to Telephone Road;

THEN south along Telephone Road to Braniff Street;

THEN east along Braniff Street to Monroe Road;

THEN north along Monroe Road to Airport Boulevard;

THEN east along Airport Boulevard to the Gulf Freeway;

THEN southeast along the Gulf Freeway to the common line between Harris and Galveston Counties;

THEN east and north along the Harris County line to the common line between Harris and Chambers County;

THEN east and north along the common line between Harris and Chambers Counties to Barbers Hill Rd., the point of origin.

Sec. 9. District 8 is composed of that part of Dallas County included in the following:

BEGINNING at the point where Coit Road intersects the common line between Dallas and Collin Counties;

THEN south along Coit Road to Valley View Lane;

THEN east along Valley View Lane to Central Expressway;

THEN south along Central Expressway to Walnut Hill Lane;

THEN west along Walnut Hill Lane to Hillcrest Avenue;

THEN south along Hillcrest Avenue to Lovers Lane;

THEN east along Lovers Lane to the city limits between Dallas and University Park;

THEN south and west along the city limits between Dallas and University Park to the Central Expressway;

THEN south along the Central Expressway to Goodwin Avenue;

THEN east along Goodwin Avenue to Greenville Avenue;

THEN north along Greenville Avenue to the Missouri, Kansas and Texas Railroad;

THEN east along the Missouri, Kansas and Texas Railroad to Abrams Road;

THEN north along Abrams Road to Northwest Highway;

THEN east along Northwest Highway to Dixons Branch;

THEN southwest along Dixons Branch to White Rock Lake;

THEN south along White Rock Lake to Grand Avenue;

THEN southwest along Grand Avenue to the Gulf, Colorado and Santa Fe Railroad;

THEN west and south along the Gulf, Colorado and Santa Fe Railroad to Beacon Avenue;

THEN northwest along Beacon Avenue to Junius Street;

THEN southwest along Junius Street to Dumas Street;

THEN northwest along Dumas Street to Gaston Avenue;

THEN southwest along Gaston Avenue to Pacific Avenue;

THEN southwest along Pacific Avenue to Houston Street;

THEN south along Houston Street to Commerce Street;

THEN west along Commerce Street to the Trinity River Diversion Channel;

THEN north and west along the Trinity River Diversion Channel to the West Fork Diversion Channel;

THEN west, south and west along the West Fork Diversion Channel to the West Fork of the Trinity River;

THEN west along the meandering of the West Fork of the Trinity River to the common line between Dallas and Tarrant Counties;

THEN north along the Dallas County line to the common line between Denton and Dallas Counties;

THEN east along the Dallas County line to Coit Road, the point of origin.

Sec. 10. District 9 is composed of Collin, Cooke, Denton, Grayson, Hunt, Kaufman, Rains, and Rockwall Counties and that part of Dallas County not included in Districts 8, 16, and 23.

Sec. 11. District 10 is composed of all of that part of Tarrant County not included in District 22.

Sec. 12. District 11 is composed of that part of Harris County included in the following:

BEGINNING at the point along the common line between Harris and Liberty Counties intersected by Atascocita Road;

THEN southwest along Atascocita Road to the west shore line of Lake Houston;

THEN south along the west shore line of Lake Houston to the Missouri Pacific Railroad (B.S.L. & W. Railroad);

THEN southwest along the Missouri Pacific Railroad tract to Laura Koppe Road;

THEN west along Laura Koppe Road to the T. & N. O. Railroad track;

THEN north along the T. & N. O. Railroad track to Halls Bayou;

THEN west along Halls Bayou to Jensen Drive;

THEN south along Jensen Drive to Houston Belt and Terminal Railroad;

THEN west along the Houston Belt and Terminal Railroad to Hardy Street;

THEN south along Hardy Street to Lyons Avenue;

THEN west along Lyons Avenue to McKee Street;

THEN south along McKee Street to Buffalo Bayou;

THEN west along Buffalo Bayou to Main Street;

THEN southwest along Main Street to Pierce Street;

THEN southeast along Pierce Street to the Gulf Freeway;

THEN southeast along the Gulf Freeway to Brays Bayou;

THEN east and northeast along Brays Bayou to the Ship Channel (Buffalo Bayou);

THEN east along the Ship Channel (Buffalo Bayou) to the San Jacinto River;

THEN north along the San Jacinto River to the H.N.S. Railroad;

THEN north and east along the H.N.S. Railroad to the Crosby-Lynchburg Road;

THEN north the Crosby-Lynchburg Road to Barbers Hill Road;

THEN east along the Barbers Hill Road to the point where it intersects the common line between Harris and Chambers Counties;

THEN north and west along the common line between Harris and Chambers Counties to the common line between Harris and Liberty Counties;

THEN north and west along the common line between Harris and Liberty Counties to Atascocita Road, the point of origin.

Sec. 13. District 12 is composed of Bandera, Bosque, Brown, Burnet, Comal, Comanche, Concho, Coryell, Ellis, Erath, Gillespie, Hamilton, Hill, Hood, Johnson, Kendall, Kerr, Kimble, Lampasas, Llano, McCulloch, Mason, Menard, Mills, Real, San Saba, and Somervell Counties.

Sec. 14. District 13 is composed of Bell, Falls, Limestone, McLennan, and Milam Counties.

Sec. 15. District 14 is composed of Bastrop, Blanco, Caldwell, Hays, Travis, and Williamson Counties.

Sec. 16. District 15 is composed of that part of Harris County included in the following:

BEGINNING at the point where U.S. Highway 290 intersects the common line between Harris and Waller Counties;

THEN southeast along U.S. Highway 290 to the Texas and New Orleans Railroad;

THEN east along the Texas and New Orleans Railroad to Heights Boulevard;

THEN south along Heights Boulevard to Waugh Drive;

THEN south along Waugh Drive to Buffalo Bayou;

THEN east along Buffalo Bayou to Main Street;

THEN southwest along Main Street to Holcombe Boulevard;

THEN east along Holcombe Boulevard to Old Spanish Trail;

THEN east along Old Spanish Trail to Griggs Road;

THEN southeast along Griggs Road to Cullen Boulevard;

THEN southwest along Cullen Boulevard to Chocolate Bayou Road;

THEN south along Chocolate Bayou Road to Reed Road;

THEN west along Reed Road to Alameda Road;

THEN south along Alameda Road to the common line between Harris and Fort Bend Counties;

THEN west and north along the common line between Harris and Fort Bend Counties to the common line between Harris and Waller Counties;

THEN north along the common line between Harris and Waller Counties to the point intersected by U.S. Highway 290, the point of origin.

Sec. 17. District 16 is composed of that part of Dallas County included in the following:

BEGINNING at the point where Coit Road intersects the common line between Dallas and Collin Counties;

THEN south along Coit Road to Valley View Lane;

THEN east along Valley View Lane to Central Expressway;

THEN south along Central Expressway to Walnut Hill Lane;

THEN west along Walnut Hill Lane to Hillcrest Avenue;

THEN south along Hillcrest Avenue to Lovers Lane;

THEN east along Lovers Lane to the city limits between Dallas and University Park;

THEN south and west along city limits between Dallas and University Park to the Central Expressway;

THEN south along the Central Expressway to Goodwin Avenue;

THEN east along Goodwin Avenue to Greenville Avenue;

THEN north along Greenville Avenue to Missouri, Kansas and Texas Railroad;

THEN east along the Missouri, Kansas and Texas Railroad to Abrams Road;

THEN north along Abrams Road to Northwest Highway;

THEN east along Northwest Highway to Dixons Branch;

THEN south along Dixons Branch to White Rock Lake;

THEN south along White Rock Lake to Grand Avenue;

THEN southwest along Grand Avenue to the Gulf, Colorado and Santa Fe Railroad;

THEN west and south along the Gulf, Colorado and Santa Fe Railroad to Beacon Avenue;

THEN northwest along Beacon Avenue to Junius Street;

THEN southwest along Junius Street to Dumas Street;

THEN northwest along Dumas Street to Gaston Avenue;

THEN southwest along Gaston Avenue to Pacific Avenue;

THEN southwest along Pacific Avenue to Houston Street;

THEN south along Houston Street to Commerce Street;

THEN west along Commerce Street to the Trinity River Diversion Channel;

THEN southeast along the Trinity River Diversion Channel and the meanderings of the Trinity River to where the Trinity River intersects the common line between Dallas and Ellis Counties;

THEN east along the common line between Dallas and Ellis Counties to the common line between Dallas and Kaufman Counties;

THEN north along the Dallas County line to the Texas and Pacific Railroad;

THEN west along the Texas and Pacific Railroad to North Mesquite Creek;

THEN northwest along North Mesquite Creek to Belt Line Railroad;

THEN north on Belt Line Railroad to U.S. Highway 67;

THEN southwest along U.S. Highway 67 to Barnes Bridge Road;

THEN northwest on Barnes Bridge Road to Oates Drive;

THEN northeast on Oates Drive to the Long Branch of Duck Creek;

THEN northwest along the Long Branch of Duck Creek to Centerville Road;

THEN northeast along Centerville Road to First Avenue in the City of Garland;

THEN north along First Avenue to Avenue D;

THEN west along Avenue D to Garland Road;

THEN north along Garland Road to Buckingham Road;

THEN east along Buckingham Road to State Highway 78;

THEN northeast along State Highway 78 to the common line between Dallas and Collin County;

THEN west along the Dallas County line to Coit Road, the point of origin.

Sec. 18. District 17 is composed of Brazoria, Fort Bend, and Galveston Counties, and that part of Harris County included in the following:

BEGINNING at the point where the Gulf Freeway intersects the common line between Harris and Galveston Counties;

THEN northwest along the Gulf Freeway to Airport Boulevard;

THEN west along Airport Boulevard to Monroe Road;

THEN south along Monroe Road to Braniff Street;

THEN west along Braniff Street to Telephone Road;

THEN north along Telephone Road to Sims Bayou;

THEN west along Sims Bayou to Chocolate Bayou Road;

THEN south along Chocolate Bayou Road to Reed Road;

THEN west along Reed Road to Alameda Road;

THEN southwest along Alameda Road to the common line between Harris and Fort Bend Counties;

THEN east along the Harris County line to the Gulf Freeway, the point of origin.

Sec. 19. District 18 is composed of Aransas, Austin, Calhoun, Colorado, DeWitt, Gonzales, Guadalupe, Jackson, Lavaca, Matagorda, San Patricio, Victoria, Washington and Wharton Counties.

Sec. 20. District 19 is composed of that part of Bexar County included in the following:

BEGINNING at a point where U.S. Highway 81 intersects the county line between Bexar and Guadalupe Counties;

THEN southwest along U.S. Highway 81 to Harry Wurzbach Highway;

THEN northwest along Harry Wurzbach Highway to Klaus Street;

THEN west along Klaus Street to the boundary line of Alamo Heights;

THEN west and south along the boundary line of Alamo Heights to Basse Road;

THEN west long Basse Road to San Pedro Avenue;

THEN south along San Pedro Avenue to Elmira;

THEN southwest along Elmira to U.S. Highway 87;

THEN southeast along U.S. Highway 87 to U.S. Highway 81;

THEN south along U.S. Highway 81 to Durango Street;

THEN west along Durango Street to the Missouri Pacific Railroad;

THEN north along the Missouri Pacific Railroad to Matamoros Street;

THEN west along Matamoros Street to Comal Street;

THEN south along Comal Street to Durango Street;

THEN west along Durango Street to Brazos Street;

THEN south along Brazos Street to Laredo Street;

THEN east along Laredo Street to U.S. Highway 81;

THEN south along U.S. Highway 81 to Goodwin Street;

THEN west along Goodwin Street to Missouri Pacific Railroad;

THEN southwest along the Missouri Pacific Railroad to Zarzamora Street;

THEN south along Zarzamora Street to Southcross Boulevard;

THEN west along Southcross Boulevard to Somerset Road;

THEN southwest along Somerset Road to Palo Alto Road;

THEN south along Palo Alto Road to the city limit of San Antonio;

THEN east along the city limit of San Antonio to the San Antonio River;

THEN southeast along the San Antonio River to the common boundary between Bexar and Wilson Counties;

THEN northeast and northwest along the Bexar County line to U.S. Highway 81, the point of origin.

Sec. 21. District 20 is composed of Kenedy, Kleberg, Nueces, and Willacy Counties and that part of Cameron County included in the following:

BEGINNING at a point where the western boundary of the Laguna Atascosa National Wildlife Refuge intersects the common boundary line between Cameron and Willacy Counties;

THEN south along the western boundary of the Laguna Atascosa National Wildlife Refuge to the Resaca De las Fresnos;

THEN south and west along the Resaca De las Fresnos to the Southern Pacific Railroad;

THEN northwest and west along the Southern Pacific Railroad to the Arroyo Colorado;

THEN southwest along the Arroyo Colorado to the Missouri Pacific Railroad;

THEN northwest along the Missouri Pacific Railroad to the common boundary between Cameron and Willacy Counties;

THEN east along the Cameron County line to the western boundary of Laguna Atascosa National Wildlife Refuge, the point of origin.

Sec. 22. District 21 is composed of Atascosa, Bee, Brooks, Dimmit, Duval, Frio, Goliad, Jim Hogg, Jim Wells, Karnes, LaSalle, Live Oak, Maverick, McMullen, Medina, Refugio, Starr, Webb, Wilson, Zapata and Zavala Counties and that part of Bexar County not included in District Numbers 19 and 26.

Sec. 23. District 22 is composed of Clay, Eastland, Jack, Montague, Palo Pinto, Parker, Stephens and Wise Counties and that part of Tarrant County south of a line beginning at the point where the city limits of Grand Prairie intersects the common line between Dallas and Tarrant Counties;

THEN north, west, and south along the city limits of Grand Prairie to the city limits of Arlington;

THEN west along the city limits of Arlington to the city limits of Fort Worth;

THEN southwest along the city limits of Fort Worth to Sandy Lane;

THEN north along Sandy Lane to Meadowbrook Drive;

THEN west along Meadowbrook Drive to Weiler Boulevard;

THEN south along Weiler Boulevard to Dallas Avenue;

THEN west along Dallas Avenue to Winnie Street;

THEN south along Winnie Street to the Texas and Pacific Railroad;

THEN east along the Texas and Pacific Railroad to Cravens Road;

THEN south along Cravens Road to Ramey Avenue;

THEN west along Ramey Avenue to Hughes Avenue;

THEN south along Hughes Avenue to Crenshaw Street;

THEN west along Crenshaw Street to Thrall Street;

THEN north along Thrall Street to Bedecker Street to Mitchell Boulevard;

THEN north along Mitchell Boulevard to Maddox Avenue;

THEN west along Maddox Avenue to Sycamore Creek;

THEN north along Sycamore Creek to Rosedale;

THEN west along Rosedale to the International and Great Northern Railroad;

THEN southeast along the International and Great Northern Railroad to Magnolia Avenue;

THEN west along Magnolia Avenue to Juroki;

THEN south along Juroki to Maddox Avenue;

THEN east along Maddox Avenue to Beverly Drive;

THEN south along Beverly Drive to Ramsey Avenue;

THEN west along Ramsey Avenue to Stuart Street;

THEN south along Stuart Street to Capps Street;

THEN west along Capps Street to Hemphill Street;

THEN north along Hemphill Street to Jessamine;

THEN west along Jessamine to the St. Louis, San Francisco and Texas Railroad;

THEN northwest along the St. Louis, San Francisco and Texas Railroad to Park Place;

THEN west along Park Place to the Clear Fork of the Trinity River;

THEN southwest along the Clear Fork of the Trinity River to Bryant-Irvin Road;

THEN north along Bryant-Irvin Road to Old Stove Foundry Road;

THEN southwest along Old Stove Foundry Road to the Texas and Pacific Railroad;

THEN north along the Texas and Pacific Railroad to U.S. Highway 377;

THEN southwest along U.S. Highway 377 to the Fort Worth city limits;

THEN northwest, southwest and north along the Fort Worth city limits to U.S. Highway 80;

THEN west along U.S. Highway 80 to the common line between Tarrant and Parker Counties.

Sec. 24. District 23 is composed of that part of Dallas County included in the following:

BEGINNING at the point where the West Fork of the Trinity River intersects the common line between Dallas and Tarrant Counties;

THEN east along the meanderings of the West Fork of the Trinity River to the West Fork Diversion Channel;

THEN along the West Fork Diversion Channel to the Trinity River Diversion Channel;

THEN east and southeast along the Trinity River Diversion Channel and along the meanderings of the Trinity River in a southeasterly direction to the intersection of the Trinity River and the common line between Dallas and Ellis Counties;

THEN west along the Dallas County line to the common line between Dallas and Tarrant Counties;

THEN north along the Dallas County line to the West Fork of the Trinity River, the point of origin.

Sec. 25. District 24 is composed of Borden, Calahan, Coke, Coleman, Fisher, Garza, Glasscock, Haskell, Howard, Jones, Kent, Mitchell, Nolan, Run-

nels, Scurry, Shackelford, Sterling, Stonewall, Taylor, Throckmorton and Young Counties.

Sec. 26. District 25 is composed of Brewster, Crane, Crockett, Ector, Edwards, Irion, Jeff Davis, Kenney, Loving, Midland, Pecos, Presidio, Reagan, Reeves, Schleicher, Sutton, Terrell, Tom Green, Upton, Uvalde and Val Verde Counties.

Sec. 27. District 26 is composed of that part of Bexar County included in the following:

BEGINNING at a point where U.S. Highway 81 intersects the county line between Bexar and Guadalupe Counties;

THEN southwest along U.S. Highway 81 to Harry Wurzbach Highway;

THEN northwest along Harry Wurzbach Highway to Klaus Street;

THEN west along Klaus Street to the boundary line of Alamo Heights;

THEN west and south along the boundary line of Alamo Heights to Basse Road;

THEN west along Basse Road to San Pedro Avenue;

THEN south along San Pedro Avenue to Elmira;

THEN southwest along Elmira to U.S. Highway 87;

THEN southeast along U.S. Highway 87 to U.S. Highway 81;

THEN south along U.S. Highway 81 to Durango Street;

THEN west along Durango Street to the Missouri Pacific Railroad;

THEN north along the Missouri Pacific Railroad to Matamoros Street;

THEN west along Matamoros Street to Comal Street;

THEN south along Comal Street to Durango Street;

THEN west along Durango Street to Brazos Street;

THEN south along Brazos Street to Laredo Street;

THEN east along Laredo Street to U.S. Highway 81;

THEN south along U.S. Highway 81 to Goodwin Street;

THEN west along Goodwin Street to Missouri Pacific Railroad;

THEN southwest along the Missouri Pacific Railroad to Zarzamora Street;

THEN south along Zarzamora Street to Southcross Boulevard;

THEN west along Southcross Boulevard to Somerset Road;

THEN southwest along Somerset Road to Palo Alto Road;

THEN south along Palo Alto Road to the city limit of San Antonio;

THEN northwest and northeast along the city limit of San Antonio to the boundary of Kelly Field;

THEN northwesterly along the boundary of Kelly Field to Castroville Road;

THEN west along Castroville Road to the common boundary between Bexar and Medina Counties;

THEN north, east and southeast along the county line of Bexar County to U.S. Highway 81, the point of origin.

Sec. 28. District 27 is composed of Hidalgo County and that part of Cameron County not included in District 20.

Sec. 29. District 28 is composed of Andrews, Cochran, Crosby, Dawson, Gaines, Hockley, Lubbock, Lynn, Martin, Terry, Ward, Winkler and Yoakum Counties.

Sec. 30. District 29 is composed of Culberson, El Paso, and Hudspeth Counties.

Sec. 31. District 30 is composed of Archer, Baylor, Briscoe, Castro, Childress, Cottle, Dickens, Floyd, Foard, Hale, Hall, Hardeman, King, Knox, Lamb, Motley, Parmer, Swisher, Wichita and Wilbarger Counties.

Sec. 32. District 31 is composed of Armstrong, Carson, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman and Wheeler Counties.

Sec. 33. This Act is effective for the elections, primary and general, for all Senators to the 60th Legislature, and continues in effect for succeeding legislatures. This Act does not affect the membership of the 59th Legislature. If a vacancy occurs in the office of any Senator of the 59th Legislature and a special election to fill the vacancy becomes necessary, the election shall be held in the district as it existed before the effective date of this Act.

Sec. 34. Wherever in this Act reference is made to a city limit it means the city limit as it existed in 1960 as reflected in census tract maps prepared and published by the United States Bureau of the Census. Wherever a street, highway, road, drive, avenue, railroad, or other identification is named to define the boundary of a district it means the center line of the boundary identification. Wherever a street or other boundary identification is described as intersecting another street or boundary identification and they do not actually intersect, the named streets or boundary identifications shall be extended so as to intersect one another.

Sec. 35. Sections 4 and 5, Chapter 256, Acts of the 57th Legislature, Regular Session, 1961, are repealed.

Sec. 36. All boards, agencies, commissions, committees and governing bodies created or existing under the laws of this state whose membership is based upon the Senatorial Districts of Texas, shall conform their memberships to the Senatorial Districts created hereunder.

[Acts 1965, 59th Leg., p. 719, ch. 342, eff. Aug. 30, 1965.]

Art. 194. Repealed by Acts 1931, 42nd Leg., p. 309, ch. 183, § 1

Art. 194a. Repealed by Acts 1963, 58th Leg., p. 1017, ch. 424, § 121(c), eff. Aug. 23, 1963

REPRESENTATIVE DISTRICTS

Art. 195. Repealed by Acts 1963, 58th Leg., p. 1017, ch. 424, § 121(c); Acts 1965, 59th Leg., p. 753, ch. 351, § 4, eff. Aug. 30, 1965

Arts. 195a to 195a-2. Repealed by Acts 1975, 64th Leg., p. 2368, ch. 727, § 4, eff. June 21, 1975

Section 5 of Acts 1971, 62nd Leg., p. 2980, ch. 981, also purported to repeal these articles. However, ch. 981 was held unconstitutional in its entirety by the Texas Supreme Court in *Smith v. Craddock* (Sup.1971) 471 S.W.2d 375.

See, now, art. 195a-8.

Art. 195a-3. Unconstitutional

This article was held invalid as violative of Const. Art. 3, § 26, in *Smith v. Craddock* (Sup.1971) 471 S.W.2d 375.

Arts. 195a-4 to 195a-6. Repealed by Acts 1981, 67th Leg., p. 3309, ch. 864, art. III, § 3, eff. Aug. 31, 1981; Acts 1983, 68th Leg., p. 783, ch. 185, art. III, § 4

Article III, § 3, of the 1983 repealing act provides:

This Act takes effect beginning with the election of the 69th Legislature, but it does not affect the membership, personnel, or districts of the 68th Legislature. If a vacancy occurs in the office of any member of the 68th Legislature to which this Act applies and a special election to fill the vacancy is necessary, the election shall be held in the district as it existed on January 1, 1983.

See, now, art. 195a-8.

Art. 195a-7. Repealed by Acts 1983, 68th Leg., p. 783, ch. 185, art. III, § 4

For effective date of 1983 repealing act, see note under arts. 195a-4 to 195a-6.

See, now, art. 195a-8

Art. 195a-8. Representative Districts

ARTICLE I

Sec. 1. The representative districts of the state are composed respectively of the counties or parts of counties as described in Article II.

ARTICLE II

Sec. 1. District 1 is composed of Bowie and Red River counties.

Sec. 2. District 2 is composed of Delta, Fannin, Hopkins, and Lamar counties.

Sec. 3. District 3 is composed of Hunt, Rains, Rockwall, and Wood counties.

Sec. 4. District 4 is composed of Ellis and Kaufman counties.

Sec. 5. District 5 is composed of Upshur and Van Zandt counties; and that part of Smith County included in census tracts 19.01 and 19.02; and that part of census tract 14 included in enumeration districts 206, 207, 208T, and 208U; and that part of census tract 15 included in enumeration districts 201 and 202; and that part of census tract 16 included in enumeration district 211, and block groups 3, 4, and 6, and blocks 131, 132, 133, 148, 149, 150, 901, 902, 903, 904, 905, 906, 908, 909, 910, 911, 912, 913, 914, and 941; and that part of census tract 20.01 included in block groups 2, 3, 4, 5, and 9, and blocks 107, 108, 109, 110, 112, 120, 121, 125, 126, 127, 128, and 129; and that part of census tract 20.02 included in enumeration district 226A, and block group 5, and blocks 205, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 237, 238, 239, 240, 241, 242, 243, 244, 245, 326, 327, 328, 329, 330, 342, 343, and 353.

Sec. 6. District 6 is composed of that part of Smith County included in census tracts 1, 2.01, 2.02, 3, 4, 5, 6, 7, 8, 9, 10, 11.01, 11.02, 12, 13, 17, 18, and 21; and that part of census tract 14 included in enumeration districts 204, 205T, 205U, and 209; and that part of census tract 15 included in enumeration districts 200 and 203; and that part of census tract 16 included in enumeration district 210, and block groups 2 and 5, and blocks 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, and 928; and that part of census tract 20.01 included in block groups 6 and 7, and blocks 102, 103, 104, 105, and 106; and that part of census tract 20.02 included in block group 9, and blocks 201, 202, 203, 204, 206, 207, 208, 209, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 246, 247, 248, 249, 250, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 349, 350, and 351.

Sec. 7. District 7 is composed of Gregg County.

Sec. 8. District 8 is composed of Camp, Cass, Franklin, Marion, Morris, and Titus counties.

Sec. 9. District 9 is composed of Harrison and Rusk counties.

Sec. 10. District 10 is composed of Nacogdoches, Panola, and Shelby counties.

Sec. 11. District 11 is composed of Anderson, Cherokee, and Freestone counties.

Sec. 12. District 12 is composed of Henderson, Limestone, and Navarro counties.

Sec. 13. District 13 is composed of Burleson, Milam, Robertson, Waller, and Washington counties.

Sec. 14. District 14 is composed of Brazos County.

Sec. 15. District 15 is composed of Grimes, Houston, Leon, and Madison counties; and that part of Montgomery County included in census tracts 902.04, 902.05, 902.06, 902.07, 903.01, 903.02, 904, and 912.01; and that part of census tract 902.03 included in block group 3, and blocks 201, 203, 205, 207, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, and 230.

Sec. 16. District 16 is composed of that part of Montgomery County included in census tracts 901.01, 901.02, 901.03, 902.01, 902.02, 905, 906.01, 906.02, 906.03, 907.01, 907.02, 907.03, 908.01, 908.02, 908.03, 909, 910, 911.01, 911.02, and 912.02; and that part of census tract 902.03 included in block group 1, and blocks 202, 204, 206, 208, 209, and 210.

Sec. 17. District 17 is composed of Angelina, Sabine, San Augustine, and Trinity counties.

Sec. 18. District 18 is composed of Polk, San Jacinto, Tyler, and Walker counties.

Sec. 19. District 19 is composed of Newton and Orange counties.

Sec. 20. District 20 is composed of Hardin and Jasper counties; and that part of Jefferson County included in census tracts 1.01, 1.02, and 2; and that part of census tract 3.01 included in block group 9, and blocks 101, 103, 104, 106, 107, 108, 109, 110, 111, 112, and 113; and that part of census tract 3.02 included in block group 9; and that part of census tract 3.03 included in block group 8; and that part of census tract 3.04 included in block group 7, and blocks 615, 616, 617, 618, 619, 802, 803, 804, 805, 806, 807, 808, 810, 812, and 835; and that part of census tract 114 included in enumeration districts 450, 451, and 454, and block group 1, and blocks 901, 902, 903, 904, 905, 906, 907, 908, 911, 912, 913, 914, 915, 916, 918, 919, 920, 921, and 923.

Sec. 21. District 21 is composed of Chambers and Liberty counties; and that part of Jefferson County included in census tracts 4, 13.02, 113, 115, 116, and 116.99; and that part of census tract 3.01 included in blocks 114, 115, 116, 117, 119, 120, 129, 130, and 131; and that part of census tract 3.02 included in block group 2; and that part of census tract 3.03 included in block groups 3 and 4; and that part of census tract 3.04 included in block group 5, and blocks 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 865, and 866; and that part of census tract 13.01 included in block groups 3, 4, and 9; and that part of census tract 13.03 included in block groups 6 and 9; and that part of census tract 114 included in enumeration district 452, and blocks 927, 928, 929, 930, 931, 932, 935, 936, 937, 938, 941, 942, 946, 947, 948, and 949.

Sec. 22. District 22 is composed of that part of Jefferson County included in census tracts 1.03, 5,

6, 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, 18, 18.99, 19, 20, 21, 22, 23, 24, 25, 26, 110.01, 111.01, 111.02, 112, and 112.99; and that part of census tract 13.01 included in block groups 1 and 2; and that part of census tract 13.03 included in block group 7.

Sec. 23. District 23 is composed of that part of Jefferson County included in census tracts 51, 51.99, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 66.99, 67, 68, 69, 70, 71, 101, 102, 103, 104, 105, 106, 107, 108, 108.99, 109, and 110.02.

Sec. 24. District 24 is composed of that part of Galveston County included in census tracts 1205, 1206, 1207, 1209, 1210, 1211, 1217, 1221, 1222, 1230, 1230.99, 1231, 1231.99, 1232, 1233, 1234, 1235, 1236, 1237, 1238, 1239.99, 1240, 1241, 1242, 1243, 1244, 1249.99, and 1254; and that part of census tract 1201.02 included in block 907; and that part of census tract 1203 included in block group 1, and blocks 901, 902, 914, 915, and 916; and that part of census tract 1204 included in block groups 2 and 3, and blocks 901, 902, 903, 904, 905, 906, 907, and 908; and that part of census tract 1208 included in blocks 901, 904, 905, and 915; and that part of census tract 1213 included in blocks 101, 102, 103, 104, 119, and 120; and that part of census tract 1216 included in blocks 919, 920, 922, 924, 925, 928, 929, 930, and 937; and that part of census tract 1220 included in block groups 1, 2, 3, 4, and 8; and that part of census tract 1245 included in blocks 101, 102, 103, 104, 105, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 120, 121, 122, 123, 124, 201, 202, 203, 204, 205, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, and 222; and that part of census tract 1246 included in block group 3; and that part of census tract 1247 included in block group 1, and blocks 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, and 220; and that part of census tract 1248 included in block group 1; and that part of census tract 1249 included in block groups 1, 2, 5, and 6, and blocks 301, 302, 303, 305, 306, 307, 308, 903, and 904.

Sec. 25. District 25 is composed of that part of Galveston County included in census tracts 1201.01, 1202, 1212.01, 1212.02, 1214, 1215, 1218, 1219.01, 1219.02, 1223, 1224, 1225, 1226, 1227, 1228.01, 1228.02, 1229.01, 1229.02, 1250.01, 1250.02, 1251, 1252, and 1253; and that part of census tract 1201.02 included in block groups 2 and 3, and blocks 901, 902, 903, 904, 905, and 906; and that part of census tract 1203 included in enumeration district 17, and block group 2, and blocks 903, 904, 905, 906, 907, 908, 909, 910, 913, 917, 918, 919, and 920; and that part of census tract 1204 included in block group 1, and blocks 909 and 910; and that part of census tract 1208 included in block groups 1 and 2, and blocks 902 and 903; and that part of census tract 1213 included in block groups 2 and 3, and blocks 108, 111, 112, 113, 114, 115, 116, 117, and 118; and that part of census tract 1216 included in block groups 1, 2, and 3, and blocks 901, 902, 905, 907, 908, 909, 910, 913, 918, 926, 927, 932, 933, 934, and 935; and that part of census tract 1220 included in

block groups 5, 6, and 7; and that part of census tract 1245 included in blocks 106, 107, 118, 119, and 206; and that part of census tract 1246 included in block groups 1 and 2; and that part of census tract 1247 included in block groups 3 and 4, and blocks 221 and 222; and that part of census tract 1248 included in block groups 2 and 3; and that part of census tract 1249 included in block group 4, and blocks 318, 905, and 906.

Sec. 26. District 26 is composed of that part of Fort Bend County included in census tracts 701.01, 701.02, 701.03, 702.01, 702.02, 702.03, 702.04, 703.01, 703.02, 703.03, 704, 707.01, 707.02, 709.01, 709.02, and 710.01; and that part of census tract 701.05 included in block group 9; and that part of census tract 701.06 included in block group 9.

Sec. 27. District 27 is composed of that part of Brazoria County included in census tracts 601, 602.01, 602.02, 603, 604, 605, 606, 607, and 632; and that part of Fort Bend County included in census tracts 701.04, 701.07, 705, 706, 707.03, 708, 709.03, 710.02, 711, 712, 713, and 714; and that part of census tract 701.05 included in block groups 4, 5, 6, 7, and 8; and that part of census tract 701.06 included in block groups 1, 2, 3, 4, and 5.

Sec. 28. District 28 is composed of that part of Brazoria County included in census tracts 608, 609, 610, 611, 612, 613, 614, 620.02, 621, 622, 623, 624, 625.01, 625.02, 625.03, 626.01, 626.02, 627, 628, 629, 629.99, 630, and 631.

Sec. 29. District 29 is composed of Matagorda and Wharton counties; and that part of Brazoria County included in census tracts 615, 616, 617, 618, 619, and 620.01.

Sec. 30. District 30 is composed of Austin, Bastrop, Colorado, Fayette, and Lee counties.

Sec. 31. District 31 is composed of Caldwell, De Witt, Goliad, Gonzales, Jackson, and Lavaca counties.

Sec. 32. District 32 is composed of Calhoun, Refugio, and Victoria counties.

Sec. 33. District 33 is composed of Bee, Karnes, and San Patricio counties.

Sec. 34. District 34 is composed of that part of Nueces County included in census tracts 1, 2, 2.99, 3, 4, 5, 6, 7, 8, 9, 11, 12, 17, 35, 56, 57, 58, 59, 60, and 61; and that part of census tract 10 included in block groups 1, 4, 5, and 6; and that part of census tract 14 included in block groups 1, 2, 3, and 4, and blocks 501, 502, 503, 504, 505, 506, 509, 510, 609, 610, 611, 612, 613, 614, 615, 616, and 617; and that part of census tract 20 included in block group 1, and blocks 308, 309, 310, 311, 312, 313, 314, 401, 402, 403, 404, 405, and 406; and that part of census tract 54 included in enumeration districts 413 and 414, and block groups 1 and 2.

Sec. 35. District 35 is composed of that part of Nueces County included in census tracts 13, 15, 16, 18, 19, 22, 23, and 24; and that part of census tract

10 included in block groups 2, 3, 7, and 8; and that part of census tract 14 included in blocks 507, 508, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 601, 602, 603, 604, 605, 606, 607, and 608; and that part of census tract 20 included in block groups 2, 5, 6, 7, and 8, and blocks 301, 302, 303, 304, 305, 306, 307, 407, 408, 409, 410, 411, 412, and 413; and that part of census tract 33 included in blocks 101, 102, 103, 104, 105, 106, 107, 108, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 132, 133, 147, 148, 175, 176, 177, 178, 180, 181, and 183; and that part of census tract 34 included in blocks 102, 103, 104, 105, 106, 107, 108, 110, 111, 112, 113, 114, 120, 121, 130, 138, 139, 140, 141, 142, 143, 144, 145, 156, 160, 213, 214, 215, 216, 217, 218, 220, 221, 222, 224, 225, 226, 227, 228, 229, 230, 232, 233, 234, 235, 236, 237, 239, 240, 241, 244, 245, 248, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, and 275.

Sec. 36. District 36 is composed of Aransas County; and that part of Nueces County included in census tracts 21, 25, 26, 27, 29, 30, 31, 32, 36, 37, 50, 50.99, 51, and 51.99; and that part of census tract 33 included in blocks 135, 136, 138, 139, 141, 143, 144, 146, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 170, 171, 172, 173, 174, 179, 182, 184, and 185; and that part of census tract 34 included in blocks 115, 116, 117, 119, 122, 123, 125, 126, 127, 128, 129, 131, 132, 133, 134, 135, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 242, 243, 246, 249, 250, 251, and 252; and that part of census tract 54 included in block groups 3, 4, and 6.

Sec. 37. District 37 is composed of Brooks, Kennedy, Kleberg, Starr, and Willacy counties; and that part of Cameron County included in census tracts 102.01, 103, 104.01, and 104.02.

Sec. 38. District 38 is composed of that part of Cameron County included in census tracts 101, 102.02, 105, 106.01, 106.02, 107, 108, 109, 110, 111, 112, 113.01, 113.02, 114, 115, 116, 117, 118.01, 118.02, 119, 120.01, 120.02, 121, 122, 123.01, 123.02, 123.99, 124, and 125.01; and that part of census tract 125.02 included in enumeration district 203.

Sec. 39. District 39 is composed of that part of Cameron County included in census tracts 126, 127, 127.99, 128, 129, 130.01, 130.02, 131.01, 131.02, 131.03, 132, 133, 134.01, 134.02, 135, 136, 137, 138.01, 138.02, 139.01, 139.02, 139.03, 140.01, 140.02, and 141; and that part of census tract 125.02 included in enumeration district 207, and block groups 1 and 2.

Sec. 40. District 40 is composed of that part of Hidalgo County included in census tracts 206, 209, 210, 211, 232, 233, 234, 235, 236, 237, 238, 239, 240, and 243; and that part of census tract 230 included in enumeration districts 633A and 634, and blocks 101, 102, 103, 104, 105, 106, 107, 108, 115, 116, 117, 118, 119, 126, 127, 128, 129, 130, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215,

216, 217, 218, 219, 229, 230, 301, 302, 303, 304, 305, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, and 324; and that part of census tract 231 included in enumeration districts 620, 621, and 642, and block groups 1 and 2, and blocks 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 323, 324, 325, 326, 327, 334, 335, 336, 337, 338, and 339.

Sec. 41. District 41 is composed of that part of Hidalgo County included in census tracts 201, 202, 203, 204, 205, 207, 208, 212, 213, 241, and 242.

Sec. 42. District 42 is composed of that part of Hidalgo County included in census tracts 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, and 229; and that part of census tract 230 included in blocks 109, 110, 111, 112, 113, 114, 120, 121, 122, 123, 124, 125, 220, 221, 222, 223, 224, 225, 226, 227, 228, 306, 307, 308, 309, and 310; and that part of census tract 231 included in blocks 320, 321, 322, 328, 329, 330, 331, 332, 333, 340, and 341.

Sec. 43. District 43 is composed of Webb County.

Sec. 44. District 44 is composed of Dimmit, Duval, Jim Hogg, Jim wells, La Salle, McMullen, Zapata, and Zavala counties.

Sec. 45. District 45 is composed of Atascosa, Bandera, Frio, Live Oak, Medina, and Wilson counties.

Sec. 46. District 46 is composed of Comal, Gualupe, and Kendall counties.

Sec. 47. District 47 is composed of Blanco, Hays, and Llano counties; and that part of Travis County included in census tracts 17.13, 17.14, 24.04, 24.05, 24.06, and 24.07; and that part of census tract 17.12 included in block group 3; and that part of census tract 17.15 included in block group 5; and that part of census tract 24.01 included in block groups 4 and 5; and that part of census tract 24.02 included in block group 3, and blocks 404, 405, 406, and 407; and that part of census tract 24.08 included in block group 5.

Sec. 48. District 48 is composed of that part of Travis County included in census tracts 1.02, 6.01, 6.02, 16.02, 16.03, 16.04, 16.05, 16.06, 17.03, 17.04, 17.05, 17.11, 17.16, 17.17, 19.01, 19.02, 19.03, 19.04, 20.01, and 20.02; and that part of census tract 13.04 included in block group 5; and that part of census tract 17.12 included in block groups 1 and 2; and that part of census tract 17.15 included in block groups 1, 2, 3, and 4.

Sec. 49. District 49 is composed of that part of Travis County included in census tracts 1.01, 2.01, 2.02, 2.03, 2.04, 3.01, 3.02, 5, 15.01, 15.04, 15.05, 17.06, 17.07, 17.08, 17.09, 17.10, 18.05, 18.07, 18.08, 18.10, 18.17, and 18.18.

Sec. 50. District 50 is composed of that part of Travis County included in census tracts 3.03, 4.01, 4.02, 8.02, 8.03, 8.04, 9.01, 15.03, 18.04, 18.06, 18.09, 18.11, 18.12, 18.13, 18.14, 18.15, 18.16, 21.03, 21.04,

21.05, 21.06, 21.07, 21.08, 21.09, 22.01, 22.02, 22.03, and 22.04; and that part of census tract 21.10 included in block groups 1 and 2, and blocks 301, 302, 303, 304, 305, 306, 307, and 308; and that part of census tract 21.11 included in blocks 101, 102, 104, 301, 302, 303, 304, 305, 306, and 312.

Sec. 51. District 51 is composed of that part of Travis County included in census tracts 7, 8.01, 9.02, 10, 11, 12, 13.03, 13.05, 13.06, 14, 20.03, 23.03, 23.04, 23.05, 23.06, 23.07, 23.08, 23.09, 23.10, and 24.03; and that part of census tract 13.04 included in block groups 1, 2, 3, and 4; and that part of census tract 21.10 included in blocks 309, 310, 311, 312, 313, 314, 315, and 316; and that part of census tract 21.11 included in block groups 2, 4, 5, 6, 7, and 8, and blocks 103, 105, 307, 308, 309, 310, and 311; and that part of census tract 24.01 included in block groups 2 and 3; and that part of census tract 24.02 included in block groups 1 and 2, and blocks 401, 402, and 403; and that part of census tract 24.08 included in enumeration districts 262, 263, and 264, and block groups 1, 2, 4, 6, and 9.

Sec. 52. District 52 is composed of Burnet and Williamson counties.

Sec. 53. District 53 is composed of that part of Bell County included in census tracts 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 215, 216, 217, 218, and 232; and that part of census tract 214 included in block groups 3 and 8; and that part of census tract 219 included in block groups 3, 8, and 9, and blocks 146, 147, 148, 149, 150, 151, 401, 404, 405, 410, 411, 412, 413, 414, 417, 418, 419, 420, 421, 422, 435, 436, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 709, 715, 716, 717, 718, 719, and 720; and that part of census tract 220 included in enumeration district 1093, and block groups 2, 3, 4, 5, 6, 7, 8, and 9.

Sec. 54. District 54 is composed of Hamilton, Lampasas, Mills, and San Saba counties; and that part of Bell County included in census tracts 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 233, and 234; and that part of census tract 214 included in enumeration districts 1084, 1087A, and 1087B; and that part of census tract 219 included in block groups 2 and 5, and blocks 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 128, 129, 130, 131, 132, 133, 134, 136, 415, 416, 423, 424, 425, 426, 427, 601, 602, 604, 605, 606, 607, 608, 609, 612, 616, 627, 702, 704, 705, 706, and 707; and that part of census tract 220 included in block group 1.

Sec. 55. District 55 is composed of Falls County; and that part of McLennan County included in census tracts 2, 3, 20, 23.02, 24, 25.01, 25.02, 26, 27, 28, 29, 30, 31, 37.03, 37.04, 38, 39, 40, and 41.01; and that part of census tract 4 included in block groups 2, 3, and 4; and that part of census tract 19 included in block groups 1 and 3; and that part of census tract 21 included in block groups 1 and 9; and that part of census tract 37.01 included in enumeration districts 314, 315, and 316, and blocks 104, 105, 106,

107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, and 914.

Sec. 56. District 56 is composed of that part of McLennan County included in census tracts 1, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 22, 23.01, 32, 33, 34, 35, 36, 41.02, and 42; and that part of census tract 4 included in block groups 1, 5, and 6; and that part of census tract 19 included in block groups 2, 4, and 9; and that part of census tract 21 included in block group 2; and that part of census tract 37.01 included in blocks 101, 102, 103, 201, 202, 203, 204, 205, 206, 901, 902, and 903.

Sec. 57. District 57 is composed of Bosque, Coryell, and Hill counties.

Sec. 58. District 58 is composed of Erath, Johnson, and Somervell counties.

Sec. 59. District 59 is composed of that part of Denton County included in census tracts 204.01, 204.02, 204.03, 205.01, 205.02, 206.01, 206.02, 207, 208, 209, 210, 211, 212, 213, 214, 215.01, 215.02, 216.01, 217.01, 217.02, 217.03, and 217.04.

Sec. 60. District 60 is composed of that part of Collin County included in census tracts 313.02, 314, 315, 316.01, 316.02, 316.03, 316.04, 316.05, 316.06, 316.07, 317, 318.01, 318.02, 318.03, 319, 320.01, and 320.02.

Sec. 61. District 61 is composed of that part of Collin County included in census tracts 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, and 313.01; and that part of Denton County included in census tracts 201, 202, 203.01, 203.02, 215.03, and 216.02.

Sec. 62. District 62 is composed of Grayson County; and that part of Collin County included in census tracts 301 and 302.

Sec. 63. District 63 is composed of Cooke, Parker, and Wise counties.

Sec. 64. District 64 is composed of Callahan, Haskell, Hood, Palo Pinto, Shackelford, Stephens, Throckmorton, and Young counties.

Sec. 65. District 65 is composed of Brown, Coleman, Comanche, Eastland, McCulloch, and Runnels counties.

Sec. 66. District 66 is composed of Coke, Mitchell, Sterling, and Tom Green counties.

Sec. 67. District 67 is composed of Concho, Crockett, Edwards, Gillespie, Irion, Kerr, Kimble, Mason, Menard, Real, Schleicher, Sutton, and Uvalde counties.

Sec. 68. District 68 is composed of Brewster, Kinney, Maverick, Pecos, Presidio, Terrell, and Val Verde counties.

Sec. 69. District 69 is composed of Borden, Crane, Culberson, Glasscock, Howard, Hudspeth, Jeff Davis, Loving, Reagan, Reeves, Upton, Ward, and Winkler counties.

Sec. 70. District 70 is composed of that part of El Paso County included in census tracts 3.01, 3.02, 4.01, 4.02, 5, 11.01, 11.03, 11.04, 12, 13, 14, 15, and 102.01; and that part of census tract 8 included in block group 9; and that part of census tract 9 included in blocks 607, 608, 614, 615, and 624; and that part of census tract 10 included in blocks 407, 409, 422, 423, 436, 437, and 901.

Sec. 71. District 71 is composed of that part of El Paso County included in census tracts 1.01, 1.02, 1.04, 1.05, 2.01, 2.02, 43.04, 102.02, and 103.01; and that part of census tract 43.02 included in block groups 1, 2, and 4, and blocks 301, 302, 312, 313, 314, and 315; and that part of census tract 43.03 included in block groups 1 and 2, and blocks 301, 312, 313, and 329; and that part of census tract 101 included in enumeration district 7.

Sec. 72. District 72 is composed of that part of El Paso County included in census tracts 6, 7, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, and 30; and that part of census tract 8 included in block groups 1, 2, 3, 4, and 5; and that part of census tract 9 included in block groups 1, 2, 3, 4, and 5, and blocks 601, 602, 603, 604, 605, 606, 609, 610, 611, 612, 613, 616, 617, 618, 619, 620, and 623; and that part of census tract 10 included in block groups 1, 2, and 3, and blocks 401, 402, 403, 404, 405, 406, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, and 435.

Sec. 73. District 73 is composed of that part of El Paso County included in census tracts 31, 32, 33, 34.01, 34.02, 35.01, 35.02, 36, 37.01, 37.02, 38.01, and 43.05; and that part of census tract 43.02 included in blocks 303, 304, 305, 306, 307, 308, 309, 310, 311, 316, 318, 319, 320, 321, 322, 323, 324, and 325; and that part of census tract 43.03 included in blocks 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, and 328; and that part of census tract 101 included in block groups 1, 6, and 9.

Sec. 74. District 74 is composed of that part of El Paso County included in census tracts 38.02, 39, 40, 41.01, 41.02, 42.01, 42.02, 103.02, 104, and 105.

Sec. 75. District 75 is composed of that part of Ector County included in census tracts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, and 24; and that part of census tract 21 included in block groups 3 and 4, and blocks 212, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 901, 902, 903, 904, 905, 906, 907, 908, and 909; and that part of census tract 23 included in blocks 119, 904, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, and 918; and that part of census tract 25 included in block groups 3 and 4; and that part of census tract 26 included in block groups 1, 2, 3, 4, and 9.

Sec. 76. District 76 is composed of Midland County; and that part of Ector County included in census tract 22; and that part of census tract 21

included in enumeration districts 450 and 451, and block groups 1 and 5, and blocks 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 910, 911, 912, 913, and 914; and that part of census tract 23 included in blocks 101, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, and 902; and that part of census tract 25 included in block groups 1, 2, and 9; and that part of census tract 26 included in block groups 5 and 6.

Sec. 77. District 77 is composed of Andrews, Cochran, Dawson, Gaines, Hockley, Martin, Terry, and Yoakum counties.

Sec. 78. District 78 is composed of Cottle, Fisher, Garza, Jones, Kent, King, Knox, Lynn, Nolan, Scurry, and Stonewall counties; and that part of Taylor County included in census tracts 134, 135, and 136; and that part of census tract 132 included in enumeration district 475, and blocks 913, 914, 915, 916, 917, 918, 919, 922, 925, 935, 936, 937, and 989.

Sec. 79. District 79 is composed of that part of Taylor County included in census tracts 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, and 133; and that part of census tract 132 included in block groups 1, 2, and 3, and blocks 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, and 912.

Sec. 80. District 80 is composed of Archer, Baylor, Clay, Foard, Hardeman, Jack, Montague, and Wilbarger counties; and that part of Wichita County included in census tracts 135, 136, 137, and 138; and that part of census tract 129 included in blocks 119, 121, 122, 123, 124, 125, 126, 127, 128, 129, 135, 136, 137, 138, 139, 140, and 141; and that part of census tract 131 included in block groups 2, 3, and 4, and blocks 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 908, 946, 951, 952, 953, 954, 955, 956, 957, 958, 960, 961, 962, 963, 964, 965, 966, 967, 970, 971, 972, 973, 974, 975, 976, 977, and 978.

Sec. 81. District 81 is composed of that part of Wichita County included in census tracts 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 130, 132, 133, and 134; and that part of census tract 129 included in blocks 105, 106, 107, 108, 109, 110, 111, 113, 114, 115, 116, 117, 118, 120, 130, 131, and 132; and that part of census tract 131 included in blocks 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 947, 968, 969, 987, 988, and 989.

Sec. 82. District 82 is composed of that part of Lubbock County included in census tracts 4.01, 4.02, 4.03, 5, 15, 16.01, 16.02, 17.02, 17.03, 17.04, 17.05, 18.01, 18.03, 18.04, 19.01, 19.03, 19.04, 20, 21.01, 21.02, 105.02, and 105.03; and that part of census tract 105.01 included in blocks 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, and 533.

Sec. 83. District 83 is composed of that part of Lubbock County included in census tracts 1, 2.01, 2.02, 3, 6.01, 6.02, 7, 8, 9, 10, 11, 12.01, 12.02, 13, 14, 22.01, 22.02, 23, 24, 25, 106, and 107; and that part of census tract 102 included in block groups 1, 2, 3, and 9; and that part of census tract 104 included in enumeration districts 382, 385A, 385B, 386A, 386B, 387A, and 387B, and block groups 1 and 4, and blocks 901, 903, 904, 905, 906, 907, 908, 910, 911, 912, 913, 945, 981, 983, 984, and 985; and that part of census tract 105.01 included in enumeration districts 388 and 389, and block groups 1, 2, 3, 6, and 9, and blocks 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, and 545.

Sec. 84. District 84 is composed of Armstrong, Briscoe, Childress, Collingsworth, Crosby, Dickens, Donley, Floyd, Gray, Hall, and Motley counties; and that part of Lubbock County included in census tracts 101 and 103; and that part of census tract 102 included in enumeration districts 380, 381, 383A, and 383B; and that part of census tract 104 included in enumeration district 384, and block groups 2 and 3, and blocks 916, 923, 926, 936, 942, 943, 944, 947, 948, 949, 950, 952, 953, 980, 982, 986, 987, 988, and 989.

Sec. 85. District 85 is composed of Bailey, Castro, Hale, Lamb, Parmer, and Swisher counties.

Sec. 86. District 86 is composed of Deaf Smith and Randall counties.

Sec. 87. District 87 is composed of Potter County.

Sec. 88. District 88 is composed of Carson, Dallam, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Roberts, Sherman, and Wheeler counties.

Sec. 89. District 89 is composed of that part of Tarrant County included in census tracts 1005.02, 1006.01, 1006.02, 1007, 1066, 1067, 1104.01, 1104.02, 1105, 1106.01, 1107.01, 1107.02, 1136.03, 1140.01, 1140.02, 1141, 1142.01, and 1142.02; and that part of census tract 1137.01 included in block groups 1, 3, 4, 5, and 6; and that part of census tract 1139 included in enumeration districts 75 and 76, and block groups 1, 2, and 7, and blocks 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, and 414.

Sec. 90. District 90 is composed of that part of Tarrant County included in census tracts 1001.01, 1001.02, 1002.01, 1002.02, 1003, 1004, 1005.01, 1008, 1009, 1010, 1011, 1012.02, 1017, 1018, 1019, 1020, 1025, 1028, 1029, 1030, 1031, 1032, 1040, 1041, 1045.01, 1045.02, 1045.03, 1047, 1050.01, and 1053.

Sec. 91. District 91 is composed of that part of Tarrant County included in census tracts 1012.01, 1014.01, 1014.02, 1014.03, 1015, 1049, 1050.04, 1101.01, 1101.02, 1102.01, 1102.02, 1103, 1132.05, 1132.06, 1133.01, 1133.02, and 1138.02; and that part of census tract 1132.03 included in block groups 1, 2, 3,

4, 5, and 6; and that part of census tract 1138.01 included in block groups 3 and 4; and that part of census tract 1139 included in block groups 5, 6, 8, and 9, and blocks 318, 319, 320, 321, 415, 416, 417, 418, and 419.

Sec. 92. District 92 is composed of that part of Tarrant County included in census tracts 1065.05, 1132.04, 1134.03, 1134.04, 1134.05, 1134.06, 1135.03, 1135.04, 1135.05, 1135.06, 1136.04, 1136.05, 1136.06, 1136.07, 1136.08, and 1137.02; and that part of census tract 1132.03 included in block group 7; and that part of census tract 1137.01 included in block group 2; and that part of census tract 1138.01 included in block groups 1 and 2.

Sec. 93. District 93 is composed of that part of Tarrant County included in census tracts 1113.02, 1115.03, 1115.09, 1115.10, 1130, 1217.01, 1217.02, 1218, 1219.01, 1219.02, 1220, 1221, 1222, 1223, 1224, 1227, 1228, and 1229; and that part of census tract 1131 included in block groups 1, 2, and 3.

Sec. 94. District 94 is composed of that part of Tarrant County included in census tracts 1013.01, 1064, 1065.01, 1065.02, 1065.03, 1065.04, 1115.05, 1115.06, 1115.07, 1115.08, 1216.01, 1216.04, 1216.05, 1216.06, 1216.07, 1225, and 1226; and that part of census tract 1131 included in block groups 4, 5, 6, and 7.

Sec. 95. District 95 is composed of that part of Tarrant County included in census tracts 1013.02, 1016, 1033, 1034, 1035, 1036.01, 1036.02, 1037.01, 1037.02, 1038, 1039, 1046.01, 1046.02, 1046.03, 1046.04, 1046.05, 1059, 1060.02, 1061.01, 1061.02, 1062.01, 1062.02, 1063, 1111.01, and 1111.02.

Sec. 96. District 96 is composed of that part of Tarrant County included in census tracts 1044, 1048.01, 1048.02, 1055.02, 1055.03, 1055.04, 1056, 1057.01, 1057.02, 1058, 1060.01, 1060.03, 1110.03, 1110.04, 1112.01, 1112.02, 1113.01, 1114, and 1115.04.

Sec. 97. District 97 is composed of that part of Tarrant County included in census tracts 1021, 1022.01, 1022.02, 1023.01, 1023.02, 1024.01, 1024.02, 1026, 1027, 1042.01, 1042.02, 1043, 1051, 1052, 1054.01, 1054.03, 1054.04, 1055.01, 1106.02, 1108.01, 1108.02, 1108.03, 1109.01, 1109.02, and 1110.01.

Sec. 98. District 98 is composed of that part of Dallas County included in census tracts 141.04, 143.01, 143.02, 143.03, 143.04, 144.01, 144.02, 145, 146, 147, 149, 150, 151, 152.01, and 152.02.

Sec. 99. District 99 is composed of that part of Dallas County included in census tracts 96.04, 96.05, 99, 136.01, 137.01, 137.02, 137.04, 137.05, 137.06, 137.07, 137.08, 138.01, 138.02, 139, 140.01, 140.02, 141.01, 141.02, 141.03, and 142.

Sec. 100. District 100 is composed of that part of Dallas County included in census tracts 4.03, 6.01, 16, 17.01, 21, 22.01, 22.02, 29, 30, 31.01, 31.02, 32.01, 32.02, 33, 34, 35, 36, 37, 38, 39.01, 40, 41, 71.02, 72, 86.01, 86.02, 88.01, 89, 98.02, 100, 102,

148.01, and 148.02; and that part of census tract 105 included in block group 1.

Sec. 101. District 101 is composed of that part of Dallas County included in census tracts 178.03, 181.04, 181.05, 181.06, 181.07, 181.08, 181.09, 181.10, 181.11, 181.13, 181.14, 181.15, 182.01, 182.02, 183, 184.02, 186, 187, 188.01, 188.02, and 189.

Sec. 102. District 102 is composed of that part of Dallas County included in census tracts 71.01, 73.01, 73.02, 74, 75.01, 75.02, 76.01, 79.05, 94, 95, 96.03, 96.06, 96.07, 96.08, 96.09, 97.01, 97.02, 98.01, 135, 193.01, 193.02, 194, 195.01, 195.02, 196, 197, and 198.

Sec. 103. District 103 is composed of that part of Dallas County included in census tracts 20, 42, 43, 44, 45, 46, 51, 52, 53, 63.01, 63.02, 64, 67, 68, 69, 101, 103, 104, 106, and 199; and that part of census tract 105 included in block groups 2, 3, 4, and 5.

Sec. 104. District 104 is composed of that part of Dallas County included in census tracts 165.03, 165.05, 165.06, 165.07, 166.02, 166.03, 166.04, 168, 169.02, 169.03, 169.04, 170, 171, 173.01, and 173.02.

Sec. 105. District 105 is composed of that part of Dallas County included in census tracts 118, 119, 120, 121, 125, 127, 172, 174, 175, 176.01, 176.02, 177, 178.04, 179, and 180; and that part of census tract 178.01 included in block groups 1, 2, 3, and 5, and blocks 401, 402, 403, 404, 405, 407, 408, 409, 410, 411, and 412; and that part of census tract 178.05 included in block groups 2, 3, and 4, and blocks 105, 107, and 108.

Sec. 106. District 106 is composed of that part of Dallas County included in census tracts 65, 107, 108.01, 153.01, 153.02, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, and 164.

Sec. 107. District 107 is composed of that part of Dallas County included in census tracts 4.01, 4.02, 5, 6.03, 6.04, 7.01, 7.02, 8, 9, 10, 12, 13.01, 13.02, 14, 15.01, 15.02, 17.02, 18, 19, 23, 24, 25, 26, 27.01, 27.02, and 28; and that part of census tract 1 included in block groups 2 and 3, and block 413.

Sec. 108. District 108 is composed of that part of Dallas County included in census tracts 39.02, 83, 84, 85, 90.01, 90.02, 91.01, 91.02, 92.01, 92.02, 93.01, 93.03, 93.04, 115, 116.01, 116.02, 117, 122.02, and 123; and that part of census tract 122.03 included in blocks 205 and 206; and that part of census tract 122.04 included in block groups 3 and 4; and that part of census tract 122.05 included in blocks 201 and 210; and that part of census tract 178.01 included in block 406; and that part of census tract 178.05 included in blocks 101, 102, 103, 104, and 106.

Sec. 109. District 109 is composed of that part of Dallas County included in census tracts 2.01, 2.02, 3, 11.01, 11.02, 77, 78.01, 78.03, 78.09, 79.02, 79.03, 79.04, 80, 81, 82, and 124; and that part of census tract 1 included in block group 1, and blocks 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424,

and 425; and that part of census tract 78.06 included in block group 2; and that part of census tract 122.03 included in block group 1, and blocks 201, 202, 203, and 204; and that part of census tract 122.04 included in block groups 1 and 2; and that part of census tract 122.05 included in block group 1, and blocks 202, 203, 204, 205, 206, 207, 208, and 209; and that part of census tract 128 included in block groups 3 and 4.

Sec. 110. District 110 is composed of that part of Dallas County included in census tracts 87.01, 87.04, 87.05, 109, 110.01, 110.02, 111.01, 111.02, 112, 113, 114.01, 114.02, 165.02, 166.01, 167.01, 167.02, and 169.01.

Sec. 111. District 111 is composed of that part of Dallas County included in census tracts 47, 48, 49, 50, 54, 55, 56, 57, 59.01, 59.02, 60.01, 60.02, 61, 62, 87.03, 88.02, 108.02, 108.03, and 165.01.

Sec. 112. District 112 is composed of that part of Dallas County included in census tracts 136.05, 190.06, 190.07, 190.08, 190.09, 190.10, 190.11, 191, 192.02, 192.03, 192.04, 192.05, 192.06, and 192.07.

Sec. 113. District 113 is composed of that part of Dallas County included in census tracts 126, 129, 130.02, 130.03, 130.04, 181.12, 184.01, 184.03, 185.01, 185.02, 190.04, 190.13, 190.14, and 190.15; and that part of census tract 78.07 included in block groups 4, 5, and 6, and blocks 130, 131, 132, and 133; and that part of census tract 128 included in block groups 1, 2, 5, 6, 7, and 8.

Sec. 114. District 114 is composed of that part of Dallas County included in census tracts 76.02, 76.03, 76.04, 78.04, 78.05, 131.01, 131.02, 131.03, 132, 133, 134.01, 134.02, 136.04, 136.06, 136.07, 136.08, 136.09, 136.10, 190.03, 190.12, and 192.01; and that part of census tract 78.06 included in block group 1; and that part of census tract 78.07 included in block groups 2 and 3, and blocks 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, and 129.

Sec. 115. District 115 is composed of that part of Bexar County included in census tracts 1105, 1106, 1107, 1108, 1701, 1704, 1705, 1802, 1901, 1902, 1903, 1904, 1905, 1906, 1907, 1908, and 1910.02; and that part of census tract 1809.02 included in block groups 4 and 5.

Sec. 116. District 116 is composed of that part of Bexar County included in census tracts 1706, 1707, 1708, 1709, 1710, 1712, 1713, 1714, 1801, 1803, 1804, 1805, 1806, 1807, 1808, and 1809.01.

Sec. 117. District 117 is composed of that part of Bexar County included in census tracts 1520, 1521, 1608, 1609, 1610, 1611, 1612, 1613, 1614.01, 1614.02, 1615, 1616, 1617, 1618, 1619, 1620, 1718, and 1720; and that part of census tract 1719 included in block group 2, and blocks 108, 109, 110, 111, 112, and 113.

Sec. 118. District 118 is composed of that part of Bexar County included in census tracts 1408, 1411, 1415, 1416, 1505, 1506, 1507, 1508, 1509, 1510, 1511, 1512, 1513, 1514, 1515, 1516, 1517, 1518, 1519, and 1522.

Sec. 119. District 119 is composed of that part of Bexar County included in census tracts 1103, 1104, 1314, 1401, 1402, 1403, 1404, 1405, 1406, 1407, 1409, 1410, 1412, 1413, 1414, 1417, 1418, 1419, 1501, 1502, 1503, 1601, 1602, and 1702.

Sec. 120. District 120 is composed of that part of Bexar County included in census tracts 1101, 1102, 1109, 1110, 1201, 1202, 1204, 1301, 1302, 1303, 1304, 1305, 1306, 1307, 1308, 1309, 1310, 1311, 1312, 1313, and 1315; and that part of census tract 1214 included in block groups 2 and 9.

Sec. 121. District 121 is composed of that part of Bexar County included in census tracts 1203, 1205.01, 1205.02, 1206, 1207, 1208, 1213, 1215, 1216.01, 1216.02, 1217, 1219, 1316.01, 1316.02, 1317, and 1318; and that part of census tract 1214 included in block groups 1 and 3.

Sec. 122. District 122 is composed of that part of Bexar County included in census tracts 1209.01, 1209.02, 1210, 1211.01, 1212.01, 1212.02, 1218, 1810.01, 1810.02, 1812, 1909, 1910.01, 1911.01, 1911.02, and 1913; and that part of census tract 1809.02 included in block groups 1, 2, and 3.

Sec. 123. District 123 is composed of that part of Bexar County included in census tracts 1211.02, 1811, 1813, 1814, 1815, 1817.01, 1818, 1819, 1820, 1821, 1912, 1914, 1915, 1916, 1917, and 1918; and that part of census tract 1817.02 included in block groups 1, 2, 3, and 4.

Sec. 124. District 124 is composed of that part of Bexar County included in census tracts 1504, 1603, 1604, 1605, 1606, 1607, 1703, 1711, 1715, 1716, 1717, and 1816; and that part of census tract 1719 included in enumeration district 1306A, and block groups 3, 4, and 6, and blocks 103, 104, 105, 106, 107, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 125, 126, 127, and 128; and that part of census tract 1817.02 included in block group 5.

Sec. 125. District 125 is composed of that part of Harris County included in census tracts 438.01, 438.02, 438.03, 446.01, 446.02, 446.03, 447.03, 449, 451.01, 452.01, and 452.02.

Sec. 126. District 126 is composed of that part of Harris County included in census tracts 537.01, 537.02, 538.01, 538.02, 540.01, 540.02, 541, 542.02, 551.02, 555.02, and 556.02.

Sec. 127. District 127 is composed of that part of Harris County included in census tracts 241.01, 241.02, 242, 243, 244.01, 245.01, 245.02, 246, 247, 248, 249.01, 249.02, 249.03, 250, 251, 252, 253, 255, 256, 257, 260, 261, 267.01, 267.02, 267.03, 268, 269.01, and 535.

Sec. 128. District 128 is composed of that part of Harris County included in census tracts 213.02,

228.01, 228.02, 229, 230.01, 230.02, 230.03, 230.04, 231, 235, 236, 237, 254, 258, 259.01, 259.02, 262, and 263.

Sec. 129. District 129 is composed of that part of Harris County included in census tracts 232, 232.99, 233, 233.99, 234, 264, 265, 266, 269.02, 270, 271, 272, 273, 273.99, 274, 275, 360.01, 360.02, 360.03, 360.04, 361, 361.99, 362, 363, 364, 364.99, 365.01, 365.02, 365.03, 366.01, 366.02, 367, 367.99, and 368.02.

Sec. 130. District 130 is composed of that part of Harris County included in census tracts 359.02, 368.01, 369, 370, 371.01, 371.02, 372, 373.01, 373.02, 373.03, 373.04, 374, and 375.

Sec. 131. District 131 is composed of that part of Harris County included in census tracts 327.01, 328.01, 328.02, 328.03, 334, 336, 337, 340, 341, 342, 343.01, 343.02, 427.01, 427.02, 428.02, 430.02, 431, and 432.

Sec. 132. District 132 is composed of that part of Harris County included in census tracts 316.02, 329.01, 330.01, 331, 332, 333, 335.01, 335.02, 335.03, 338, 339.01, 339.02, 339.03, 412.01, 412.02, 413.03, 414.02, 415.01, 415.02, 415.03, 415.04, 416.03, 416.04, 416.05, 428.01, 429, and 430.01.

Sec. 133. District 133 is composed of that part of Harris County included in census tracts 419.01, 422.04, 423.01, 423.02, 423.03, 423.04, 423.05, 423.06, 423.07, 424.01, 424.02, 424.03, 424.04, 425.01, 425.02, 435.01, 435.02, and 439.02.

Sec. 134. District 134 is composed of that part of Harris County included in census tracts 408, 409, 410, 411, 413.01, 413.02, 414.01, 416.01, 416.02, 417.01, 417.02, 418.01, 418.02, 419.03, 419.04, 419.05, 419.06, 425.03, 425.04, 426.01, and 426.02.

Sec. 135. District 135 is composed of that part of Harris County included in census tracts 439.01, 440.02, 440.03, 440.04, 440.05, 440.06, 441.01, 444.02, 444.03, 444.04, 445.01, 445.02, 447.01, 447.02, 448, 450, 451.02, and 542.01.

Sec. 136. District 136 is composed of that part of Harris County included in census tracts 406, 419.02, 420.01, 420.02, 420.03, 421, 422.01, 422.02, 422.03, 440.01, 441.02, 442.02, 442.03, 442.04, 443.01, 443.02, 443.03, 443.04, 443.05, 443.06, and 444.01.

Sec. 137. District 137 is composed of that part of Harris County included in census tracts 401.01, 401.02, 402.01, 402.02, 403, 404.01, 404.02, 405.01, 405.02, 407.01, 407.02, 505.01, 505.02, 506.01, 507.01, 512, 513, 514.01, 514.02, 515.01, 515.02, 516.01, and 516.02.

Sec. 138. District 138 is composed of that part of Harris County included in census tracts 442.01, 510, 517.01, 517.02, 517.03, 517.04, 517.05, 518.01, 518.02, 518.03, 519.01, 519.02, 519.03, 520.01, 520.02, 520.03, 523.03, 526.02, 526.03, 526.04, 527.01, 528, and 529.01.

Sec. 139. District 139 is composed of that part of Harris County included in census tracts 523.01,

524, 525.01, 525.02, 525.03, 525.04, 526.01, 527.02, 527.03, 529.02, 530.01, 530.02, 530.03, 531.01, 531.02, 531.03, 534.02, and 539.

Sec. 140. District 140 is composed of that part of Harris County included in census tracts 222.01, 223.01, 240.01, 240.02, 240.03, 241.03, 521.01, 521.02, 522.01, 522.02, 523.02, 532.01, 532.02, 533.01, 533.02, 533.03, and 534.01.

Sec. 141. District 141 is composed of that part of Harris County included in census tracts 214.01, 215.02, 215.03, 217.01, 217.02, 218.02, 218.03, 223.02, 224.01, 224.02, 224.03, 224.04, 225.01, 225.02, 225.03, 225.04, 226.01, 226.02, 227, 238, and 239.

Sec. 142. District 142 is composed of that part of Harris County included in census tracts 201.01, 201.02, 204, 205.01, 205.02, 205.03, 206.01, 206.02, 207.01, 207.02, 207.03, 208.01, 208.02, 208.03, 215.01, 216.01, 216.02, 218.01, 218.04, 219, 220.01, 220.02, 221, 222.02, and 223.03.

Sec. 143. District 143 is composed of that part of Harris County included in census tracts 202, 202.99, 203.01, 203.02, 203.03, 209, 210.01, 210.02, 211, 212, 213.01, 214.02, 310, 311, 311.99, 312, 312.99, 313.01, 321.02, 321.03, 321.99, 322.01, and 350.01.

Sec. 144. District 144 is composed of that part of Harris County included in census tracts 349.01, 349.02, 350.02, 350.03, 350.04, 351, 352, 353.01, 353.02, 354, 355.01, 355.02, 356.01, 356.02, 356.03, 356.04, 357.01, 357.02, 357.03, 358.01, and 358.02.

Sec. 145. District 145 is composed of that part of Harris County included in census tracts 322.02, 322.03, 322.04, 323.01, 323.02, 324.03, 325.02, 326, 344, 345.01, 345.02, 346, 347.01, 347.02, 347.03, 347.04, 348.01, 348.02, and 359.01.

Sec. 146. District 146 is composed of that part of Harris County included in census tracts 315, 317.01, 317.02, 317.03, 317.04, 318.01, 318.02, 318.03, 318.04, 319.02, 320.01, 320.02, 320.03, 320.04, 324.01, 324.02, 324.04, 325.01, 327.02, 329.02, 329.03, and 330.02.

Sec. 147. District 147 is composed of that part of Harris County included in census tracts 300.24, 303, 304.01, 304.02, 305.01, 305.02, 306, 307.01, 307.02, 308, 309.02, 309.03, 313.02, 314.01, 314.02, 316.01, 319.01, 321.01, 400.25, and 400.26.

Sec. 148. District 148 is composed of that part of Harris County included in census tracts 121, 207.04, 300.22, 300.23, 301.01, 301.02, 302, 309.01, 501, 502, 503.01, 503.02, 504, 506.02, 507.02, 508, 509.01, 509.02, 509.03, 511, and 521.03.

Sec. 149. District 149 is composed of that part of Harris County included in census tracts 433, 434.01, 434.02, 436.01, 436.02, 436.03, 437.01, 437.02, 438.04, 438.05, and 438.06.

Sec. 150. District 150 is composed of that part of Harris County included in census tracts 244.02, 536.01, 536.02, 543, 544, 545.01, 545.02, 546, 547, 548, 549, 550, 551.01, 552, 553, 554, 555.01, 556.01, 557, 558.01, 558.02, 559.01, and 559.02.

ARTICLE III

Sec. 1. In this Act, the terms "census tract," "census enumeration district," and "census county division," mean those geographic areas outlined and identified as such on official place, county, and metropolitan map series maps prepared by the United States Department of Commerce Bureau of the Census for the Twentieth Decennial Census of the United States, enumerated as of April 1, 1980. "Census block groups" are subdivisions of census tracts as defined on census metropolitan maps which differentiate block groups by the first digit of the block numbers assigned to city blocks within each tract. "Census block tracts" are subdivisions of "census block groups" as defined on census metropolitan maps.

Sec. 2. It is the intention of the Texas Legislature that, if any county, census tract, block, or other geographic area has erroneously been left out of this Act, any court reviewing this legislation should include that area in the appropriate district as accomplished by the Supreme Court of Texas in *Smith v. Patterson*, 111 Tex. 535, 242 S.W. 749 (1922).

Sec. 3. This Act takes effect beginning with the election of the 69th Legislature, but it does not affect the membership, personnel, or districts of the 68th Legislature. If a vacancy occurs in the office of any member of the 68th Legislature to which this Act applies and a special election to fill the vacancy is necessary, the election shall be held in the district as it existed on January 1, 1983.

Sec. 4. Chapter 727, Acts of the 64th Legislature, Regular Session, 1975 (Article 195a-4, Vernon's Texas Civil Statutes), Chapters 712 and 774, Acts of the 66th Legislature, Regular Session, 1979 (Articles 195a-5 and 195a-6, Vernon's Texas Civil Statutes), and Chapter 864, Acts of the 67th Legislature, Regular Session, 1981 (Article 195a-7, Vernon's Texas Civil Statutes), are repealed.

Sec. 5. If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect the other provisions or applications of this Act that can be given effect without the invalid provision or application. For that purpose, the provisions of this Act are declared to be severable, and it is the intent of the legislature that this Act shall be construed and applied as if any invalid provision had not been included in this Act.

[Acts 1983, 68th Leg., p. 756, ch. 185.]

Art. 196. Returns Made To Whom

In all districts composed of only one county, the county judge of each county shall receive the returns and issue a certificate of election to the Representative elected, as shown by the highest number of votes cast for any one person; but in the several districts composed of more than one county, the county judge of the following named counties shall receive the returns and issue certificates of election

to the Representative elected in their respective districts, to-wit:

Third District—Marion County.
 Sixth District—Harrison County.
 Eleventh District—San Augustine County.
 Twelfth District—Angelina County.
 Thirteenth District—Newton County.
 Fourteenth District—Liberty County.
 Fifteenth District—Jefferson County.
 Seventeenth District—Galveston County.
 Twentieth District—Fort Bend County.
 Twenty-first District—Brazoria County.
 Twenty-second District—Wharton County.
 Twenty-fifth District—Colorado County.
 Twenty-sixth District—Brazos County.
 Twenty-seventh District—Montgomery County.
 Twenty-eighth District—Polk County.
 Twenty-ninth District—Walker County.
 Thirty-third District—Gregg County.
 Thirty-fourth District—Wood County.
 Thirty-fifth District—Titus County.
 Forty-second District—Hunt County.
 Forty-fifth District—Grayson County.
 Fifty-first District—Rockwall County.
 Fifty-sixth District—Leon County.
 Sixtieth District—Navarro County.
 Sixty-fifth District—Burlison County.
 Sixty-ninth District—Goliad County.
 Seventieth District—Bee County.
 Seventy-first District—Nueces County.
 Seventy-fourth District—Starr County.
 Seventy-fifth District—Webb County.
 Seventy-sixth District—Atascosa County.
 Seventy-seventh District—Uvalde County.
 Seventy-ninth District—Karnes County.
 Eightieth District—Guadalupe County.
 Eighty-first District—Caldwell County.
 Eighty-fourth District—Burnet County.
 Eighty-fifth District—Blanco County.
 Eighty-sixth District—Kerr County.
 Eighty-seventh District—Val Verde County.
 Eighty-eighth District—Reeves County.
 Ninetieth District—El Paso County.
 Ninety-first District—Tom Green County.
 Ninety-second District—Runnels County.
 Ninety-third District—McCulloch County.
 Ninety-fourth District—Coryell County.
 Ninety-sixth District—McLennan County.
 Ninety-eighth District—Bosque County.
 One Hundred and Second District—Denton County.
 One Hundred and Fourth District—Comanche County.
 One Hundred and Fifth District—Erath County.

One Hundred and Seventh District—Eastland County.

One Hundred and Eighth District—Palo Pinto County.

One Hundred and Ninth District—Young County.

One Hundred and Tenth District—Clay County.

One Hundred and Twelfth District—Wilbarger County.

One Hundred and Thirteenth District—Haskell County.

One Hundred and Fourteenth District—Hardeman County.

One Hundred and Fifteenth District—Jones County.

One Hundred and Seventeenth District—Mitchell County.

One Hundred and Eighteenth District—Scurry County.

One Hundred and Nineteenth District—Lubbock County.

One Hundred and Twentieth District—Hale County.

One Hundred and Twenty-first District—Hall County.

One Hundred and Twenty-second District—Donley County.

One Hundred and Twenty-third District—Potter County.

One Hundred and Twenty-fourth District—Dallam County.

One Hundred and Twenty-fifth District—Brown County.

One Hundred and Twenty-sixth District—Hopkins County.

[Acts 1925, S.E. 84.]

CONGRESSIONAL DISTRICTS

Art. 197. Superseded

Art. 197a. Repealed by Acts 1965, 59th Leg., p. 743, ch. 349, § 26, eff. Aug. 30, 1965

Art. 197b. Repealed by Acts 1967, 60th Leg., p. 817, ch. 342, § 26, eff. Aug. 28, 1967

Art. 197c. Repealed by Acts 1971, 62nd Leg., 1st C.S., p. 41, ch. 12, § 28, eff. Sept. 3, 1971

Art. 197d. Repealed by Acts 1975, 64th Leg., p. 1393, ch. 537, § 27, eff. Sept. 1, 1975

See, now, art. 197g.

Art. 197e. Repealed by Acts 1981, 67th Leg., 1st C.S., p. 42, ch. 2, art. III, § 2, eff. Nov. 10, 1981; Acts 1983, 68th Leg., p. 3097, ch. 531, art. IV, § 2, eff. June 19, 1983

See, now, art. 197g.

Art. 197f. Repealed by Acts 1983, 68th Leg., p. 3097, ch. 531, art. IV, § 2, eff. June 19, 1983

See, now, art. 197g.

Art. 197g. Congressional Districts

ARTICLE I

Sec. 1. The congressional districts of the state are composed respectively of the counties or parts of counties as described in Article II, and each district is entitled to elect one member to the House of Representatives of the Congress of the United States.

ARTICLE II

Sec. 1. District 1 is composed of Bowie, Camp, Cass, Cherokee, Delta, Franklin, Harrison, Henderson, Hopkins, Lamar, Marion, Morris, Panola, Red River, Rusk, San Augustine, Shelby, Titus, and Upshur counties; and that part of Hunt County included in enumeration districts 575, 576, 577, 578T, 578U, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 593, 594, and 595A.

Sec. 2. District 2 is composed of Anderson, Angelina, Hardin, Houston, Jasper, Liberty, Nacogdoches, Newton, Orange, Polk, Sabine, San Jacinto, Trinity, Tyler, and Walker counties; that part of Montgomery County included in census tracts 901.01, 901.03, 907.02, 908.01, and 908.03, and that part of census tract 901.02 included in blocks 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 153, 156, 157, 168, 169, 170, 171, 172, 173, 174, and 184.

Sec. 3. District 3 is composed of that part of Collin County included in census tracts 313.02, 316.01, 316.02, 316.03, 316.04, 316.05, 316.06, 316.07, 317, 318.01, 318.02, 318.03, and 320.01; and that part of Dallas County included in census tracts 2.01, 71.01, 73.01, 73.02, 74, 75.01, 75.02, 76.01, 76.02, 76.03, 76.04, 77, 78.01, 78.04, 78.05, 78.06, 78.07, 78.08, 78.09, 79.02, 79.03, 79.04, 79.05, 80, 81, 82, 94, 95, 96.03, 96.04, 96.07, 96.08, 96.09, 97.02, 128, 129, 130.02, 130.03, 130.04, 131.01, 131.02, 131.03, 132, 133, 134.01, 134.02, 135, 136.01, 136.04, 136.05, 136.06, 136.07, 136.08, 136.09, 136.10, 137.04, 137.05, 137.06, 138.01, 138.02, 181.07, 181.08, 181.09, 181.10, 181.11, 181.12, 181.13, 181.14, 185.02, 190.03, 190.04, 190.06, 190.07, 190.08, 190.09, 190.10, 190.11, 190.12, 191, 192.01, 192.02, 192.03, 192.04, 192.05, 192.06, 192.07, 193.01, 193.02, 194, 195.01, 195.02, 196, 197, and 198, that part of census tract 1 included in block groups 1 and 4, and that part of census tract 137.08 included in block group 1.

Sec. 4. District 4 is composed of Fannin, Grayson, Gregg, Kaufman, Rains, Rockwall, Smith, Van Zandt, and Wood counties; that part of Collin County included in census tracts 301, 302, 309, 310, 311, 312, and 313.01, and that part of census tract 308 included in block groups 1, 2, and 3; and that part of Hunt County included in census tracts 9901,

9902, 9903, 9904, and 9905, and that part included in enumeration districts 591, 592, 596A, 597A, 598, 599, 600, 601, 602, 603, 604, 605T, 605U, 605V, 605W, 606T, and 606U.

Sec. 5. District 5 is composed of that part of Dallas County included in census tracts 2.02, 3, 4.01, 4.02, 4.03, 5, 6.01, 6.03, 6.04, 7.01, 7.02, 8, 9, 10, 11.01, 11.02, 12, 13.01, 13.02, 14, 15.01, 15.02, 16, 17.01, 17.02, 18, 19, 21, 22.01, 22.02, 23, 24, 25, 26, 27.01, 27.02, 28, 29, 30, 31.01, 31.02, 32.01, 32.02, 33, 34, 35, 36, 37, 38, 39.01, 39.02, 40, 71.02, 72, 83, 84, 85, 90.01, 90.02, 91.01, 91.02, 92.01, 92.02, 93.01, 93.03, 93.04, 98.01, 98.02, 100, 114.02, 115, 116.01, 116.02, 117, 118, 119, 120, 121, 122.02, 122.03, 122.04, 122.05, 123, 124, 125, 126, 127, 148.01, 148.02, 150, 167.02, 168, 169.01, 169.02, 169.03, 169.04, 170, 171, 172, 173.01, 173.02, 174, 175, 176.01, 176.02, 177, 178.01, 178.03, 178.04, 178.05, 179, 180, 181.04, 181.05, 181.06, 181.15, 182.01, 182.02, 183, 184.01, 184.02, 184.03, 185.01, 186, 187, 188.01, 188.02, 189, 190.13, 190.14, and 190.15, and that part of census tract 1 included in block groups 2 and 3.

Sec. 6. District 6 is composed of Brazos, Ellis, Freestone, Grimes, Hill, Hood, Johnson, Leon, Limestone, Madison, Navarro, and Robertson counties; that part of Montgomery County included in census tracts 902.01, 902.02, 902.03, 902.04, 902.05, 902.06, 902.07, 903.01, 903.02, 904, 905, 906.01, 906.02, 906.03, 907.01, 907.03, 908.02, 909, 910, 911.01, 911.02, 912.01, and 912.02; and that part of Tarrant County included in census tracts 1024.02, 1042.01, 1042.02, 1054.01, 1054.03, 1054.04, 1055.03, 1108.03, and 1109.01, and that part of census tract 1023.02 included in blocks 517 and 518, that part of census tract 1055.01 included in block groups 1 and 3, and blocks 203, 204, 209, and 210, that part of census tract 1055.04 included in block groups 2, 3, 4, and 5, that part of census tract 1109.02 included in block groups 1, 2, 3, and 8, and that part of census tract 1110.01 included in enumeration district 82, and block groups 4, 7, and 9.

Sec. 7. District 7 is composed of that part of Harris County included in census tracts 406, 420.01, 420.02, 420.03, 421, 422.01, 422.02, 422.03, 422.04, 423.01, 436.02, 437.01, 437.02, 438.01, 438.02, 438.03, 438.04, 438.05, 438.06, 439.01, 439.02, 440.01, 440.02, 440.03, 440.04, 440.05, 440.06, 441.01, 441.02, 442.01, 442.02, 442.03, 442.04, 443.01, 443.02, 443.03, 443.04, 443.05, 443.06, 444.01, 444.02, 444.03, 444.04, 445.01, 445.02, 446.01, 446.02, 446.03, 447.01, 447.02, 447.03, 448, 449, 450, 451.01, 451.02, 452.01, 452.02, 517.01, 517.02, 517.03, 517.04, 517.05, 519.01, 519.03, 526.01, 526.02, 526.03, 526.04, 527.01, 527.02, 527.03, 528, 529.01, 536.01, 536.02, 537.01, 538.01, 538.02, 541, 542.01, 542.02, 543, 544, 545.01, 545.02, 546, 547, 548, 549, 550, 551.01, 551.02, 552, 553, 554, 555.01, 555.02, 556.02, 557, and 558.02.

Sec. 8. District 8 is composed of that part of Harris County included in census tracts 210.02, 211, 212, 213.01, 213.02, 214.02, 215.01, 215.02, 217.01, 217.02, 222.01, 223.01, 223.02, 223.03, 224.01, 224.02,

224.03, 224.04, 225.01, 225.02, 225.03, 225.04, 226.01, 226.02, 227, 228.01, 228.02, 229, 230.01, 230.02, 230.03, 230.04, 231, 232, 232.99, 233, 233.99, 234, 235, 236, 237, 238, 239, 240.01, 240.02, 240.03, 241.01, 241.02, 241.03, 242, 243, 244.01, 244.02, 245.01, 245.02, 246, 247, 248, 249.01, 249.02, 249.03, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259.01, 259.02, 260, 261, 262, 263, 264, 265, 266, 267.01, 267.02, 267.03, 268, 269.01, 269.02, 270, 271, 272, 273, 273.99, 274, 275, 521.01, 521.02, 521.03, 522.01, 522.02, 529.02, 530.01, 530.03, 532.01, 532.02, 533.01, 533.02, 533.03, 534.01, 535, 537.02, 539, 540.01, 540.02, 556.01, 558.01, 559.01, and 559.02; and that part of Montgomery County included in block group 9, and blocks 135, 136, 137, 138, 139, 140, 141, 142, 143, 145, 146, 147, 148, 149, 150, 151, 152, 154, 155, 158, 159, 160, 161, 162, 163, 164, 165, 166, and 167 of census tract 901.02.

Sec. 9. District 9 is composed of Chambers, Galveston, and Jefferson counties; and that part of Harris County included in census tracts 371.01, 371.02, 372, 373.01, 373.03, 373.04, 374, and 375.

Sec. 10. District 10 is composed of Bastrop, Blanco, Caldwell, Hays, and Travis counties; and that part of Burnet County included in enumeration districts 201, 202, 203, 204, 207, 209A, 209B, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222A, 222B, 222C, 222D, 222E, 222F, 222G, 222H, 223A, 223C, 224, and 225.

Sec. 11. District 11 is composed of Bell, Bosque, Brown, Coryell, Falls, Hamilton, Lampasas, McLennan, Milam, Mills, and San Saba counties; that part of Burnet County included in enumeration districts 200, 205, 206, 208, 210, 211, and 212; and that part of Williamson County included in census tracts 202, 203, 213, and 216.

Sec. 12. District 12 is composed of that part of Tarrant County included in census tracts 1001.01, 1001.02, 1002.01, 1002.02, 1003, 1004, 1005.01, 1005.02, 1006.01, 1006.02, 1007, 1008, 1009, 1010, 1011, 1012.01, 1012.02, 1013.02, 1014.01, 1014.02, 1014.03, 1015, 1016, 1017, 1018, 1019, 1020, 1021, 1022.01, 1022.02, 1023.01, 1024.01, 1025, 1026, 1027, 1028, 1029, 1030, 1031, 1032, 1033, 1034, 1035, 1036.01, 1036.02, 1037.01, 1037.02, 1038, 1039, 1040, 1041, 1043, 1044, 1045.01, 1045.02, 1045.03, 1046.01, 1046.02, 1046.03, 1046.04, 1046.05, 1047, 1048.01, 1048.02, 1049, 1050.01, 1050.04, 1051, 1052, 1053, 1058, 1059, 1060.01, 1060.02, 1060.03, 1061.01, 1061.02, 1062.01, 1062.02, 1063, 1064, 1065.01, 1066, 1067, 1101.01, 1101.02, 1102.01, 1102.02, 1103, 1104.01, 1104.02, 1105, 1106.01, 1106.02, 1107.01, 1107.02, 1108.01, 1108.02, 1111.01, 1111.02, 1112.02, 1114, 1132.03, 1132.04, 1132.05, 1132.06, 1133.01, 1133.02, 1134.03, 1134.04, 1134.05, 1134.06, 1136.06, 1136.07, 1136.08, 1138.01, 1138.02, 1139, 1140.01, 1140.02, 1141, 1142.01, and 1142.02, and that part of census tract 1023.02 included in block groups 1, 2, 3, 4, and 6, and blocks 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, and 516.

Sec. 13. District 13 is composed of Archer, Armstrong, Baylor, Briscoe, Carson, Childress, Clay, Collingsworth, Cottle, Dallam, Dickens, Donley, Floyd, Foard, Gray, Hall, Hansford, Hardeman, Hartley, Hemphill, Hutchinson, Kent, King, Knox, Lipscomb, Moore, Motley, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, and Wilbarger counties.

Sec. 14. District 14 is composed of Aransas, Austin, Bee, Burleson, Calhoun, Colorado, De Witt, Fayette, Goliad, Guadalupe, Jackson, Lavaca, Lee, Matagorda, Refugio, Victoria, Waller, Washington, and Wharton counties; that part of Brazoria County included in census tracts 617, 618, 619, and 620.01; that part of Gonzales County included in enumeration districts 225, 226, 227, 228, 231A, 232, 233, 234, 235T, 235U, 236, 237, 238T, 238U, 239, 240, 241, 242, 243A, and 243B; and that part of Williamson County included in census tracts 201, 204, 205, 206, 207, 208, 209, 210, 211, 212, 214, and 215.

Sec. 15. District 15 is composed of Atascosa, Brooks, Duval, Frio, Hidalgo, Jim Hogg, Jim Wells, Karnes, La Salle, Live Oak, McMullen, San Patricio, Starr, Wilson, and Zapata counties; that part of Gonzales County included in enumeration districts 229, 230, and 231B; and that part of Nueces County included in census tract 37.

Sec. 16. District 16 is composed of Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Reeves, Ward, and Winkler counties.

Sec. 17. District 17 is composed of Borden, Calahan, Coke, Coleman, Comanche, Concho, Crosby, Eastland, Erath, Fisher, Garza, Glasscock, Haskell, Howard, Jack, Jones, Lynn, Martin, Mitchell, Montague, Nolan, Palo Pinto, Parker, Runnels, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Taylor, Throckmorton, Wise, and Young counties; and that part of Cooke County included in census tracts 9901, 9902, and 9903, and that part included in enumeration districts 326, 327, 329A, 330A, 331, 332, 333A, 333U, 334A, 334B, 334C, 334D, 334E, 334F, and 335.

Sec. 18. District 18 is composed of that part of Harris County included in census tracts 121, 201.01, 201.02, 202, 202.99, 203.01, 203.02, 203.03, 204, 205.01, 205.02, 205.03, 206.01, 206.02, 207.01, 207.02, 207.03, 207.04, 208.01, 208.02, 208.03, 209, 210.01, 214.01, 215.03, 216.01, 216.02, 218.01, 218.02, 218.03, 218.04, 219, 220.01, 220.02, 221, 222.02, 300.22, 300.23, 300.24, 301.01, 301.02, 302, 303, 304.01, 304.02, 305.01, 305.02, 306, 307.01, 307.02, 308, 309.01, 309.02, 309.03, 310, 311, 311.99, 312, 312.99, 313.01, 314.01, 314.02, 315, 316.01, 317.02, 317.03, 317.04, 318.01, 318.04, 319.01, 319.02, 320.01, 325.01, 400.25, 400.26, 401.01, 401.02, 402.01, 402.02, 403, 404.01, 404.02, 405.01, 405.02, 501, 502, 503.01, 503.02, 504, 505.01, 505.02, 506.01, 506.02, 507.01, 507.02, 508, 509.01, 509.02, 509.03, 510, 511, 512, 513, 514.01, 514.02, 515.01, 515.02, 516.01, 516.02, 518.01, 518.02, 518.03, 519.02, 520.01, 520.02, 520.03, 523.01, 523.02,

523.03, 524, 525.01, 525.02, 525.03, 525.04, 530.02, 531.01, 531.02, 531.03, and 534.02.

Sec. 19. District 19 is composed of Andrews, Bailey, Castro, Cochran, Dawson, Deaf Smith, Ector, Gaines, Hale, Hockley, Lamb, Lubbock, Parmer, Terry, and Yoakum counties.

Sec. 20. District 20 is composed of that part of Bexar County included in census tracts 1101, 1102, 1103, 1104, 1105, 1106, 1107, 1108, 1109, 1110, 1201, 1202, 1205.01, 1205.02, 1209.02, 1301, 1302, 1303, 1305, 1306, 1307, 1308, 1309, 1310, 1401, 1402, 1403, 1404, 1407, 1408, 1409, 1410, 1411, 1501, 1502, 1503, 1504, 1505, 1506, 1507, 1509, 1510, 1601, 1602, 1603, 1604, 1605, 1606, 1607, 1614.01, 1614.02, 1616, 1701, 1702, 1703, 1704, 1705, 1706, 1707, 1708, 1709, 1710, 1711, 1712, 1713, 1714, 1715, 1716, 1717, 1718, 1801, 1802, 1803, 1804, 1805, 1806, 1808, 1809.01, 1809.02, 1901, 1902, 1903, 1904, 1905, 1906, 1907, 1910.01, and 1910.02, that part of census tract 1311 included in block group 1, and blocks 201, 202, 203, 204, 205, 212, 213, 214, 215, 216, 217, and 218, that part of census tract 1412 included in block groups 2, 3, 4, 5, and 6, and blocks 111, 113, 114, 115, 116, 117, and 120, that part of census tract 1508 included in blocks 103, 106, 116, 119, 120, and 121, that part of census tract 1511 included in block groups 1, 2, 3, and 4, and blocks 511, 513, 529, 530, 601, 611, 613, and 615, that part of census tract 1618 included in block groups 1, 2, and 3, and blocks 922 and 923, that part of census tract 1719 included in block groups 1 and 2, that part of census tract 1816 included in block group 1, and blocks 202, 203, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 220, 221, 222, 223, 230, 231, 232, 233, 234, and 235, and that part of census tract 1909 included in block groups 1, 2, 4, 5, 6, 7, and 8, and blocks 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 314, 315, 316, and 317.

Sec. 21. District 21 is composed of Bandera, Brewster, Comal, Crane, Crockett, Edwards, Gillespie, Irion, Kendall, Kerr, Kimble, Llano, McCulloch, Mason, Menard, Midland, Pecos, Presidio, Reagan, Real, Schleicher, Sutton, Terrell, Tom Green, and Upton counties; and that part of Bexar County included in census tracts 1203, 1204, 1206, 1207, 1208, 1209.01, 1210, 1211.01, 1211.02, 1212.01, 1212.02, 1219, 1810.01, 1810.02, 1811, 1812, 1813, 1814, 1817.01, 1818, 1819, 1820, 1821, 1908, 1911.01, 1911.02, 1912, 1913, 1914, 1915, 1916, 1917, and 1918, that part of census tract 1218 included in blocks 315, 318, 319, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, and 335, and that part of census tract 1909 included in blocks 319, 320, 321, 322, 323, 324, 325, 326, 327, and 328.

Sec. 22. District 22 is composed of Fort Bend County; that part of Brazoria County included in census tracts 601, 602.01, 602.02, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 620.02, 621, 622, 623, 624, 625.01, 625.02, 625.03, 626.01, 626.02, 627, 628, 629, 629.99, 630, 631, and 632; and that part of Harris County included in

census tracts 407.01, 407.02, 408, 409, 410, 411, 416.01, 416.02, 417.01, 417.02, 418.01, 418.02, 419.01, 419.02, 419.03, 419.04, 419.05, 419.06, 423.02, 423.03, 423.04, 423.05, 423.06, 423.07, 424.01, 424.02, 424.03, 424.04, 425.01, 425.02, 425.03, 425.04, 426.01, 426.02, 427.01, 427.02, 433, 434.01, 434.02, 435.01, 435.02, 436.01, and 436.03.

Sec. 23. District 23 is composed of Dimmit, Kinney, Maverick, Medina, Uvalde, Val Verde, Webb, and Zavala counties; and that part of Bexar County included in census tracts 1213, 1214, 1215, 1216.01, 1216.02, 1217, 1304, 1312, 1313, 1314, 1315, 1316.01, 1316.02, 1317, 1318, 1405, 1406, 1413, 1414, 1415, 1416, 1417, 1418, 1419, 1512, 1513, 1514, 1515, 1516, 1517, 1518, 1519, 1520, 1521, 1522, 1608, 1609, 1610, 1611, 1612, 1613, 1615, 1617, 1619, 1620, 1720, 1807, 1815, and 1817.02, that part of census tract 1218 included in block groups 2, 4, and 5, and blocks 301, 302, 303, 304, 305, 306, 308, 309, 310, 311, 312, 313, 314, 316, 317, 320, 321, and 322, that part of census tract 1311 included in block group 3, and blocks 207, 208, 209, and 210, that part of census tract 1412 included in blocks 101, 102, 103, 104, 105, 106, 107, 108, 109, 112, and 119, that part of census tract 1508 included in block group 2, and blocks 101, 104, 107, 108, 109, 114, 115, 117, and 118, that part of census tract 1511 included in block groups 7 and 8, and blocks 502, 504, 505, 506, 507, 508, 518, 519, 521, 522, 523, 524, 525, 526, 527, 528, 616, 617, 618, 619, 620, 621, 622, 623, 624, and 625, that part of census tract 1618 included in blocks 911, 912, 914, 918, 920, 921, 925, 926, 927, and 928, that part of census tract 1719 included in enumeration district 1306A, and block groups 3, 4, and 6, and that part of census tract 1816 included in block group 3, and blocks 225, 226, 227, 228, and 229.

Sec. 24. District 24 is composed of that part of Dallas County included in census tracts 20, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 59.01, 59.02, 60.01, 60.02, 61, 62, 63.01, 63.02, 64, 65, 67, 68, 69, 86.01, 86.02, 87.01, 87.03, 87.04, 87.05, 88.01, 88.02, 89, 101, 102, 103, 104, 105, 106, 107, 108.01, 108.02, 108.03, 109, 110.01, 110.02, 111.01, 111.02, 112, 113, 114.01, 140.02, 141.01, 141.02, 141.03, 141.04, 142, 143.01, 143.02, 143.03, 143.04, 144.01, 144.02, 145, 146, 147, 149, 151, 152.01, 152.02, 153.01, 153.02, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165.01, 165.02, 165.03, 165.05, 165.06, 165.07, 166.01, 166.02, 166.03, 166.04, 167.01, and 199.

Sec. 25. District 25 is composed of that part of Harris County included in census tracts 313.02, 316.02, 317.01, 318.02, 318.03, 320.02, 320.03, 320.04, 321.01, 321.02, 321.03, 321.99, 322.01, 322.02, 322.03, 322.04, 323.01, 323.02, 324.01, 324.02, 324.03, 324.04, 325.02, 326, 327.01, 327.02, 328.01, 328.02, 328.03, 329.01, 329.02, 329.03, 330.01, 330.02, 331, 332, 333, 334, 335.01, 335.02, 335.03, 336, 337, 338, 339.01, 339.02, 339.03, 340, 341, 342, 343.01, 343.02, 344, 345.01, 345.02, 346, 347.01, 347.02, 347.03, 347.04, 348.01, 348.02, 349.01, 349.02, 350.01, 350.02, 350.03, 350.04, 351, 352, 353.01, 353.02, 354, 355.01, 355.02,

356.01, 356.02, 356.03, 356.04, 357.01, 357.02, 357.03, 358.01, 358.02, 359.01, 359.02, 360.01, 360.02, 360.03, 360.04, 361, 361.99, 362, 363, 364, 364.99, 365.01, 365.02, 365.03, 366.01, 366.02, 367, 367.99, 368.01, 368.02, 369, 370, 373.02, 412.01, 412.02, 413.01, 413.02, 413.03, 414.01, 414.02, 415.01, 415.02, 415.03, 415.04, 416.03, 416.04, 416.05, 428.01, 428.02, 429, 430.01, 430.02, 431, and 432.

Sec. 26. District 26 is composed of Denton County; that part of Collin County included in census tracts 303, 304, 305, 306, 307, 314, 315, 319, and 320.02, and that part of census tract 308 included in enumeration district 811, and block groups 4, 5, and 6; that part of Cooke County included in enumeration districts 325, 328, 336, 337, 338A, 338B, 339T, 339U, 340T, and 340U; that part of Dallas County included in census tracts 96.05, 96.06, 97.01, 99, 137.01, 137.02, 137.07, 139, and 140.01, and that part of census tract 137.08 included in block groups 2, 3, 4, and 5; and that part of Tarrant County included in census tracts 1013.01, 1055.02, 1056, 1057.01, 1057.02, 1065.02, 1065.03, 1065.04, 1065.05, 1110.03, 1110.04, 1112.01, 1113.01, 1113.02, 1115.03, 1115.04, 1115.05, 1115.06, 1115.07, 1115.08, 1115.09, 1115.10, 1130, 1131, 1135.03, 1135.04, 1135.05, 1135.06, 1136.03, 1136.04, 1136.05, 1137.01, 1137.02, 1216.01, 1216.04, 1216.05, 1216.06, 1216.07, 1217.01, 1217.02, 1218, 1219.01, 1219.02, 1220, 1221, 1222, 1223, 1224, 1225, 1226, 1227, 1228, and 1229, that part of census tract 1055.01 included in blocks 201, 202, 205, 206, 207, and 208, that part of census tract 1055.04 included in block groups 1, 6, and 7, that part of census tract 1109.02 included in block groups 4, 5, 6, and 7, and that part of census tract 1110.01 included in block groups 1 and 2.

Sec. 27. District 27 is composed of Cameron, Kenedy, Kleberg, and Willacy counties; and that part of Nueces County included in census tracts 1, 2, 2.99, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 29, 30, 31, 32, 33, 34, 35, 36, 50, 50.99, 51, 54, 56, 57, 58, 59, 60, and 61, and that part of census tract 51.99 included in enumeration district 491.

ARTICLE III

Sec. 1. Pursuant to Subsection (h) of Section 11.22 of the Texas Education Code, as amended, all members of the State Board of Education were elected in 1982 at the general election immediately following the decennial reapportionment of congressional districts in Texas. Pursuant to Subsection (i) of Section 11.22 these officers drew lots to determine which members shall serve for six years, which members shall serve for four years, and which members shall serve for two years. Notwithstanding this Act changing the boundaries of certain congressional districts, the terms of office of the members of the State Board of Education shall not be affected by such change, and each member shall be entitled to serve for the remainder of the term to which he was elected and which was determined in accordance with Subsection (i) of Section

11.22 even though the change in boundaries may have placed his residence outside the district for which he was elected.

ARTICLE IV

Sec. 1. In this Act, "census tract," "census enumeration district," and "census county division" mean those geographic areas outlined and identified as such on official place, county, and metropolitan map series maps prepared by the United States Department of Commerce Bureau of the Census for the Twentieth Decennial Census of the United States, enumerated as of April 1, 1980. "Census block groups" are subdivisions of census tracts as defined on census metropolitan maps which differentiate block groups by the first digit of the block numbers assigned to city blocks within each tract. "Census blocks" are subdivisions of "census block groups" as defined on census metropolitan maps.

Sec. 2. Chapter 537, Acts of the 64th Legislature, Regular Session, 1975 (Article 197e, Vernon's Texas Civil Statutes), and Chapter 2, Acts of the 67th Legislature, 1st Called Session, 1981 (Article 197f, Vernon's Texas Civil Statutes), are repealed.

Sec. 3. Nothing in this Act affects the tenure in office of the present delegation in Congress, but this Act takes effect for the general election in 1984.

Sec. 4. It is the intention of the Texas Legislature that if any counties, census tracts, blocks, or other geographic areas have erroneously been left out of this bill, as amended, any court reviewing this legislation include such area in the appropriate district as accomplished by the Supreme Court of Texas in *Smith v. Patterson*, 111 Tex. 525, 242 S.W. 749 (1922).

Sec. 5. If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect the other provisions or applications of this Act that can be given effect without the invalid provision or application. For that purpose, the provisions of this Act are declared to be severable, and it is the intent of the legislature that this Act shall be construed and applied as if any invalid provision had not been included in this Act.

[Acts 1983, 68th Leg., p. 3086, ch. 531, § 1, eff. June 19, 1983.]

SUPREME JUDICIAL DISTRICTS

Art. 198. Supreme Judicial Districts

This state shall be divided into fourteen (14) Supreme Judicial Districts, composed of the following named counties for the purpose of constituting and organizing a Court of Appeals in each of the several Supreme Judicial Districts, as follows, to wit:

First: Trinity, Walker, Grimes, Burlison, Washington, Waller, Harris, Chambers, Austin, Brazoria, Fort Bend, Galveston, Colorado and Brazos.

Second: Wichita, Clay, Montague, Wise, Tarrant, Cooke, Denton, Parker, Archer, Young, Jack and Hood.

Third: Milam, Lee, Bastrop, Caldwell, Hays, Travis, Williamson, Bell, Burnet, Blanco, Llano, San Saba, Lampasas, Mills, McCulloch, Runnels, Tom Green, Concho, Comal, Fayette, Coke, Sterling, Irion and Schleicher.

Fourth: Jim Wells, Val Verde, Guadalupe, Sutton, Edwards, Kinney, Maverick, Menard, Kimble, Kerr, Bandera, Uvalde, Zavala, Dimmit, Webb, LaSalle, Frio, Medina, Duval, McMullen, Atascosa, Bexar, Kendall, Wilson, Zapata, Karnes, Starr, Jim Hogg, Real, Brooks, Gillespie and Mason.

Fifth: Grayson, Collin, Dallas, Rockwall, Hunt, Kaufman and Van Zandt.

Sixth: Fannin, Lamar, Red River, Bowie, Delta, Hopkins, Franklin, Titus, Morris, Cass, Marion, Harrison, Gregg, Camp, Hunt, Wood, Upshur, Rusk and Panola.

Seventh: Dallam, Sherman, Hansford, Ochiltree, Lipscomb, Hartley, Moore, Hutchinson, Roberts, Hemphill, Oldham, Potter, Carson, Gray, Wheeler, Deaf Smith, Randall, Armstrong, Donley, Collingsworth, Parmer, Castro, Swisher, Briscoe, Hall, Childress, Bailey, Lamb, Hale, Floyd, Motley, Cottle, Foard, Hardeman, Wilbarger, Crosby, Lubbock, Hockley, Cochran, Yoakum, Terry, Lynn, Garza, Dickens, Kent and King.

Eighth: Crockett, Gaines, Andrews, Martin, Loving, Winkler, Midland, Glasscock, Reeves, Ward, Crane, Upton, Reagan, Terrell, Pecos, Brewster, Presidio, Jeff Davis, El Paso, Ector, Culberson and Hudspeth.

Ninth: San Jacinto, Montgomery, Liberty, Jefferson, Orange, Hardin, Newton, Jasper, Tyler, Polk and Angelina.

Tenth: McLennan, Coryell, Hamilton, Bosque, Johnson, Somervell, Falls, Limestone, Hill, Brazos, Madison, Robertson, Ellis, Leon, Freestone and Navarro.

Eleventh: Dawson, Howard, Mitchell, Scurry, Nolan, Fisher, Stonewall, Taylor, Jones, Haskell, Knox, Callahan, Shackelford, Throckmorton, Baylor, Coleman, Brown, Comanche, Eastland, Stephens, Erath, Palo Pinto and Borden.

Twelfth: Kaufman, Van Zandt, Rains, Hopkins, Wood, Upshur, Smith, Henderson, Anderson, Houston, Cherokee, Rusk, Nacogdoches, San Augustine, Sabine, Shelby, Panola and Gregg.

Thirteenth: Lavaca, Wharton, Gonzales, De Witt, Jackson, Matagorda, Victoria, Goliad, Calhoun, Bee, Refugio, Aransas, San Patricio, Nueces, Kleberg, Kenedy, Willacy, Hidalgo, Cameron and Live Oak.

Fourteenth: Trinity, Walker, Grimes, Burleson, Washington, Waller, Harris, Chambers, Austin, Brazoria, Fort Bend, Galveston, Colorado and Brazos.

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., p. 378, ch. 255; Acts 1929, 41st Leg., p. 106, ch. 51; Acts 1932, 42nd Leg., 3rd C.S., p. 103, ch. 38; Acts 1934, 43rd Leg., 3rd C.S., p. 54, ch. 31; Acts 1939, 46th Leg., p. 148, § 1; Acts 1941, 47th Leg., p. 1408, ch. 641, § 1; Acts 1963, 58th Leg., p. 539, ch. 198, § 1, eff. Aug. 23, 1963; Acts 1963, 58th Leg., p. 927, ch. 357, § 1, eff. Aug. 23, 1963; Acts 1967, 60th Leg., p. 1952, ch. 728, § 1 eff. Sept. 1, 1967; Acts 1981, 67th Leg., p. 761, ch. 291, § 1, eff. Sept. 1, 1981.]

JUDICIAL DISTRICTS

Art. 199. Judicial Districts

The judicial districts of the State shall be composed of the following named counties, and the terms of court in said districts shall be held therein each year, as follows:

1.—Newton, Jasper, Sabine and San Augustine

Sec. 1. From and after the passage of this Act, the First Judicial District shall be composed of and confined to the Counties of Newton, Jasper, Sabine and San Augustine.

Sec. 2. The terms of the First Judicial District Court shall be as follows:

In the County of Jasper on the first Monday in January, and the twenty-second Monday after the first Monday in January.

In the County of Newton on the fifth Monday after the first Monday in January, and the thirty-fourth Monday after the first Monday in January.

In the County of San Augustine on the eleventh Monday after the first Monday in January, and the fortieth Monday after the first Monday in January.

In the County of Sabine on the seventeenth Monday after the first Monday in January, and the forty-fifth Monday after the first Monday in January.

Each term of court in each of such counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

[Acts 1925, S.B. 84. Amended by Acts 1930, 41st Leg., 4th C.S., p. 92, ch. 51, § 1; Acts 1943, 48th Leg., p. 9, ch. 10, § 1; Acts 1947, 50th Leg., p. 198, ch. 116.]

1A.—Jasper, Newton and Tyler. See Article 199a, Sec. 3.075

2.—Cherokee

Sec. 1. The 2nd Judicial District is composed of the County of Cherokee.

Sec. 2. The District Court of the 2nd Judicial District shall have two terms each year, which shall begin on the first Mondays of March and September. Each term shall continue until the date for the beginning of the next term. The judge may, in his discretion, hold as many sessions of court in any

term of the court as is deemed by him proper and expedient for the dispatch of business.

Sec. 3. The 2nd District Court shall have jurisdiction over all matters, both civil and criminal, of which jurisdiction is given or shall be given by the constitution and laws of Texas to district courts.

Sec. 4. The judge and all district officers of the 2nd Judicial District, as heretofore constituted, shall be the judge and district officers of the 2nd Judicial District as constituted and reorganized by this Act, during the terms for which each was respectively elected.

Sec. 5. The District Clerk of Cherokee County shall be the clerk of the district court of the 2nd Judicial District.

Sec. 6. On the effective date of this Act, the District Clerk of Cherokee County shall transfer all civil and criminal cases pending in the 145th District Court in Cherokee County to the 2nd District Court. All citations and other process issued by the district clerk and all notices, restraining orders and other process authorized to be issued by the Judge of the 2nd District Court or the 145th Judicial District in Cherokee County shall be returnable to the 2nd District Court.

Sec. 7. The Judge of the 2nd District Court may appoint an official court reporter who shall have the qualifications and receive the same compensation as is now, or may hereafter be, fixed by law for court reporters in district court.

Sec. 8. The Judge of the 2nd District Court may take a vacation and not attend Court for four weeks in each year.

[Acts 1925, S.B. 84. Amended by Acts 1931, 42nd Leg., p. 824, ch. 341, § 1; Acts 1939, 46th Leg., p. 150, § 1; Acts 1943, 48th Leg., p. 98, ch. 69, § 1; Acts 1969, 61st Leg., 2nd C.S., p. 157, ch. 23, § 5.005, eff. Sept. 19, 1969; Acts 1973, 63rd Leg., p. 790, ch. 353, § 1, eff. June 12, 1973.]

3.—Anderson, Henderson and Houston

The Third Judicial District of the State of Texas shall be composed of the Counties of Anderson, Henderson and Houston, and the terms of the District Court within said counties shall be held therein each year as follows:

In the County of Anderson on the first Mondays in April, July and December.

In the County of Henderson on the first Mondays in February, June and September.

In the County of Houston on the first Mondays in March, August and October.

Each term of court in each of such counties may continue until the date herein fixed for the beginning of the first succeeding term therein.

[Acts 1925, S.B. 84. Amended by Acts 1929, 41st Leg., 1st C.S., p. 76, ch. 35; Acts 1937, 45th Leg., p. 685, ch. 344, § 1; Acts 1943, 48th Leg., p. 31, ch. 29, § 1.]

4.—Rusk

From and after the passage of this Act, the 4th Judicial District shall be composed of and confined to the County of Rusk only and the terms of the District Court of said Rusk County, Texas, shall be held therein each year as follows: On the First Monday in January, March, May, July, September and November of each year; and each term of said Court shall continue in session until the Saturday before the next succeeding term or until all the business is disposed of; provided, however, that a regular term of said Court shall be and become in session immediately upon final passage of this Act and the appointment and qualification of a Judge as hereinafter provided for.

[Acts 1925, S.B. 84. Amended by Acts 1929, 41st Leg., p. 471, ch. 220, § 1; Acts 1931, 42nd Leg., p. 873, ch. 369, § 1.]

5.—Bowie and Cass

(1) The 5th Judicial District of Texas shall be composed of the Counties of Bowie and Cass, and the terms of the District Court within the Counties shall be as follows:

(a) In Bowie County on the first Monday in January, April, July, and October, and each term shall continue until the beginning of the next succeeding term.

(b) In Cass County on the first Monday in February, May, August, and November, and each term shall continue until the beginning of the next succeeding term.

The Judge of the Court may hold as many sessions in any term of the Court in any County as is deemed by him proper and expedient for the dispatch of business.

(2) During each term of said Court in Bowie County, Texas, the Court may sit at any time in Texarkana, Texas, to try, hear and determine any civil and criminal nonjury case, and may hear and determine motions, arguments and such other nonjury civil and criminal matters as may come before the Court; provided further, that nothing herein shall be construed to deprive the Court of jurisdiction to try nonjury civil and criminal cases and hear and determine motions, arguments and such other nonjury civil and criminal matters at the County Seat at Boston, Texas.

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

from Texarkana, Texas, to Boston, Texas, at the end of each session in Texarkana, Texas.

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

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

(6) The Commissioners Court of Bowie County is hereby authorized to provide necessary and suitable quarters for the said Court while sitting at Texarkana, Texas. In its discretion said Commissioners Court of Bowie County is further authorized to make such agreements or agreement with the City of Texarkana, Texas, whereby said City will provide necessary and suitable quarters in Texarkana, Texas, for holding said terms of Court at that place.

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

(8) The Judge and all District Officers of the 5th Judicial District as heretofore constituted, shall be the Judge and District Officers of the 5th Judicial District as constituted and reorganized by this Section during the terms for which they were elected.

[Acts 1925, S.B. 84. Amended by Acts 1933, 43rd Leg., p. 887, ch. 254; Acts 1933, 43rd Leg., Spec.L., p. 147, ch. 104; Acts 1935, 44th Leg., p. 407, ch. 159; Acts 1937, 45th Leg., p. 272, ch. 143, § 1; Acts 1939, 46th Leg., p. 152, § 1; Acts 1943, 48th Leg., p. 420, ch. 237, § 1; Acts 1951, 52nd Leg., p. 344, ch. 216, § 1; Acts 1953, 53rd Leg., p. 913, ch. 376, § 1; Acts 1961, 57th Leg., p. 400, ch. 202, § 1, eff. May 23, 1961; Acts 1969, 61st Leg., p. 1115, ch. 363, § 1, eff. May 27, 1969.]

6.—Fannin, Lamar, and Red River

Sec. 1. The 6th Judicial District of Texas shall be composed of the Counties of Lamar, Fannin, and Red River.

Sec. 2. The District Court of the 6th Judicial District shall have jurisdiction in said counties of all matters, civil and criminal, of which jurisdiction is

given to the District Court by the Constitution and Laws of this State.

Sec. 3. There shall be two (2) terms of the 6th Judicial District Court in each county of the District each year and the first term shall begin on the first Monday in January each year and shall continue until the convening of the next regular term, and the second term shall begin on the first Monday in July of each year and shall continue until the convening of the next regular term.

Sec. 4. The District Courts of the 6th and the 102nd Judicial Districts of Red River County shall have concurrent jurisdiction with each other in said county throughout the limits thereof, of all matters, civil and criminal, of which jurisdiction is given to the District Court by the Constitution and Laws of this State; and the District Courts of the 6th and 62nd Judicial Districts in Lamar County shall have concurrent jurisdiction with each other in said county throughout the limits thereof, of all matters, civil and criminal, of which jurisdiction is given to the District Court by the Constitution and laws of this State.

Sec. 5. The Judge of said Court in his discretion may hold as many sessions of Court in any term of the Court in any county as is deemed by him proper and expedient for the dispatch of business.

Sec. 6. In any of the counties of the 6th Judicial District, the grand jury may be convened on the first or any subsequent day of the term. The Judge shall designate the day on which the grand jury is to be impaneled.

Sec. 7. In any of the above said counties in which there are two (2) or more District Courts, the Judges of such Courts may, in their discretion, either in termtime or in vacation, on motion of any party or on agreement of the parties, or on their own motion, transfer any case, or proceeding, civil or criminal, on their dockets to the docket of one of the other said District Courts; and the Judges of said Courts may, in their discretion, exchange benches or districts from time to time; and whenever a Judge of one of said Courts is disqualified, he shall transfer the case, or proceeding, from his Court to one of the other Courts, and any of said Judges may in his own courtroom try and determine any case or proceeding pending in either of the other Courts, without having the case transferred or may sit in any of the other said Courts and there hear and determine any case, or proceeding, there pending, and each judgment and order shall be entered in the minutes of the Court in which the case is pending, and two (2) or more Judges may try different cases in the same Court at the same time and each may occupy his own courtroom or the room of any other Court. In case of absence, sickness or disqualification of any of said Judges, any other of said Judges may hold Court for him. Any of said Judges may hear any part of any case or proceeding pending in any of said Courts and determine the same or may hear or determine any

question in any case or proceeding and any other of said Judges may complete the hearing and render judgment in the same. Any of said Judges may hear and determine demurrers, motions, petitions for injunction, application for appointment of receivers, interventions, pleas of privilege, pleas in abatement and all dilatory pleas, motions for new trials and all preliminary matters, questions and proceeding and may enter judgment or order thereon in the Court in which the case or proceeding is pending, without having the same transferred to the Court of the Judge acting and the Judge in whose Court the same is pending may thereafter proceed to hear, complete and determine the same or other matter or any part thereof and render final judgment thereon. Any of the Judges of said Courts may issue restraining orders and injunctions returnable to any of the other Judges of Courts.

The specific matters mentioned in this Section shall not be construed as any limitation on the powers of such Judges when acting for any other Judge by exchange of benches or otherwise.

Sec. 8. The Clerk of the District Court of Lamar County shall be the Clerk of both the 6th and 62nd District Courts in said county. The Clerk of the District Court of Red River County shall be the Clerk of both the 6th and 102nd District Courts in said county.

Sec. 9. All process issued and returnable to a succeeding term of court, and all bonds and recognizances made and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding terms of the District Courts of the several counties as herein fixed as though issued and served for such terms and returnable to and drawn for the same. All process issued and made returnable on or before Monday next after the expiration of twenty (20) days from the date of service thereof shall be valid, and unaffected by this Act.

[Acts 1957, 55th Leg., p. 388, ch. 190. Amended by Acts 1973, 63rd Leg., p. 1717, ch. 622, § 1, eff. June 15, 1973.]

7.—Smith

(a) The 7th Judicial District of Texas shall be composed of Smith County; the terms of the District Court shall be held therein each year as follows:

In the County of Smith on the first Mondays in January and July.

Each term of court in such county may continue until the date herein fixed for the beginning of the next succeeding term therein.

(b) The Judge of said court in his discretion may hold as many sessions of court in any term of court in such county as is deemed proper and expedient for the dispatch of business.

[Acts 1925, S.B. 84. Amended by Acts 1943, 48th Leg., p. 293, ch. 188, § 1; Acts 1949, 51st Leg., p. 316, ch. 150, § 1; Acts 1953, 53rd Leg., p. 568, ch. 213, § 1.]

8.—Hopkins, Delta, Rains and Franklin

Sec. 1. The 8th Judicial District of Texas shall be composed of the Counties of Hopkins, Delta, Rains, and Franklin.

Sec. 2. (a) The District Court of the 8th Judicial District shall have in each county within its jurisdiction continuous terms, which shall commence on the first Monday in January and on the first Monday in July of each year. Each term of court continues until the next succeeding term begins.

(b) The Judge of said Court in his discretion may hold as many sessions of court in any term of the Court in any county as is deemed by him proper and expedient for the dispatch of business.

(c) In any of the above named counties in which there are two or more District Courts, such District Courts shall have concurrent jurisdiction throughout the limits of each county in all civil and criminal cases and proceedings of which District Courts are given jurisdiction by the Constitution and Laws of the State; provided, however, that the Judge of the 62nd Judicial District shall never impanel the grand jury in the Court in the Counties of Hopkins, Delta and Franklin, unless in his judgment he deems it necessary.

Sec. 3. (a) In any of the above named counties in which there are two or more District Courts, the Judges of such Courts may, in their discretion, either in term time or in vacation, on motion of any party or on agreement of the parties, or on their own motion, transfer any case or proceeding, civil or criminal, on their dockets to the docket of one of the other said District Courts; and the Judges of the Courts may, in their discretion, exchange benches or districts from time to time.

(b) Whenever a Judge of one of the Courts is disqualified, he may transfer the case, or proceeding, from his Court to one of the other Courts, and any of the Judges may in his own courtroom try and determine any case or proceeding pending in either of the other Courts, without having the case transferred, or may sit in any of the other Courts and there hear and determine any case or proceeding there pending, and each judgment and order shall be entered in the minutes of the Court in which the case is pending, and two or more Judges may try different cases in the same Court at the same time and each may occupy his own courtroom or the room of any other Court.

(c) In case of absence, sickness, or disqualification of any of the Judges, any other of the Judges may hold court for him. Any of the Judges may hear any part of any case or proceeding and any other of the Judges may complete the hearing and render judgment.

(d) Any of the Judges may hear and determine motions, petitions for injunction, applications for appointment of receivers, interventions, pleas of privilege, pleas in abatement, and all dilatory pleas, motions for new trials and all preliminary matters,

and questions, and proceedings, and may enter judgment or order thereon in the Court in which the case or proceeding is pending without having the matter transferred to the Court of the Judge acting; and the Judge in whose Court the matter is pending may thereafter proceed to hear, complete and determine the same or other matter or any part thereof and render final judgment thereon. Any of the Judges of the Courts may issue restraining orders and injunctions returnable to any of the other Courts.

(e) The specific matters mentioned in this section shall not be construed as any limitation on the powers of such Judges when acting for any other Judge by exchange of benches or otherwise.

Sec. 4. The District Clerk and the Sheriff of each of the counties, and their successors in office, shall perform all the duties and functions relative to all District Courts of their county as is required by law for the District Court thereof.

Sec. 5. All processes, writs, bonds, and recognizances issued or executed, and all grand and petit jurors drawn and selected prior or subsequent to the effective date of this Act shall be valid and returnable to the terms of the District Courts in and for the several counties, as herein fixed, as though issued and served for such terms, and returnable to and drawn for the same, and all such processes, writs, bonds, and recognizances taken before or issued by the Courts and officers of the various counties affected by this Act shall be valid as though no change had been made in the length of the terms or the time of the holding thereof of the District Court of the counties affected by this Act.

Sec. 6. The Judge and all District Officers of the 8th Judicial District as heretofore constituted, shall be and continue in office as the Judge and District Officers of the 8th Judicial District as constituted and reorganized by this Act for and during the terms to which each was respectively elected or appointed.

[Acts 1925, S.B. 84. Amended by Acts 1939, 46th Leg., p. 154, § 1; Acts 1969, 61st Leg., 2nd C.S., p. 161, ch. 23, § 5.009, eff. Sept. 19, 1969; Acts 1971, 62nd Leg., p. 3013, ch. 199, § 1, eff. July 1, 1971.]

9.—Polk, San Jacinto, Waller and Montgomery

(a) The Ninth Judicial District of the State of Texas composed of the counties of Polk, San Jacinto, Waller, and Montgomery, from and after the effective date of this Act the terms of the District Court in and for the several counties constituting said Ninth Judicial District shall be begun and holden therein as follows:

In the County of Polk, on the first Monday in January of each year and may remain in session four weeks, and on the 3rd Monday in July of each year and may remain in session four weeks;

In the County of San Jacinto, on the 7th Monday after the 1st Monday in January of each year and

may remain in session three weeks, and on the 9th Monday after the 1st Monday in July of each year and may remain in session three weeks;

In the County of Waller, on the 10th Monday after the 1st Monday in January of each year and may remain in session six weeks, and on the 12th Monday after the 1st Monday in July of each year and may remain in session six weeks;

In the County of Montgomery, on the 16th Monday after the first Monday in January of each year and may remain in session eight weeks, and on the 18th Monday after the 1st Monday of July of each year and may remain in session eight weeks.

(b) The Ninth District Court has and shall exercise concurrent jurisdiction in Polk County with the county court over all misdemeanor cases over which the county court has jurisdiction under the constitution and laws of this state. Cases in the concurrent misdemeanor jurisdiction of the Ninth District Court and the Polk County Court may be filed in either court, and all cases of misdemeanor concurrent jurisdiction may be transferred between the Ninth District Court and the county court. A case may not be transferred from one court to another without the consent of the judge of the court to which it is transferred, and a case may not be transferred unless it is within the jurisdiction of the court to which it is transferred.

[Acts 1939, 46th Leg., p. 157, ch. 6, § 15. Amended by Acts 1983, 68th Leg., p. 5080, ch. 921, § 1, eff. Aug. 29, 1983.]

Second 9th Judicial District Court.—Montgomery, Polk, San Jacinto and Trinity Counties

Sec. 1. From and after the passage of this Act, the Special 9th Judicial District Court of Texas, composed of Montgomery, Polk, San Jacinto and Trinity Counties, shall be abolished, and the Second 9th Judicial District Court of Montgomery, Polk, San Jacinto and Trinity Counties is created and is hereby constituted a permanent regular District Court.

Sec. 2. From the effective date of this Act, the terms of the Second 9th Judicial District Court shall be as follows:

In the County of Polk, on the eighteenth Monday after the first Monday in January of each year, and on the twentieth Monday after the first Monday in July of each year;

In the County of San Jacinto, on the sixteenth Monday after the first Monday in January of each year, and on the eighteenth Monday after the first Monday in July of each year;

In the County of Montgomery, on the third Monday in January of each year; on the eighth Monday after the first Monday in January of each year; on the third Monday in July of each year; and on the tenth Monday after the first Monday in July of each year;

In the County of Trinity, on the first Monday in January of each year, and on the twenty-third Monday after the first Monday in January of each year.

Each term of Court in each of such counties may continue until the date herein fixed for the beginning of the next succeeding term thereof.

The Judge of such Court, in his discretion, may hold as many sessions in any term of Court as is deemed by him proper and expedient for the dispatch of business.

Sec. 3. Immediately upon the effective date of this Act, the Governor shall appoint a suitable person having the qualifications provided by the Constitution and laws of Texas for District Judge of the Second 9th Judicial District, and he shall hold office until the next general election and until his successor shall be duly elected and qualified. Thereafter such Judge shall be elected as provided by the Constitution and laws of this State and he shall receive such compensation as allowed other District Judges under the laws of Texas.

Sec. 4. This Act shall become effective on September 1, 1955.

Sec. 5. The Judge of the Second 9th Judicial District is authorized to appoint an official shorthand reporter of such Court and such reporter shall receive such compensation as allowed other official shorthand reporters under the General Laws of this State.

Sec. 6. The District Attorney of the 9th Judicial District shall act as District Attorney for the Second 9th Judicial District in the Counties of Montgomery, Polk and San Jacinto.

Sec. 7. The District Attorney of the 258th Judicial District shall act as District Attorney for the Second 9th Judicial District in Trinity County.

Sec. 8. The District Clerks of Montgomery, Polk, San Jacinto and Trinity Counties shall also act as District Clerks for the Second 9th Judicial District in their respective counties.

Sec. 9. On the effective date of this Act the District Clerks of each of the counties in the Special 9th Judicial District Court shall transfer all civil and criminal cases to the Second 9th Judicial District Court.

Sec. 10. All processes and writs issued or served and recognizances, bonds and undertakings before this Act takes effect and made returnable to the Special 9th Judicial District Court in the Counties of Montgomery, Polk, San Jacinto and Trinity shall be considered as returnable to the next succeeding term of the Second 9th Judicial District Court; and providing that all grand and petit juries drawn and selected under existing laws in Montgomery, Polk, San Jacinto and Trinity Counties shall be considered as lawfully drawn and selected for the next ensuing term of the Second 9th Judicial District Court in their respective counties.

Sec. 10A. In all counties wherein the Ninth Judicial District of Texas and the Second Ninth Judicial District of Texas have concurrent jurisdiction, either of the Judges of said Courts may, in their discretion, either in term time or vacation, transfer any case or cases, civil or criminal, that may be pending in his court, to the other district court in said county, and the judges of said courts may, in their discretion, exchange benches from time to time; and whenever a judge of one of said courts is disqualified, he shall transfer the case from his court to the other court and either judge may, in his own courtroom, try and determine any case or proceeding pending in either court without having the case transferred, or may sit in the other court and there hear and determine any case there pending; and each judgment and order shall be entered in the minutes of the court in which the case is pending; and the judges may try different cases in the same court at the same time and each may occupy his own courtroom or the room of the other court. In case of absence, sickness, or disqualification of either judge of said courts, the other judge may hold court for him. Either of said judges may hear any part of any case or proceeding pending in either of said courts and determine the same or may hear and determine any question in any case and either judge may complete the hearing and render judgment in said case. In cases transferred to any one of the said courts by order of the judge of one of said courts, all process, writs, bonds, recognizances or other obligations issued or made in said cases shall be returned to and filed in the court to which transfer is made. All bonds executed and recognizances entered into in said cases shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of the court to which the cases are transferred to as are fixed by law and by this Act. And all processes issued or returned before transfer of said cases as well as all bonds and recognizances before taken in said cases shall be valid and binding as though originally issued out of the court to which such transfer may be made.

Sec. 10B. The Second 9th District Court has and shall exercise concurrent jurisdiction in Polk County with the county court over all misdemeanor cases over which the county court has jurisdiction under the constitution and laws of this state. Cases in the concurrent misdemeanor jurisdiction of the Second 9th District Court and the Polk County Court may be filed in either court, and all cases of misdemeanor or concurrent jurisdiction may be transferred between the Second 9th District Court and the county court. A case may not be transferred from one court to another without the consent of the judge of the court to which it is transferred, and a case may not be transferred unless it is within the jurisdiction of the court to which it is transferred.

[Acts 1955, 54th Leg., p. 723, ch. 258. Amended by Acts 1965, 59th Leg., p. 292, ch. 125, § 1, eff. May 6, 1965; Acts 1981, 67th Leg., p. 54, ch. 25, § 4, eff. April 8, 1981; Acts 1983, 68th Leg., p. 5081, ch. 921, § 2, eff. Aug. 29, 1983.]

10, 56.—Galveston County

The terms of the 10th and 56th Judicial Districts, which shall be composed of Galveston County, shall be continuous commencing on the first Monday in January and on the first Monday in July. Each term of court continues until the next succeeding term begins.

In all suits, actions or proceedings, it shall be sufficient for the address or designation to be merely the "District Court of Galveston County." The District Clerk of Galveston County shall docket successively on the dockets of the District Courts of the 10th, 56th, 122nd, and 212th Judicial Districts in Galveston County all civil cases, actions, causes, petitions, applications, or other civil proceedings so that the first case or proceeding filed on or after the effective date of this Act and every fourth such case or proceeding thereafter filed shall be docketed in the 10th Judicial District; and the second case or proceeding filed on or after the effective date of this Act and every fourth such case or proceeding thereafter filed shall be docketed in the 56th Judicial District; and the third case or proceeding filed on or after the effective date of this Act and every fourth such case or proceeding thereafter filed shall be docketed in the 122nd Judicial District; and the fourth case or proceeding filed on or after the effective date of this Act and every fourth such case or proceeding thereafter filed shall be docketed in the 212th Judicial District; and so on seriatim and in this manner all cases or proceedings filed shall be docketed in and divided equally among said four (4) Courts, one-fourth ($\frac{1}{4}$) in each Court. Any case pending in either of said Courts may, at the discretion of the Judge thereof, be transferred from one (1) of said District Courts to the other, and so from time to time.

In event of the absence, sickness or disqualification of a Judge of any of such District Courts, any of the other Judges of the District Courts of Galveston County may act and preside over the Court of said Judge during his said absence, sickness or disqualification.

The Clerk of the District Court of said County, also known as the District Clerk of Galveston County, shall perform the duties of the Clerk of each of said four (4) District Courts. Vacancies in the office of said Clerk shall be filled as provided by general law.

[Acts 1925, S.B. 84. Amended by Acts 1959, 56th Leg., p. 949, ch. 441, § 1, eff. May 30, 1959; Acts 1979, 66th Leg., p. 1127, ch. 539, § 1, eff. Aug. 27, 1979.]

11, 55, 61, 80, 113, 125, 127, 129, 133, 151, 152, 157, 164, 165.—Harris

In addition to the Criminal District Courts of Harris County, Texas, Harris County shall constitute the 11th, 55th, 61st, 80th, 113th, 125th, 127th, 129th, 133rd, 151st, 152nd, 157th, 164th and 165th Judicial Districts.

The two (2) additional District Courts herein created [164th and 165th] shall have and exercise concurrent jurisdiction, coextensive within the limits of Harris County, in all Criminal and Civil Cases, proceedings, and matters over which the other District Courts of Harris County are given jurisdiction by the Constitution and laws of this State.

There shall be two (2) terms of each said fourteen (14) Civil District Courts in Harris County in each year, and the first term shall be known as the January-June term, and shall begin on the first Monday in January and shall continue until and including Sunday next before the first Monday in July; and the second term, which shall be known as the July-December term, shall begin on the first Monday in July and shall continue until and including Sunday next before the first Monday in the following January.

In all suits, actions, or proceedings in said Courts, it shall be sufficient for the address or designation to be merely "District Court of Harris County." The Clerk of the Civil District Courts in Harris County shall be known as the "Clerk of the District Court of Harris County, Texas." The Clerk of said fourteen (14) Civil District Courts shall docket alternately on the dockets of the District Courts of the 11th, 55th, 61st, 80th, 113th, 125th, 127th, 129th, 133rd, 151st, 152nd, 157th, 164th and 165th Judicial Districts in Harris County, all cases, actions, petitions, applications, and other proceedings filed in the District Courts of Harris County so that the first case, or proceeding filed after the effective date of this Act and every fourteenth case or proceeding thereafter filed shall be docketed in the 11th Judicial District Court; and the second case or proceeding filed and every fourteenth case or proceeding thereafter filed shall be docketed in the 55th Judicial District Court; and the third case or proceeding filed and every fourteenth case or proceeding thereafter filed shall be docketed in the 61st Judicial District Court; and the fourth case or proceeding filed and every fourteenth case or proceeding thereafter filed shall be docketed in the 80th Judicial District Court; and the fifth case or proceeding filed and every fourteenth case or proceeding thereafter filed shall be docketed in the 113th Judicial District Court; and the sixth case or proceeding filed and every fourteenth case or proceeding thereafter filed shall be docketed in the 125th Judicial District Court; and the seventh case or proceeding filed and every fourteenth case or proceeding thereafter filed shall be docketed in the 127th Judicial District Court; and the eighth case or proceeding filed and every fourteenth case or proceeding thereafter filed shall be docketed in the 129th Judicial District Court; and the ninth case or proceeding filed and every fourteenth case or proceeding thereafter filed shall be docketed in the 133rd Judicial District Court; and the tenth case or proceeding filed and every fourteenth case or proceeding thereafter filed shall be docketed in the 151st Judicial District Court; and the eleventh case

or proceeding filed and every fourteenth case or proceeding thereafter filed shall be docketed in the 152nd Judicial District Court; and the twelfth case or proceeding filed and every fourteenth case or proceeding thereafter filed shall be docketed in the 157th Judicial District Court; and the thirteenth case or proceeding filed and every fourteenth case or proceeding thereafter filed shall be docketed in the 164th Judicial District Court; and the fourteenth case or proceeding filed and every fourteenth case or proceeding thereafter filed shall be docketed in the 165th Judicial District Court. All cases or proceedings in this manner shall be docketed in and divided and distributed among said fourteen (14) Civil District Courts, one-fourteenth ($\frac{1}{14}$ th) to each of them when first filed. All suits and proceedings shall be filed by the Clerk in the order in which the petitions are presented to or deposited with him, and immediately after being so presented or deposited. In case of the disqualification of the Judge of any of said fourteen (14) Civil Courts, in any case or proceeding, such case or proceeding, on his suggestion of disqualification, shall be transferred to another of said Courts, and the order of transfer may be made by any Judge of another of said Courts and may be transferred to any other of said Courts, or instead of transferring the case the Judge of any other of said Courts may sit in the Court in which the case is then pending and there try the same, and all transferred cases or proceedings shall be docketed by the Clerk accordingly. The Judges of said fourteen (14) Civil Courts shall sign the minutes of each term of the Courts in Harris County within thirty (30) days after the end of the term, and shall also sign the minutes at the end of each volume of the minutes, and each Judge sitting in said Courts shall sign the minutes of such proceedings as were had before him.

The Judge of each Court hereby created may take the same vacation provided for the other Judges of the District Courts and Criminal District Courts of Harris County, Texas. During such vacation time the term of Court of which he is Judge shall remain open and the Judge of any other Civil District Court in Harris County may hold such Court during the vacation of the Judges thereof. During the period of such vacation it shall not be lawful for a Special Judge of such Court to be elected by the practicing lawyers of such Court because of the absence of the Judge on his vacation, unless no Judge of said Civil District Courts is in the county. The Judges of said Courts shall, by agreement among themselves, take their vacation alternately so that there shall at all times be at least six (6) of said Judges in the county; and in the event of the absence, sickness or disqualification of the Judge of any of said Civil District Courts any of the other Judges of the said District Courts may act and preside or any regular practicing lawyers of the Bar of Harris County, Texas, may be elected who have the qualifications of a District Judge to act and preside over any of the said Courts during such absence, sickness or inability of any of the regular judges to act and preside

therein; and such Special Judges shall be elected according to Title 40 of the Revised Civil Statutes of the State of Texas of 1925.¹

The Clerk of the District Courts of Harris County, upon the taking effect of this Act, shall prepare promptly dockets for the Courts so created by this Act and shall place on the dockets of said 164th and 165th District Courts, the thirteenth and fourteenth case, respectively, pending on the respective dockets of the 11th, 55th, 61st, 80th, 113th, 125th, 127th, 129th, 133rd, 151st, 152nd and 157th District Courts. The cases so transferred shall bear the same docket numbers as in the Courts from which they are transferred and the Judges of the existing District Courts, respectively, shall make proper orders transferring from such Courts to the 164th and 165th District Courts the cases which have been placed on the docket of the 164th and 165th District Courts in pursuance of this Section.

The respective Judges of the District Courts of Harris County shall, from time to time as occasion may require, transfer cases from any one of such Courts to any other such Court in order that the business may be equally distributed among them, that the Judges thereof may at all times be provided with cases to be tried or otherwise considered, and that the trial of no case need be delayed because of the disqualification of the Judge in whose Court it is pending; provided, however, that no case shall be transferred from one Court to another without the consent of the Judge of the Court to which it is transferred. When any transfer is made, proper order shall be entered on the minutes of the Court as evidence thereof and such order on the minutes shall be notice of the transfer to the attorneys of record of all parties to the cause.

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., p. 135, ch. 88, § 1; Acts 1930, 41st Leg., 5th C.S., p. 131, ch. 14; Acts 1939, 46th Leg., p. 194, §§ 1 to 6; Acts 1947, 50th Leg., p. 525, ch. 308, §§ 1 to 6; Acts 1949, 51st Leg., p. 1354, ch. 616, § 1; Acts 1951, 52nd Leg., p. 504, ch. 308, § 3; Acts 1954, 53rd Leg., 1st C.S., p. 122, ch. 56, § 3; Acts 1955, 54th Leg., p. 872, ch. 330, § 1; Acts 1957, 55th Leg., p. 1482, ch. 508; Acts 1959, 56th Leg., p. 903, ch. 414, § 1, eff. May 30, 1959; Acts 1963, 58th Leg., p. 1332, ch. 587, § 8(B), eff. Sept. 1, 1963.]

¹ Article 1884 et seq.

12.—Grimes, Walker, Leon, and Madison

Sec. 1. The Twelfth Judicial District shall be composed of the Counties of Grimes, Walker, Leon, and Madison.

Sec. 2. The Twelfth District Court shall hold two terms of court annually in each county in the district, which terms commence on the first Monday in January of each year and on the first Monday in July of each year. Each term of court continues until the next succeeding term begins.

[Acts 1925, S.B. 84. Amended by Acts 1931, 42nd Leg., p. 775, ch. 310; Acts 1933, 43rd Leg., 1st C.S., p. 318, ch. 115, § 1; Acts 1943, 48th Leg., p. 109, ch. 81, § 1; Acts 1981, 67th Leg., p. 53, ch. 25, § 3, eff. April 8, 1981.]

13.—Navarro

On the first Mondays in January, April, July and October. The January, April and October terms shall each continue twelve (12) weeks or until all the business be disposed of, and the July term shall continue twelve (12) weeks or until the business be disposed of. Jury trials may be had at each and all of said terms of Court. There shall be organized Grand Juries at the April and October terms of said Court, and at such other terms thereof as may be determined and ordered by the Judge thereof. The County Attorney of Navarro County shall perform all the duties usually performed by a District Attorney.

[Acts 1925, S.B. 84. Amended by Acts 1943, 48th Leg., p. 336, ch. 216, § 1.]

14, 44, 68, 95, 101, 116, 134.—Dallas; Criminal Judicial District, Criminal Judicial District No. 2; Criminal Judicial District No. 3

There is hereby created and established the Criminal Judicial District of Dallas County, Texas, the Criminal Judicial District No. 2 of Dallas County, Texas, and the Criminal Judicial District No. 3 of Dallas County, Texas, each to be composed of Dallas County, Texas, alone; and the Criminal District Court of Dallas County, Texas, shall have and exercise jurisdiction of the Criminal Judicial District of Dallas County, Texas, the Criminal District Court No. 2 of Dallas County, Texas, shall have and exercise jurisdiction of the Criminal Judicial District No. 2 of Dallas County, Texas, and the Criminal District Court No. 3 of Dallas County, Texas, shall have and exercise jurisdiction of the Criminal Judicial District No. 3 of Dallas County, Texas, as is now conferred and to be conferred by law on said Criminal District Courts.

Dallas County shall constitute the 14th, 44th, 68th, 95th, 101st, 116th, 134th Judicial District, the Criminal Judicial District of Dallas County, Texas, the Criminal Judicial District No. 2 of Dallas County, Texas, and the Criminal Judicial District No. 3 of Dallas County, Texas. Each of said ten (10) District Courts shall have and exercise civil and criminal jurisdiction in Dallas County. The said District Courts of the 14th, 44th, 68th, 95th, 101st, 116th, 134th Judicial Districts and the Criminal District Court of Dallas County, Texas, of the Criminal Judicial District of Dallas County, Texas, and the Criminal District Court No. 2 of Dallas County, Texas, of the Criminal Judicial District No. 2 of Dallas County, Texas, and the Criminal District Court No. 3 of Dallas County, Texas, of the Criminal Judicial District No. 3 of Dallas County, Texas, shall have and exercise, in addition to the jurisdiction now conferred by law on said Courts, concurrent jurisdiction co-extensive with the limits of Dallas County in all actions, proceedings, matters and causes both civil and criminal of which District Courts of general jurisdiction are given jurisdiction by the Constitution and laws of the State of Texas.

The present Judges of said Courts named herein shall continue as Judges of said Courts as constituted and defined by this Act, and the tenure of office of said Judges shall remain the same as is now provided by law.

The terms of the said Courts named herein shall continue and remain the same as now provided by law. The terms of the Criminal District Court No. 3 of Dallas County shall be the same as now provided by law for the Criminal District Court No. 2 of Dallas County. The practice and procedure in said Courts shall be the same as now provided by law, and, in civil actions, as also provided by the Texas Rules of Civil Procedure applicable to District Courts having successive terms.

The letters A, B, C, D, E, F, G, H, I, and J shall be placed on the dockets and Court papers of the respective District Courts of Dallas County to distinguish them: "A" being used in connection with the 14th District Court; "B" being used in connection with the 44th District Court; "C" being used in connection with the 68th District Court; "D" being used in connection with the 95th District Court; "E" being used in connection with the 101st District Court; "F" being used in connection with the 116th District Court; "G" being used in connection with the 134th District Court; "H" being used in connection with the said Criminal District Court; "I" being used in connection with the said Criminal District Court No. 2; and "J" being used in connection with the said Criminal District Court No. 3. All cases in said Criminal District Courts prior to the passage of this Act shall retain the same numbers and letter designations heretofore assigned to said cases.

All indictments shall be returned to the Criminal District Court of Dallas County, Texas, the Criminal District Court No. 2 of Dallas County, Texas, and the Criminal District Court No. 3 of Dallas County, Texas. The District Clerk of Dallas County shall docket successively on the dockets of the District Courts of the 14th, 44th, 68th, 95th, 101st, 116th and 134th Judicial District Courts in Dallas County so that the first case or proceeding filed after the effective date of this Act and every seventh case or proceeding thereafter filed shall be docketed in the 14th District Court; the second case or proceeding filed and every seventh case or proceeding thereafter filed shall be docketed in the 44th District Court; the third case or proceeding filed and every seventh case or proceeding thereafter filed shall be docketed in the 68th District Court; the fourth case or proceeding filed and every seventh case or proceeding thereafter filed shall be docketed in the 95th District Court; the fifth case or proceeding filed and every seventh case or proceeding thereafter filed shall be docketed in the 101st District Court; the sixth case or proceeding filed and every seventh case or proceeding thereafter filed shall be docketed in the 116th District Court; the seventh case or proceeding filed and every seventh case or proceeding thereafter filed shall be docketed in the 134th District Court; and so on in rotation, and in this man-

ner all cases or proceedings filed shall be docketed in and divided equally among the 14th, 44th, 68th, 95th, 101st, 116th, and the 134th Judicial District Courts, one-seventh ($\frac{1}{7}$) in each court.

The District Judges of Dallas County, Texas, shall on or before the first day of January and the first day of July of each year elect one of said District Judges as presiding Judge of the Dallas County District Judges. The Presiding Judge of Dallas County District Judges shall, when this Act becomes effective, and from time to time as occasion may require in order to adjust the business and dockets of said court, transfer, or cause to be transferred, upon the approval of the Judges of said Courts, causes from any one of said Courts to any other of said Courts in order that the business of said Courts shall be continually equalized and distributed among them to the end that each Judge shall be at all times provided with cases or proceedings to try or otherwise consider and that the trial of no cause shall be delayed because of the disqualification of the Judge in whose Court it is pending. When a case is transferred, proper order shall be entered on the minutes of the Court as evidence thereof. The clerk shall properly docket all cases transferred.

In case of a disqualification of the Judge of any one of the said several Courts in any case or proceeding, such case or proceeding may be transferred to any other of said Courts with the consent of the Judge thereof, or the Judge of any other of said Courts may sit in the Court in which the case or proceeding is then pending and try or otherwise dispose of the same. All cases or proceedings transferred shall be properly docketed by the clerk of the Court to which transferred.

All bail bonds, recognizances, or other obligations taken for the appearance of defendants, parties and witnesses in any of the said District Courts or Criminal District Courts of Dallas County, Texas, or any inferior court of Dallas County, Texas, shall be binding on all such defendants, parties, and witnesses and their sureties for appearance in any of said Courts in which said cause may be pending or to which same may be transferred. In all cases transferred from one of said Courts to another, all process, bonds, recognizances, and obligations extant at time of such transfer shall be returned to and filed in the Court to which the cause is transferred and shall be valid and binding as though originally issued out of the Court to which it is transferred.

The Judges of said District Courts and Criminal District Courts of Dallas County, Texas, shall, by agreement among themselves, take vacations so that there shall at all times be at least three (3) Judges of the said Courts in the county during such vacation period.

During the absence of any of the Judges of the District and Criminal District Courts of Dallas County, Texas, for sickness or for any other reason except disqualification, the practicing lawyers of the

said Courts shall not elect a Special Judge for any of said Courts as now provided by law, until said lawyers have first requested the Presiding Judge of the First Administrative Judicial District of Texas to assign a Judge to preside over the Court during such absence; and if said Presiding Judge has not made an assignment within a period of four (4) days from such request, then said practicing lawyers may elect a Special Judge to preside over such Court, as now provided in Title 40, Chapter 1, of the Revised Civil Statutes of the State of Texas, 1925.

The Judges of the said District Courts and Criminal District Courts shall continue to serve for the terms elected or appointed as provided by the Constitution and laws of the State of Texas.

The District Clerk for said Courts shall be elected as provided by the Constitution and laws of the State of Texas and any vacancies in the office of said clerk shall be filled by appointments of the Judges of the several District Courts and Criminal District Courts.

The Judge of each of the several District Courts and the Criminal District Courts shall appoint an official court reporter for his Court, as provided by General Law, to be compensated as provided by law.

The sheriff of Dallas County, either in person or by deputy, shall attend the several courts as required by law or when required by the Judges thereof, and the sheriff and constables of the several counties of this State, when executing process out of said Courts, shall receive fees as provided by General Law for executing process issued out of District Courts.

The clerk of the District Courts of Dallas County shall be clerk of the 14th, 44th, 68th, 95th, 101st, 116th, 134th District Courts and Criminal District Courts and shall be compensated as provided by law.

The Criminal District Attorney of Dallas County shall be District Attorney of the 14th, 44th, 68th, 95th, 101st, 116th, and 134th District Courts and Criminal District Courts and shall be compensated as provided by law.

Each of the said District Courts shall have an official seal as provided by law for District Courts and Criminal District Courts.

The grand jury shall be empaneled by the Judges of the Criminal District Courts of Dallas County, Texas, as is now provided by law.

The procedure for drawing jurors for said Courts shall be the same as is now or may hereafter be provided by law.

From and after the time this law shall take effect, the District Courts, and the Criminal District Courts, of Dallas County, Texas, shall have and exercise concurrent jurisdiction with each other in all cases, criminal and civil, and in all matters and proceedings of which jurisdiction is vested in District Courts by the Constitution and laws of the

State of Texas. The Judge of any of the said District Courts and the Criminal District Courts may in his discretion try and dispose of any causes, matters and proceedings for any other Judge of said Courts.

[Acts 1925, S.B. 84. Amended by Acts 1951, 52nd Leg., p. 663, ch. 383, § 1; Acts 1954, 53rd Leg., 1st C.S., p. 105, ch. 51, art. 1, § 2; Acts 1955, 54th Leg., p. 711, ch. 256, § 3.]

15, 59.—Grayson

Sec. 1. Grayson County shall constitute the Fifteenth Judicial District and the Fifty-ninth Judicial District. The District Courts shall be held therein as follows:

FIFTEENTH DISTRICT: On the first Monday in January and continuing until and including the last Saturday before the first Monday in April; on the first Monday in April and continuing until and including the last Saturday before the first Monday in July; on the first Monday in July and continuing until and including the last Saturday before the first Monday in October; on the first Monday in October and continuing until and including the last Saturday before the first Monday in January.

FIFTY-NINTH DISTRICT: On the first Monday in January and continuing until and including the last Saturday before the first Monday in April; on the first Monday in April and continuing until and including the last Saturday before the first Monday in July; and on the first Monday in July and continuing until and including the last Saturday before the first Monday in October; on the first Monday in October and continuing until and including the last Saturday before the first Monday in January.

Sec. 2. The District Courts of the Fifteenth and Fifty-ninth Judicial Districts, in the County of Grayson, shall have concurrent jurisdiction with each other throughout the limits of Grayson County of all matters civil and criminal of which jurisdiction is given to the District Courts by the Constitution and laws of this State, provided, that the Judge of the Fifty-ninth Judicial District may impanel the Grand Jury in Grayson County when, in the discretion of said Court, it is deemed by him proper so to do. He may draw and impanel such grand jury for any terms of his Court as provided by law for other District Courts for impaneling grand juries.

Sec. 3. Either of the Judges of the District Courts of Grayson County, may in his discretion, transfer any case or cases, civil or criminal, that may at any time be pending in his Court, to the other District Court in Grayson County, by order or orders entered upon the minutes of the Court making such transfer; and where such transfer or transfers are made, the Clerk of said Court shall enter such case or cases upon the dockets of the Court to which such transfer or transfers are made, and when so entered upon the docket, the Judge of said Court shall try and dispose of said cases in the same manner as if such cases were originally in said Court. Either of the Judges of the District Courts

of Grayson County may, in their discretion, exchange benches, without formal order, and either of the Judges may, in his own courtroom, try and determine any case or proceeding pending in the other Court without having the case transferred or may sit in the other Court and there hear and determine any case there pending, and each judgment and order shall be entered in the minutes of the Court in which the case is pending. The Judges may try different cases in the same Court at the same time, and each may occupy his own courtroom or the room of the other Court. In case of absence, sickness, or disqualification of either of the Judges, the other Judge may hold Court for him. Either of the Judges may hear any part of a case or proceeding pending in either of those Courts and determine the same or may hear and determine any question in any case, and either Judge may complete the hearing and render judgment in the case. Either of the Judges may hear and determine motions, petitions for injunction, application for appointment of receivers, interventions, pleas of privilege, pleas in abatement, all dilatory pleas, motions for new trials, and all preliminary matters, questions, and proceedings and may enter judgment or order thereon in the Court in which the case is pending without having the case transferred to the Court of the Judge acting, and the Judge in whose Court the case is pending may thereafter proceed to hear, complete, and determine the case or other matter or any part thereof and render final judgment thereon. Either of the Judges may issue restraining orders and injunctions returnable to the other Judge or Court.

Sec. 4. The Clerk of the District Court of Grayson County and his successor in office shall be the Clerk of both the Fifteenth and Fifty-ninth District Courts in Grayson County, and shall perform all the duties pertaining to the clerkship of both of said Courts.

[Acts 1925, S.B. 84. Amended by Acts 1934, 43rd Leg., 2nd C.S., p. 24, ch. 10, § 1; Acts 1943, 48th Leg., p. 12, ch. 12, § 1; Acts 1977, 65th Leg., p. 9, ch. 5, § 2, eff. April 1, 1977; Acts 1981, 67th Leg., p. 328, ch. 132, § 1, eff. May 13, 1981.]

16.—Denton

(a) The 16th Judicial District of Texas shall be composed of Denton County, and the terms of the District Court shall be held each year on the eighth Monday after the first Mondays in January and September, and on the twenty-second Monday after the first Monday in January.

Each term of court may continue until the date fixed for the beginning of the next succeeding term.

(b) The Judge of said court in his discretion may hold as many sessions of court in any term of the court as is deemed by him proper and expedient for the dispatch of business.

[Acts 1925, S.B. 84. Amended by Acts 1943, 48th Leg., p. 100, ch. 71, § 1; Acts 1981, 67th Leg., p. 1843, ch. 429, § 7, eff. Sept. 1, 1981.]

17, 48, 67, 96.—Tarrant

The district courts of the Seventeenth, Forty-eighth, Sixty-seventh and Ninety-sixth Districts shall have concurrent jurisdiction throughout the limits of Tarrant County of all civil matters of which jurisdiction is given to the district courts by the Constitution and laws of the State. None of said courts shall have nor exercise any criminal jurisdiction. The terms of said district courts shall be as follows:

Seventeenth and Ninety-sixth Districts: On the first Mondays in January, April, July and October and continue until the business is disposed of.

Forty-eighth District: On the first Mondays in February, May, August and November and continue until the business is disposed of.

Sixty-seventh District: On the first Mondays in March, June, September and December and continue until the business is disposed of.

The judges of said four courts shall each have the right, within his discretion, to make transfer of cases from his court to any other of said courts.

The clerk of the district courts of Tarrant County shall make up dockets for each of said Courts. All cases, prosecutions and proceedings filed with the clerk shall by him be entered upon the dockets of said courts alternately, so that the business may be equally distributed between them; provided, that all garnishment cases shall follow the cases in which they are sued out, and that such garnishment cases shall not be estimated by the clerk in dividing business. In all injunctions granted by said judges, the suits wherein granted shall be docketed in the court of the judge who granted such injunctions; and in all cases wherein receivers may be appointed by said judges, the suit wherein such receivers shall be appointed shall be docketed in the court of the judge who appointed such receivers.

[Acts 1925, S.B. 84.]

18.—Somervell and Johnson

(a) The 18th Judicial District of Texas shall be composed of Somervell and Johnson Counties and the terms of the District Court shall be held each year in both the County of Somervell and the County of Johnson on the first Mondays in January and July.

Each term of court in each of such counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

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

(c) All processes issued, bonds and recognizances made and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding term of the District Courts of the several counties as herein fixed as

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

(d) It is further provided that if any court in any county of said district shall be in session at the time this Act takes effect such court or courts affected thereby shall continue in session until the term thereof shall expire under the provisions of existing laws, but thereafter all courts in said district shall conform to the requirements of this Act.

B.V. 143. Amended by Acts 1943, 48th Leg., p. 395, ch. 267, § 2; Acts 1979, 66th Leg., p. 104, ch. 65, § 1, eff. April 19, 1979.]

19, 54, 74, 170.—McLennan

Sec. 1. The District Courts of the 19th, 54th, 74th, and 170th District shall have concurrent jurisdiction throughout the limits of McLennan County in all civil and criminal cases and proceedings of which district courts are given jurisdiction by the constitution and laws of the state.

Sec. 2. The judges of said courts may exchange districts whenever they deem it expedient, and a judge of either of said courts may sit in any one of the courts, either upon the request of the regular judge thereof or in case of his absence or inability to act.

Sec. 3. Any one of the judges of said courts may in his discretion, either in termtime or vacation, transfer any cause or causes, civil or criminal, that may at any time be pending in either of said courts over which he may be presiding, to any other of said courts, by order or orders entered upon the minutes of his said court; and where such transfer is made, the clerk of said courts shall enter such cause upon the docket of the court to which such transfer is made, and when so entered upon the docket, the judge of said court to which such cause has been transferred, shall try and dispose of said cause in the same manner as if such cause had been filed in said court.

Sec. 4. The terms of said district courts shall be held therein each year as follows:

The terms of the 19th District Court shall begin on the second Monday in January, March, May, July, September and November of each year, and each of said terms shall continue until and including the Sunday next preceding the date for the beginning of the next succeeding term.

The terms of the 54th District Court shall begin on the first Monday in January, March, May, July, September and November of each year, and each of said terms shall continue until and including the Sunday next preceding the date for the beginning of the next succeeding term.

The terms of the 74th District Court shall begin on the second Monday in February, April, June, August, October and December of each year, and each of said terms shall continue until and including the Sunday next preceding the date for the beginning of the next succeeding term.

The terms of the 170th District Court shall begin on the second Monday in February, April, June, August, October and December of each year, and each of said terms shall continue until and including the Sunday next proceeding the date for the beginning of the next succeeding term.

[Acts 1925, S.B. 84. Amended by Acts 1937, 45th Leg., p. 769, ch. 371; Acts 1947, 50th Leg., p. 725, ch. 361, § 1; Acts 1951, 52nd Leg., p. 386, ch. 248, § 13; Acts 1969, 61st Leg., p. 2005, ch. 684, § 1, eff. Jan. 1, 1971.]

20.—Milam

The 20th Judicial District of the State of Texas shall be composed of the County of Milam, and the terms of the District Court shall be held on the third Monday in January, May and September of each year, and may continue in session until the date set for the beginning of the next succeeding term.

[Acts 1925, S.B. 84. Amended by Acts 1965, 59th Leg., p. 414, ch. 202, § 1, eff. Sept. 1, 1965; Acts 1983, 68th Leg., p. 2743, ch. 468, § 1, eff. Aug. 29, 1983.]

21.—Washington, Lee, Bastrop and Burleson

Sec. 1. The Twenty-first Judicial District shall be composed of the Counties of Washington, Lee, Bastrop and Burleson, and the terms of the District Court are hereby designated and shall be held therein each year as follows:

In the County of Washington on the first Tuesdays in March and September;

In the County of Lee on the sixth Tuesdays after the first Tuesdays in March and September;

In the County of Burleson on the tenth Tuesdays after the first Tuesdays in March and September;

In the County of Bastrop on the second Tuesday in January, and the fifteenth Tuesday after the first Tuesday in March.

Each term of court in each of such counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

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

Sec. 5. Judgments of all such District Courts shall become final on and after the expiration of ten (10) days after the date of judgment, or on and after the day the motion or amended motion for new trial, if any be filed, is overruled, as if the term of court had expired, when execution and all such other writs to enforce such judgment may issue. On and after the day such judgment becomes final, the judgment cannot be set aside except by bill of review for sufficient cause, filed within the time allowed by law for the filing of bills of review in other District Courts.

[Acts 1925, S.B. 84. Amended by Acts 1943, 48th Leg., p. 176, ch. 101, § 1; Acts 1971, 62nd Leg., p. 1086, ch. 236, § 1, eff. May 17, 1971.]

22, 207.—Hays, Caldwell and Comal

Sec. 1. The 22nd Judicial District and the 207th Judicial District shall be composed of the counties of Hays, Caldwell, and Comal, and the terms of the district courts are hereby designated and shall be held there in each year as follows:

In the County of Hays on the first Mondays in February, May, August, and November;

In the County of Caldwell on the first Mondays in March, June, September, and December; and

In the County of Comal on the first Mondays in April, July, October, and January.

Sec. 2. Each term of court in each of such counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

[Acts 1925, S.B. 84. Amended by Acts 1937, 45th Leg., p. 790, ch. 386; Acts 1943, 48th Leg., p. 274, ch. 173, § 1; Acts 1969, 61st Leg., p. 2435, ch. 815, eff. June 14, 1969; Acts 1979, 66th Leg., p. 263, ch. 137, § 1, eff. Aug. 27, 1979.]

23.—Brazoria, Matagorda, and Wharton

There shall be two terms of the 23rd Judicial District Court in each of the Counties of Brazoria, Matagorda, and Wharton, Texas.

In Brazoria County the first term shall be known as the April-September term and shall begin each year on the first Monday in April and shall continue until and including Saturday before the first Monday in October of each year; the second term of said court in Brazoria County, Texas, which shall be known as the October-March term, shall begin each year on the first Monday in October and shall continue until and including Saturday before the first Monday in the following April.

In Matagorda County the first term shall be known as the June-November term and shall begin each year on the first Monday in June and shall continue until and including Saturday before the first Monday in December; the second term, which shall be known as the December-May term, shall begin each year on the first Monday in December and shall continue until and including Saturday before the first Monday in the following June.

In Wharton County the first term shall be known as the July-December term and shall begin each year on the first Monday in July and shall continue until and including Saturday next before the first Monday in the following January; and the second term, which shall be known as the January-June term, shall begin each year on the first Monday in January and shall continue until and including Saturday before the first Monday in the following July.

The Judge of said court, in his discretion, may hold as many sessions of court in any term of the

court in any county as is deemed by him proper and expedient for the dispatch of business.

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., p. 12, ch. 8, § 1; Acts 1931, 42nd Leg., p. 746, ch. 293, § 1; Acts 1939, 46th Leg., p. 166, § 1; Acts 1947, 50th Leg., p. 291, ch. 179, § 7; Acts 1981, 67th Leg., p. 54, ch. 25, § 5, eff. April 8, 1981.]

Section 6 of the 1981 amendatory act provides:

"The provisions of Section 5, Chapter 179, Acts of the 50th Legislature, Regular Session, 1947 (Article 199(130), Vernon's Texas Civil Statutes), do not apply to the 23rd District Court and the judge of the 23rd District Court in Fort Bend County."

24.—DeWitt, Goliad, Jackson, Refugio, Calhoun and Victoria

The 24th Judicial District shall be composed of the Counties of DeWitt, Goliad, Jackson, Refugio, Calhoun and Victoria, and the terms of the District Court shall be held therein each year as follows:

In the County of DeWitt on the second Mondays in January and July and may continue in session until the Saturday immediately preceding the Monday for convening the next regular term of such court in such County.

In the County of Goliad on the first Mondays in February and August and may continue in session until the Saturday immediately preceding the Monday for convening the next regular term of such court in such County.

In the County of Jackson on the fourth Mondays in January and July and may continue in session until the Saturday immediately preceding the Monday for convening the next regular term of such court in such County.

In the County of Refugio on the third Mondays in April and October and may continue in session until the Saturday immediately preceding the Monday for convening the next regular term of such court in such County.

In the County of Calhoun on the fourth Mondays in April and October and may continue in session until the Saturday immediately preceding the Monday for convening the next regular term of such court in such County.

In the County of Victoria on the second Mondays in March and September and may continue in session until the Saturday immediately preceding the Monday for convening the next regular term of such court in such County.

[Acts 1925, S.B. 84. Amended by Acts 1929, 41st Leg., p. 348, ch. 163, § 1. Acts 1943, 48th Leg., p. 11, ch. 11; Acts 1983, 68th Leg., p. 5111, ch. 930, § 1, eff. Sept. 1, 1983.]

25.—Gonzales, Colorado, Lavaca and Guadalupe

The 25th Judicial District shall be composed of the Counties of Gonzales, Colorado, Lavaca and Guadalupe, and the terms of the District Court in each of said counties shall be held therein each year as follows:

In the County of Gonzales on the first Mondays in January and June.

In the County of Colorado on the first Mondays in February and September.

In the County of Lavaca on the first Mondays in April and November.

In the County of Guadalupe on the first Mondays in March and October.

Each term of court in each of such counties shall continue until 10:00 A.M. of the Monday herein fixed for the beginning of the next succeeding term thereof.

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

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

If any court in any county of said District shall be in session at the time this Act takes effect, such court shall continue in session until the time for the beginning of the next succeeding term therein, as provided for herein.

[Acts 1925, S.B. 84. Amended by Acts 1929, 41st Leg., p. 396, ch. 182, § 1; Acts 1947, 50th Leg., p. 24, ch. 16, § 1; Acts 1973, 63rd Leg., p. 448, ch. 198, § 1, eff. May 25, 1973.]

Second 25th Judicial District Court.—Gonzales, Colorado, Lavaca and Guadalupe Counties

Sec. 1. The Special 25th Judicial District Court of the Counties of Gonzales, Colorado, Lavaca, and Guadalupe, heretofore established as a temporary District Court in and for such counties under the terms and provisions of Acts of 1954, 53rd Legislature, First Called Session, Chapter 54, page 118, is hereby established as a permanent District Court, the limits of which district shall be coextensive with the limits of said counties. Such court, which shall be known as the Second 25th Judicial District Court, shall have the jurisdiction provided by the Constitution and laws of this State for District Courts; such jurisdiction to be concurrent with that of the 25th Judicial District Court in and for said counties.

Sec. 2. There shall be two terms of the Second 25th Judicial District Court in each of said counties each year as follows:

In the County of Gonzales upon the first Monday in May and December;

In the County of Colorado upon the first Monday in April and November;

In the County of Lavaca upon the first Monday in January and June;

In the County of Guadalupe upon the first Monday in February and September. The Judge of said court in his discretion may hold as many sessions of court during any term of the court in any county as is deemed by him proper and expedient for the dispatch of business. The terms of the District Court in each county shall continue in session until the Saturday immediately preceding the Monday with the convening of the next regular term of court in that particular county.

Sec. 3. The district clerk of the 25th Judicial District shall be the clerk of the Second 25th Judicial District Court in each of the counties.

Sec. 4. The Judge of the Second 25th Judicial District Court or the Judge of the 25th Judicial District Court may hear and dispose of any suit or proceeding on the docket of either of said District Courts of the county in which the action or proceeding is instituted without the necessity of transferring the action or proceeding from one court to another, and the Judges may transfer cases from one court to the other by an order entered on the docket of the court from which the case is transferred. Provided, however, that no case shall be transferred without the consent of the Judge of the court to which transferred. Every judgment and order shall be entered in the minutes of the District Court of the county in which the proceedings are pending and the clerk of the District Court in said county shall keep the minutes of the court in which shall be recorded all the judgments and orders of the respective courts.

Sec. 5. At the expiration date of the Special 25th Judicial District Court on August 31, 1956, the Judge of such court shall continue in office as Judge of the said permanent Second 25th Judicial District Court until the next general election and until his successor shall qualify. The term of the Judge of said court shall thereafter be four (4) years, as provided by law for other District Judges.

Sec. 6. The compensation of the Judge of the Second 25th Judicial District Court shall be the same as the compensation paid to the Judges of other District Courts, including the expenses as provided by law for District Judges.

Sec. 7. The Judge of the Second 25th Judicial District Court shall appoint a shorthand reporter for such court, who shall hold office and be compensated as provided by law.

Sec. 8. Qualified jurors for service in both the said 25th Judicial District Court and the said Second 25th Judicial District Court in the Counties of Gonzales, Guadalupe, Colorado and Lavaca, Texas, shall be selected by Jury Commissioners in accordance with the provisions of Article 2104 of the Revised Civil Statutes of Texas, as amended, and succeeding Articles; and the provisions of Senate Bill No. 466, Chapter 467, Acts of the 51st Legislature of Texas

(Article 2094 Revised Civil Statutes of Texas, as amended) or any other law providing for the selection of petit jurors by the jury wheel method shall not apply in said District Courts in said counties.

Jurors selected by Jury Commissioners as hereinabove provided for may be summoned and used for the trial of civil and criminal cases interchangeably in either of said courts.

[Acts 1955, 54th Leg., p. 689, ch. 249.]

26.—Williamson

The 26th Judicial District shall be composed of the County of Williamson, and the district court shall hold six terms of court each year beginning on the first Mondays in January, March, May, July, September, and November. Each term shall continue until the beginning of the next succeeding term.

Grand juries for Williamson County shall be organized by the 26th District Court at the January, May and September terms of said court; provided, that the judge of said court may, when deemed necessary, organize and impanel grand juries at any other term of said court by entering an order therefor.

[Acts 1925, S.B. 84. Amended by Acts 1981, 67th Leg., p. 58, ch. 25, § 16, eff. April 8, 1981.]

27.—Bell and Lampasas

(a) The 27th Judicial District shall be composed of the Counties of Bell and Lampasas, and the terms of the District Court shall be held therein each year as follows:

In the County of Bell on the first Mondays in January, April, July, and October of each year, and each term of court continues until the next succeeding term begins.

In the County of Lampasas on the first Mondays in March and September and may continue in session until the Saturday night immediately preceding the Monday for convening the next regular term of such court in such County.

(b) The district courts of the 27th, 146th and 169th Districts, in Bell County, shall have concurrent jurisdiction throughout the limits of Bell County in all civil and criminal cases and proceedings of which district courts are given jurisdiction by the constitution and laws of the state. No grand jury shall be impaneled in the district courts of Bell County except by special order of the presiding judge.

(c) The presiding judge of the district courts in Bell County may, in his discretion, either in term time or vacation, transfer any case or cases, civil or criminal, to any other of the district courts by order entered on the minutes of his court, which orders when made, shall be copied and certified to by the clerk of the courts, together with all orders made in the case, and the certified copies of the orders shall be filed among the papers of any case transferred and the fees therefor shall be taxed as part of the

costs of the suit; and where such transfer is made, the clerk of the courts shall enter such cause upon the docket of the court to which such transfer is made, and when so entered upon the docket, the judge of the court to which such cause has been transferred shall try and dispose of the cause in the same manner as if such cause had been filed in his court. Any of the judges may in his own courtroom try and determine any case or proceeding pending in either of the other courts, without having the case transferred, or may sit in any of the other courts and hear and determine any case there pending, and each judgment and order shall be entered in the minutes of the court in which the case is pending with the judge hearing the case indicting on the docket sheet and orders that he is sitting for that district, and two or more judges may try different cases in the same court at the same time, and each may occupy his own courtroom or the room of any other court. In case of absence, sickness or disqualification of any of the judges, any other of the judges may hold court for him.

(d) All bail bonds, recognizances or other obligations, taken for the appearance of the defendants, parties, and witnesses in any of the district courts of Bell County, or any inferior court of Bell County, shall be binding on all such defendants, parties and witnesses and their sureties for appearance in any of the courts in which the cause may be pending or to which same may be transferred. In all cases transferred from one of the courts to another, all process, bonds, recognizances and obligations extant at the time of such transfer shall be returned to and filed in the court to which the case is transferred and shall be valid and binding as though originally issued out of the court to which it is transferred.

[Acts 1925, S.B. 84. Amended by Acts 1931, 42nd Leg., p. 766, ch. 305; Acts 1937, 45th Leg., p. 802, ch. 394; Acts 1943, 48th Leg., p. 8, ch. 9, § 1; Acts 1973, 63rd Leg., p. 1283, ch. 476, § 1, eff. June 14, 1973; Acts 1975, 64th Leg., p. 224, ch. 83, §§ 1 & 2, eff. April 30, 1975; Acts 1977, 65th Leg., p. 321, ch. 154, § 2, eff. Aug. 29, 1977.]

28.—Nueces

The 28th Judicial District of Texas shall be composed of the County of Nueces and shall be a Court of general jurisdiction, with the jurisdiction conferred upon District Courts by the constitution and laws of the State of Texas.

In Nueces County, a term of the 28th District Court to be known as the January-July term shall begin on the first Monday in January of each year and shall continue until and including the Sunday preceding the first Monday in July of the same year and a term to be known as the July-January term shall begin on the first Monday in July of each year and continue until and including the Sunday preced-

ing the first Monday in January of the succeeding year.

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., p. 89, ch. 64, § 1; Acts 1945, 49th Leg., p. 472, ch. 300, § 1; Acts 1947, 50th Leg., p. 776, ch. 385, § 1; Acts 1983, 68th Leg., p. 4630, ch. 794, § 1.]

Section 3 of the 1983 amendatory act provides:

"This Act takes effect on the date a county court at law or a circuit court in Kleberg County is created or January 1, 1986, whichever date occurs first."

29.—Palo Pinto

Sec. 1. The Twenty-ninth Judicial District of Texas shall be composed of the County of Palo Pinto, and the terms of the District Court shall be held therein each year on the first Monday in March of each year; on the first Monday after the third Saturday in June of each year; and on the first Monday after the fourth Saturday in October of each year; and each such terms of Court may continue in session to and including the Saturday immediately preceding the Monday for convening the next regular term of such Court in such County.

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

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., p. 70, ch. 46, §§ 1 to 3; Acts 1931, 42nd Leg., p. 807, ch. 331; Acts 1943, 48th Leg., p. 178, ch. 103, § 1; Acts 1981, 67th Leg., p. 55, ch. 25, § 8, eff. April 8, 1981.]

30.—Wichita

The Thirtieth Judicial District shall be composed of Wichita County, Texas, and the terms of the said District Court shall be held therein each year as follows:

On the first Mondays of January and July of each year and may continue in session until the Saturday immediately preceding the Monday for convening of the next regular term of such Court in Wichita County, Texas.

Any term of Court may be divided into as many sessions as the Judge thereof may deem expedient for the dispatch of business.

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

[Acts 1925, S.B. 84. Amended by Acts 1933, 43rd Leg., p. 880, ch. 251; Acts 1933, 43rd Leg., Spec.L., p. 139, ch. 100; Acts 1941, 47th Leg., p. 1386, ch. 626, § 1; Acts 1943, 48th Leg., p. 302, ch. 196, § 1.]

31.—Gray, Roberts, Hemphill, Lipscomb and Wheeler

The 31st Judicial District of the State of Texas shall be composed of the Counties of Gray, Roberts,

Hemphill, Lipscomb and Wheeler, and the terms of the District Court shall be held therein each year as follows:

Gray County: Beginning on the First Monday of January of each year; and on the First Monday of July of each year.

Roberts County: Beginning on the Second Monday of March of each year; and on the Fourth Monday of August of each year.

Hemphill County: Beginning on the Second Monday of April of each year; and on the First Monday of November of each year.

Lipscomb County: Beginning on the Fourth Monday of March of each year; and on the Second Monday of September of each year.

Wheeler County: Beginning on the Fourth Monday of April of each year; and on the Fourth Monday of November of each year.

Each term of Court in each of such Counties shall continue until 10:00 a.m. of the Monday herein fixed for the beginning of the next succeeding term thereof.

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., p. 60, ch. 42; Acts 1929, 41st Leg., p. 11, ch. 6; Acts 1933, 43rd Leg., p. 878, ch. 250, § 1; Acts 1933, 43rd Leg., Spec.L., p. 128, ch. 96; Acts 1943, 48th Leg., p. 23, ch. 20, § 1; Acts 1947, 50th Leg., p. 494, ch. 290, § 1; Acts 1973, 63rd Leg., p. 683, ch. 289, § 1, eff. June 11, 1973.]

32.—Nolan, Mitchell and Fisher

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

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

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

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

In Fisher County on the second Monday in March, June, and November of each year, and each term may continue in session until the Saturday immediately preceding the Monday for the convening of

the next regular term of the Court in Fisher County.

[Acts 1951, 52nd Leg., p. 7, ch. 7, §§ 1, 2. Amended by Acts 1961, 57th Leg., p. 365, ch. 184, § 1, eff. Jan. 1, 1962.]

33.—Mason, Blanco, San Saba, Llano and Burnet

The Thirty-third Judicial District shall be composed of the Counties of Mason, Blanco, San Saba, Llano and Burnet, and the terms of the district court shall be held therein as follows:

In Mason County, beginning on the second Monday in January and June.

In Blanco County, beginning on the first Monday in February and September.

In San Saba County, beginning on the second Monday in March and October.

In Llano County, beginning on the first Monday in April and November.

In Burnet County, beginning on the fourth Monday in April and November.

Each term of court in each of such counties shall continue until the date herein fixed for the beginning of the next succeeding term. The judge of the district may hold as many sessions of court during each term as is deemed proper and expedient for the dispatch of business.

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., p. 15, ch. 10; Acts 1929, 41st Leg., 3rd C.S., p. 245, ch. 11, § 2; Acts 1943, 48th Leg., p. 46, ch. 42, § 1; Acts 1955, 54th Leg., p. 882, ch. 337, § 4; Acts 1979, 66th Leg., p. 1163, ch. 563, § 1, eff. Sept. 1, 1979.]

Section 4 of the 1979 amendatory act provided:

"This Act takes effect only if the 66th Legislature, Regular Session, does not create two or more new judicial districts in the same Act. If no bill creating two or more new judicial districts by the 66th Legislature, Regular Session, becomes law, this Act takes effect September 1, 1979."

No such bill became law.

34, 41, 65.—El Paso, Hudspeth, and Culberson

El Paso County shall constitute the Forty-first and Sixty-fifth Judicial Districts, and with the Counties of Culberson and Hudspeth, shall constitute the Thirty-fourth Judicial District, and the terms of District Courts therein shall be as follows:

Thirty-fourth District. (a) El Paso County: On the third Monday in September, and may continue four weeks; on the first Monday in November, and may continue until the last Saturday before the 25th day of December; on the first Monday in January, and may continue until the last Saturday before the third Monday in March; on the third Monday in April, and may continue until the last Saturday in June; on the first Monday in July, and may continue until the last Saturday in July.

(b) Culberson County: On the third Monday in October and may continue two weeks; on the first Monday in April, and may continue two weeks.

(c) Hudspeth County: On the third Monday in March, and may continue two weeks; on the first Monday in September, and may continue two weeks.

And the terms of Court in Culberson County and in Hudspeth County may, by order of the Court, entered in the minutes, be continued for such time as may be fixed by said order.

Forty-first District: On the first Monday in January, March, May, September and November, and continue until the last Saturday before the next succeeding term of Court, except the May Term, which shall continue until the last Saturday before the first Monday in July.

Sixty-fifth District: On the first Monday in February, April, June, September, October and December, and continue until the last Saturday before the next succeeding term of Court, except the June Term, which may continue until the last Saturday before the first Monday in August.

The said three District Courts of El Paso County shall have concurrent civil and criminal jurisdiction with each other in said county of matters over which the jurisdiction is given or shall be given by the Constitution and laws of the State of Texas to District Courts; provided, that no Grand Jury shall be impaneled in the District Courts of said County, other than that of the Thirty-fourth Judicial District, unless by special order of the Judge of either of the other District Courts, a Grand Jury shall be called for either of said Courts.

Any one of the Judges of said District Courts in El Paso County may, in his discretion, either in term time or vacation, transfer any case or cases, civil or criminal, to any other of said District Courts by order entered on the minutes of his Court, which orders when made, shall be copied and certified to by the Clerk of said Courts, together with all orders made in said case, and said certified copies of said orders shall be filed among the papers of any case thus transferred, and the fees therefor shall be taxed as part of the costs of said suit. And the Clerk of said Courts shall docket any such cause in the Court to which it shall have been transferred, and when so entered, the Court to which the same shall have been transferred shall have like jurisdiction therein as in cases originally brought in said Court, and the same shall be dropped from the docket of the Court from which it was transferred; provided, that where there shall be a transfer of any case from one Court to another, as herein provided, on motion of either of the parties to said suit, notice must be given to either the opposite party or his attorney by the party making the motion to transfer, one week before the time of entering the order of transfer.

The District Attorney of the Thirty-fourth Judicial District shall also act as District Attorney in and for the Forty-first and Sixty-fifth Judicial Districts, and the Clerk of the District Court of El Paso County

shall act as Clerk of the District Court for each of said District Courts.

[Acts 1925, S.B. 84. Amended by Acts 1929, 41st Leg., p. 211, ch. 92, § 1; Acts 1935, 44th Leg., p. 390, ch. 149, § 1.]

35.—Mills, Brown and Coleman

The 35th Judicial District is composed of the Counties of Mills, Brown and Coleman. The terms of said District Court shall be held in said counties each year as follows:

In the County of Mills on the first Mondays in January, May and October.

In the County of Brown on the first Mondays in February, June and November.

In the County of Coleman on the first Mondays in April and September.

Each term of court in each of such counties may continue in session until the date herein fixed for the beginning of the next succeeding term therein.

[Acts 1925, S.B. 84. Amended by Acts 1931, 42nd Leg., p. 864, ch. 367, §§ 3, 4; Acts 1931, 42nd Leg., 2nd C.S., p. 17, ch. 9; Acts 1943, 48th Leg., p. 185, ch. 106, § 1; Acts 1977, 65th Leg., p. 321, ch. 154, § 1, eff. Aug. 29, 1977.]

Section 2 of the 1977 Act amended subd. 27 of this article; § 3 thereof provided:

"All cases and proceedings pending on the effective date of this Act in McCulloch County in the 35th District Court shall be transferred to the 198th District Court. All process and writs issued from the 35th District Court are returnable to the 198th District Court. The obligees in all bonds and recognizances taken in and for the 35th District Court and all witnesses summoned to appear before the 35th District Court are required to appear before the 198th District Court but not at a time earlier than originally required. Each writ and process is as legal and valid as if it had been made returnable to the 198th District Court."

36.—Aransas, San Patricio, Bee, Live Oak and McMullen

The Thirty-sixth Judicial District shall be composed of the Counties of Aransas, San Patricio, Bee, Live Oak and McMullen, and the terms of this District Court shall be held therein each year as follows:

In the County of Aransas, beginning on the second Monday in February and on the first Monday in September, and may continue in session until 10:00 a.m. of the Monday for convening the next regular term of such Court in Aransas County.

In the County of San Patricio, beginning on the fourth Monday in February and on the third Monday in September, and may continue in session until 10:00 a.m. of the Monday for convening the next regular term of such Court in San Patricio County.

In the County of Bee, beginning on the first Monday in April and on the first Monday in November, and may continue in session until 10:00 a.m. of the Monday for convening the next regular term of such Court in Bee County.

In the County of Live Oak, beginning on the third Monday in January and on the fourth Monday in May, and may continue in session until 10:00 a.m. of

the Monday for convening the next regular term of such Court in Live Oak County.

In the County of McMullen beginning on the first Monday in January and on the third Monday in June, and may continue in session until 10:00 a.m. of the Monday for convening the next regular term of such Court in McMullen County.

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

All process issued and returnable to a succeeding term of Court and all bonds and recognizances made and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding terms of the District Courts of the several counties as herein fixed as though issued and served for such terms and returnable to and drawn for the same. All process issued and made returnable on or before Monday next after the expiration of twenty (20) days from the date of service thereof shall be valid, and unaffected by this Act.

It is further provided that if any Court in any county of said District shall be in session at the time this Act takes effect, such Court or Courts affected thereby shall continue in session until the time for the beginning of the next succeeding term therein, as provided for herein, but thereafter all Courts in said District shall conform to the requirements of this Act.

[Acts 1925, S.B. 84. Amended by Acts 1943, 48th Leg., p. 80, ch. 63, § 1; Acts 1949, 51st Leg., p. 99, ch. 59, § 1.]

37, 45, 57, 73, 131, 144, 150, 166, 175, 186, 187, 224, 225, 226, 227, 285, 288, 289, 290.—Bexar

(A) The enactment and creation of the district courts of Bexar County, Texas, begins with the enactment of Article 199-37, Revised Statutes, as amended, which sets up a number of courts to transact business in Bexar County on the district court level. However, new courts have been added by omnibus courts bills which do not spell out the powers and organization of such courts which has the effect of creating a conflict in the law with some courts having only general powers and others having specific powers under the laws that enact them. This amendment is for the purpose of making uniform insofar as possible the law relating to the system of district courts in Bexar County.

(B) Bexar County shall constitute and include 19 judicial districts. These judicial districts hereby created are the 37th, 45th, 57th, 73rd, 131st, 144th, 150th, 166th, 175th, 186th, 187th, 224th, 225th, 226th, 227th, 285th, 288th, 289th, and the 290th Judicial Districts of Texas. Each of the said 19 district courts shall have and exercise civil and criminal jurisdiction in Bexar County, Texas, and each is a court of general jurisdiction. Said district courts shall have and exercise, in addition to the jurisdiction now conferred or to be conferred by law

on said courts, concurrent jurisdiction coextensive with the limits of Bexar County, Texas, in all actions, proceedings, matters, and causes, both civil and criminal, of which district courts of general jurisdiction are given jurisdiction by the constitution and laws of the State of Texas.

(C) All present judges of said courts cited in Subsection (B) of this article shall continue as judges of the courts to which offices each has been elected, and the tenure of office of said judges shall remain the same as is provided by law.

(D) There shall be two terms of court per year for courts that the relevant enacting provision did not require to give preference to criminal cases. These shall include the 37th, 45th, 57th, 73rd, 131st, 150th, 166th, 224th, 225th, 285th, and 288th District Courts of Bexar County, Texas. The first term of such courts shall begin on the first Monday in January each year and shall continue until and including Sunday next before the first Monday in July of each year; the second term shall begin on the first Monday in July of each year and shall continue until and including the Sunday before the first Monday in the following January.

(E) There shall be six terms of court per year for courts required by law to give preference to criminal cases. These shall include the 144th, 175th, 186th, 187th, 226th, 227th, 289th, and 290th District Courts. The first term shall begin the first Monday in January; one term shall begin on the first Monday in March; one term, the first Monday in May; one term, the first Monday in July; one term, the first Monday in September; one term, the first Monday in November; of each year. Each term is to be two months and each term shall continue until the business is disposed of. Each of the courts named in this paragraph shall give preference to the trial of criminal matters.

(F) The practice and procedure of said courts shall be the same as now prescribed by law and in civil cases or actions as also provided by the Texas Rules of Civil Procedure applicable to district courts having successive terms. Since all courts enacted are courts of general jurisdiction, nothing in this Act relating to preferences shall prevent any court from trying any business before the court system of Bexar County, be it civil or criminal in nature, as time shall allow.

(G)(1) Docketing Criminal Cases. All indictments shall be returned to either the 144th, 175th, 186th, 187th, 226th, 227th, 289th, or the 290th District Court. Each indictment shall be docketed upon the docket of the judicial district to which it is assigned for trial by the presiding criminal judge in rotation in the order in which they are returned or as agreed to by a majority of judges trying criminal cases. The presiding criminal judge shall adjust the case flow so that each district court named above shall receive as close as possible one-eighth of the indictments for trial. The presiding criminal judge shall be the judge receiving the bills of indictment for

that term. He shall also handle all preindictment bond problems and preindictment appointment of counsel. Any other judge may preside in his absence or at his request. Such presiding criminal judge shall from time to time as occasion may require adjust the business and dockets of the criminal courts and transfer or cause to be transferred causes from any of the courts to any other of the courts in order that the business of the courts be continually equalized and distributed among them to the end that each judge will at all times be provided with cases or proceedings to try or otherwise consider. The presiding criminal judge shall be selected by a vote of a majority of the judges giving preference to criminal cases to serve for such time as such judges shall direct.

(2) Docketing Civil Cases. The district clerk shall docket successively on the dockets of the district courts of the 37th, 45th, 57th, 73rd, 131st, 150th, 166th, 224th, 225th, 285th, and 288th judicial districts all civil cases, actions, causes, petitions, applications, or other proceedings so that the first case or proceeding filed on or after the effective date of this Act shall be docketed in the 37th Judicial District, the second in the 45th Judicial District, the third in the 73rd Judicial District, and proceeding on through the list of courts by number in order of the courts listed above docketing civil proceedings and causes; and when each court has been assigned one case, the process is to be repeated in seriatim and in this manner all cases or proceedings filed to be docketed in and divided equally among all of these courts, one-eleventh in each court.

(H) The district judges of Bexar County shall on or before the first day of January and the first day of July of each year or at such other times as may be determined by a majority of the district judges elect one of the district judges to serve as the Presiding Civil Judge of Bexar County District Courts for a period of time to be set by the judges. The presiding civil judge shall from time to time as occasion may require adjust the business and dockets of the courts and transfer or cause to be transferred causes from any of the courts to any other of the courts in order that the business of the courts will be continually equalized and distributed among them to the end that each judge will at all times be provided with cases or proceedings to try or otherwise consider. Such presiding civil judge shall see that the trial of a case will not be delayed because of the disqualification of the judge in whose court it is pending. When a case is transferred, proper orders shall be entered upon the minutes of the court as evidence of the transfer. Each judge shall sign the minutes of each term of his court within 30 days after the end of the term and shall also sign the minutes at the end of each volume of the minutes, and each judge sitting in a court shall sign the minutes of the proceedings that were before him. The clerk is authorized to consolidate the minutes of all of the courts of this entire system, and if he chooses to do so, the signature of the

judge at the end of such minutes or the end of such volume shall be acceptance of responsibility for the transaction of business that that particular judge has personally handled.

(I) In the absence, except as otherwise provided herein, sickness, or disqualification of a judge of any of the district courts of Bexar County, Texas, any of the other judges of the said district courts may act and preside. All judges of the courts named herein have the power to sit for each other and sign orders, judgments, and sentences for each other and in the district of the other without the necessity of formally resorting to transfers between the courts in this system.

(J) All bonds, including bail bonds, personal bonds, appeal bonds, or other obligations, taken for the appearance of the defendants, parties, and witnesses in any of the said district courts of Bexar County, Texas, or any inferior court of Bexar County, Texas, shall be binding on all such defendants, parties, and witnesses and their sureties for appearance in any of said courts in which said cause may be pending or to which same may be transferred. In all cases transferred from one of the said courts to another, all process, bonds, and obligations existing at the time of such transfer shall be returned to and filed in the court to which the case is transferred and shall be valid and binding as though originally issued to out of the court to which it is transferred or returnable thereto.

(K) Each judge of the said district courts of Bexar County, Texas, may take a vacation at any time during the calendar year, during which time the terms of court of which he is judge shall remain open and the judge of any other district court may hold such court during the vacation of the judge thereof. During the period of such vacation, it shall not be lawful for a special judge of such court to be elected by the practicing lawyers of such court because of the absence of the judge on his vacation, unless no judge of the said district courts is in the county. The judges of the said district courts shall by agreement among themselves take their vacations alternately so that there shall be at all times judges in the county at all times of the year.¹

(L) The judge of each of the several district courts shall appoint an official court reporter for his court as provided by the general law who will be compensated as provided by law. Additional court reporters may be hired to service this court system if a majority of the judges agree that such course of action is necessary, and such additional court reporters shall be compensated the same as regular court reporters for the work performed by them. Such additional court reporters shall be assigned to duty in the other courts by the presiding civil district judge. Such employment of additional reporters shall be by a method agreeable to a majority of the district judges of Bexar County.

(M) The Sheriff of Bexar County, as hereinafter provided, either in person or by deputy, shall attend

the several district courts as required by law or when required by the judges, and the sheriff and constables of the several counties of this state when executing process out of the district courts of Bexar County shall receive fees as provided by law for executing process issued out of the district courts. The Sheriff of Bexar County shall appoint one deputy to serve as bailiff for each of the district courts not designated as giving preference to criminal cases. The Sheriff of Bexar County shall appoint two deputies to serve as bailiffs for each court that is required by law to give preference to criminal cases. The persons appointed as deputies must be acceptable to the judge of the court to which they are appointed, and the appointments for each court must be approved and confirmed in writing by the judge before the appointments become effective. The appointed deputy sheriffs before assuming their duties shall take the oath of office prescribed by the Constitution of the State of Texas; and the Sheriff of Bexar County is authorized to require the deputies to furnish bonds in an amount conditioned and payable as may be prescribed by the sheriff or provided by law. The deputies shall act in the name of their principal, and they may perform all official acts as may be lawfully performed by the Sheriff of Bexar County in person. The deputies shall, from and after their appointments, qualification, and confirmation as hereinabove provided, continue as deputies at the pleasure of the judge of the court to which they were appointed; and should any of the judges for any reason not further desire the services of the deputies appointed to his court, the Sheriff of Bexar County shall, upon the request of the judge, appoint another deputy for that court, the appointment to be made in the same manner hereinabove provided. The deputies shall attend all sessions of the district court to which they are appointed and also shall perform and render such services in and for the court and for the judge as are usually performed and rendered by sheriffs and deputies in and about the several district courts of this state, including the serving of any and all processes, subpoenas, warrants, and writs of any and all kinds and nature in both civil and criminal cases, matters, and proceedings; and the deputies shall also perform and render any and all other services that may from time to time be assigned to them or to any of them by the judge of the courts. The deputies shall have, possess, and enjoy the same rights, powers, authority, and privileges that the sheriff and their deputies throughout this state may now or hereafter possess and enjoy. The deputies may act for each other, and they shall act for each other when required to do so by any of the judges or by the sheriff; but the deputies acting for each other are not entitled to receive nor may they receive any additional compensation. The Sheriff of Bexar County shall in the event of a vacancy caused by any reason immediately appoint another deputy for the court in which the vacancy occurred, the appointment to be subject to the written approval and confirmation of the judge of that court. The Sheriff of Bexar County shall fix

the salary paid the deputies for the various courts, said salary to be approved by the commissioners court. The annual salary to be paid to the deputies when fixed by the sheriff as herein provided shall be paid to them twice monthly out of a fund of Bexar County as provided by law for the payment of salaries of the several deputies of the Sheriff of Bexar County, and the payment of the salaries shall be made in the manner by warrant or check as provided by law. Nothing herein shall be construed as preventing the Sheriff of Bexar County from assigning additional deputies to any of the district courts when circumstances require or when requested to do so by the judge of any of the district courts; provided that nothing contained in this Act is intended to change the duties of the Sheriff of Bexar County except as herein specifically and expressly stated.

(N) The clerk of the district courts of Bexar County shall be the clerk of each of the courts named herein and shall be compensated as provided by law. The district clerk shall appoint one or more deputies for each of the district courts; provided that the persons appointed must be acceptable to the judges of the courts, and the appointment for each court must be confirmed in writing by the judge before it becomes effective. The appointed deputy clerks shall, before assuming their duties, take the oath of office prescribed by the constitution and laws of the State of Texas; and the District Clerk of Bexar County is authorized to require the deputies to furnish bonds in an amount conditioned and payable as may be prescribed by the district clerk or provided by law. The deputy district clerks shall act in the name of their principal, and they may perform all official acts as may be lawfully performed by the district clerk in person, and each deputy clerk shall attend all sessions of the court to which he or she was appointed and perform the services in and for the court that are usually performed by the district clerk and deputies in the several district courts of this state, and the deputies shall also perform any and all other services that may from time to time be assigned them by the judges of the courts. The deputies may act for each other in any matter pertaining to the clerical business of the courts, and they act for each other when requested to do so by the judges or by the district clerk; but the deputies acting for each other are not entitled to receive nor may they receive any additional compensation. The deputies shall, from and after their appointments, confirmations, and qualifications as herein provided, continue as deputies at the pleasure of the judges; and should any of the judges for any reason not further desire the services of the deputy or deputies appointed to his court, the District Clerk of Bexar County shall upon request of the judge appoint another deputy for that court, the appointment to be made in the manner hereinabove provided. In the event of a vacancy caused by any reason, the district clerk shall immediately appoint another deputy for the court in which the vacancy occurred, the appointment to be

made in the same manner as the original appointment described above. The District Clerk of Bexar County shall fix the salary of the deputy district clerk appointed for each district court, said salary to be approved by the commissioners court. The annual salaries to be paid to the deputy district clerks shall be paid in equal twice monthly installments out of such funds of Bexar County, Texas, as provided by law for the payment of salaries of the several deputies of the District Clerk of Bexar County, Texas, and such payment of said salaries shall be made in the manner provided by law. Nothing herein shall be construed as preventing the district court of Bexar County from assigning additional deputies to any of the courts when circumstances require, or when requested to do so by the judge of any of the courts. Nothing herein shall be construed as intending to change the duties and powers that heretofore have been and are now being exercised by the District Clerk of Bexar County except as herein specifically and expressly stated.

(O) The Criminal District Attorney of Bexar County shall be the district attorney of all of the districts named in this Act.

(P) Each of the said district courts shall have an official seal as now provided by law for district courts.

(Q) The judges that are required by law to give preference to criminal cases shall have the power to appoint grand jury commissioners or utilize the random selection processes provided by law and empanel grand juries, general and special, as the need arises and by agreement between such judges, and further, they may appoint grand jury bailiffs, not to exceed four. Such grand jury bailiffs shall be appointed jointly by the judges required to give preference to criminal cases, and in case of a dispute, a majority shall make the selection. Such grand jury bailiffs shall serve at the will of the judges, and their removal shall be subject to the same rules as their appointment, to wit, a majority shall have the power to remove the grand jury bailiff or bailiffs or for any cause whatsoever.

[Acts 1925, S.B. 84. Amended by Acts 1935, 44th Leg., p. 499, ch. 210, §§ 1 to 4; Acts 1939, 46th Leg., p. 168, § 1; Acts 1954, 53rd Leg., 1st C.S., p. 105, ch. 51, art. 2, § 3; Acts 1955, 54th Leg., p. 730, ch. 262, § 4; Acts 1963, 58th Leg., p. 1332, ch. 507, § 4(B), eff. Sept. 1, 1963; Acts 1969, 61st Leg., 2nd C.S., pp. 108, 109, 111, 112; ch. 6, §§ 3 to 11, eff. Oct. 1, 1969; Acts 1983, 68th Leg., p. 3170, ch. 542, § 1, eff. Aug. 29, 1983.]

¹ So in enrolled bill.

38.—Medina, Uvalde, and Real

The Thirty-eighth Judicial District shall be composed of the Counties of Medina, Uvalde, and Real, and the terms of the district court shall be held therein as follows:

In Medina County, beginning on the first Monday in January and June.

In Uvalde County, beginning on the first Monday in February and September.

In Real County, beginning on the first Monday in April and November.

Each term of court in each of such counties shall continue until the date herein fixed for the beginning of the next succeeding term. The judge of the district may hold as many sessions of court during each term as is deemed proper and expedient for the dispatch of business.

[Acts 1925, S.B. 84. Amended by Acts 1929, 41st Leg., p. 125, ch. 60, § 1; Acts 1937, 45th Leg., p. 484, ch. 246, § 1; Acts 1943, 48th Leg., p. 35, ch. 32, § 1; Acts 1955, 54th Leg., p. 882, ch. 337, § 1; Acts 1981, 67th Leg., p. 1844, ch. 429, § 9, eff. Sept. 1, 1981.]

Second 38th Judicial District

Acts 1973, 63rd Leg., p. 732, ch. 316, § 6, changed the name of the Second 38th Judicial District to the 216th Judicial District and added Sutton County thereto. See, now, subd. 216 of this article.

39.—Haskell, Stonewall, Kent and Throckmorton

Hereafter the Thirty-ninth Judicial District shall be composed of Haskell, Stonewall, Kent and Throckmorton Counties, Texas, and the terms of the District Court in each of said Counties shall be held therein each year as follows:

Beginning:

In Haskell County, on the first Monday in January; the fifteenth Monday after the first Monday in January; and on the third Monday after the first Monday in September;

In Stonewall County, on the sixth Monday after the first Monday in January; on the twentieth Monday after the first Monday in January; and on the ninth Monday after the first Monday in September;

In Kent County, on the ninth Monday after the first Monday in January and on the first Monday in September;

In Throckmorton County, on the twelfth Monday after the first Monday in January; on the twenty-third Monday after the first Monday in January; on the twelfth Monday after the first Monday in September;

And each term of Court in each of such counties shall continue until the date set herein for the beginning of the next succeeding term thereof. The Judge of said Court may hold as many sessions in any term of Court in any county as is deemed by him proper and expedient for the dispatch of business.

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., p. 44, ch. 32, § 1; Acts 1945, 49th Leg., p. 222, ch. 165, § 1.]

40.—Ellis

On the first Mondays in March, June, September and December and continue until the next succeeding term.

[Acts 1925, S.B. 84.]

41.—El Paso. See 34th District

42.—Taylor, Callahan, and Coleman

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

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

Said Court shall convene in Callahan County on the 8th Monday after the first Monday in January of each year, and may continue in session until the date herein fixed for the convening of the next regular term of such Court in Callahan County; and on the 22nd Monday after the first Monday in January, and may continue in session until the date herein fixed for the convening of the next regular term of such Court in Callahan County; and on the 8th Monday after the first Monday in September, and may continue in session until the date herein fixed for convening of the next regular term of such Court in Callahan County, Texas.

The Court shall hold two terms each year in Coleman County beginning on the first Mondays in January and July. Each term continues until the next succeeding term begins.

[Acts 1925, S.B. 84. Amended by Acts 1929, 41st Leg., p. 467, ch. 217, § 1; Acts 1961, 57th Leg., p. 79, ch. 46, § 2, eff. Sept. 1, 1961; Acts 1983, 68th Leg., p. 4961, ch. 889, § 10, eff. Jan. 1, 1984.]

43.—Parker

(a) The 43rd Judicial District is composed of Parker County.

(b) The District Court for the 43rd Judicial District shall have and exercise all jurisdiction now or hereafter prescribed by the constitution and general laws of this State for district courts. All civil cases and all criminal cases originally filed and now pending on the docket of the 43rd District Court, over which original jurisdiction is assigned to county courts in this state by the constitution and general laws of this State are hereby transferred to the County Court of Parker County.

(c) The terms of the 43rd District Court shall begin on the first Monday in January and the first Monday in July each year, provided, however, that the initial term shall be from September 1, 1971, until the first Monday in January, 1972. Each term of court continues until the next succeeding term begins. The judge of the court, in his discretion, may hold as many sessions of court in any term of the court as are deemed by him proper and expedient for the dispatch of business.

(d) The District Clerk of Parker County shall perform all duties and functions prescribed by the constitution and general laws of this state for district clerks, and such other functions as may be prescribed by the judge of the 43rd District Court, for the efficient administration of the affairs of the district court. The district clerk shall, within 30 days after the effective date of this amendment transfer and deliver to the County Clerk of Parker County all papers in the cases transferred herein. The appellate mandates of any cases on appeal and transferred herein shall be returned to the County Court of Parker County. The judge of the 43rd District Court shall appoint an official shorthand reporter for the court. The reporter shall be a sworn official of the court, and all provisions of law relating to the appointment, qualifications, and duties of official shorthand reporters in this State shall govern. In addition to transcript fees, fees for statements of facts, and other expenses necessary to the office authorized by law, the official shorthand reporter for the 43rd District Court shall be paid a salary set by order of the judge of the court as provided by the general law in Chapter 622, Acts of the 62nd Legislature, Regular Session, 1971 (Article 3912k, Vernon's Texas Civil Statutes). Court bailiffs, court clerks, and secretaries, probation officers and probation department employees shall be appointed by the judge of the 43rd District Court, as in his discretion are necessary for the efficient administration of the affairs of the district court, and paid salaries to be set as authorized by the general law of this State.

(e) Nothing in this Act shall affect the office of the District Attorney of the 43rd Judicial District, except that the district attorney may employ secretarial help. The payment of the salary for secretarial assistance employed under authority of this subsection shall be made from the general fund of Parker County in an amount set by the District Judge of the 43rd Judicial District.

(f) In addition to the compensation provided by law and paid by the state, the Judge of the 43rd Judicial District may receive additional compensation to be determined and fixed by the Commissioners Court in an amount not to exceed \$7,800 annually, to be paid in equal monthly installments out of the general fund or officers' salary fund of Parker County, as compensation for all judicial and administrative services performed by him. The Commis-

sioners Court of Parker County shall make proper budget provisions for the payment of this salary.

[Acts 1925, S.B. 84. Amended by Acts 1947, 50th Leg., p. 963, ch. 417; Acts 1959, 56th Leg., p. 873, ch. 398, § 1, eff. Sept. 1, 1959; Acts 1971, 62nd Leg., p. 1806, ch. 535, § 1, eff. Sept. 1, 1971; Acts 1973, 63rd Leg., p. 1770, ch. 647, § 2, eff. Aug. 27, 1973; Acts 1975, 64th Leg., p. 668, ch. 281, § 1, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 677, ch. 257, § 2, eff. May 25, 1977.]

44.—Dallas. See 14th District

45.—Bexar. See 37th District

46.—Wilbarger, Hardeman and Foard

In the County of Wilbarger

First Term, beginning on the first Monday in January and may continue in session six weeks.

Second Term, beginning on the eleventh Monday after the first Monday in January and may continue in session six weeks.

Third Term, beginning on the twenty-second Monday after the first Monday in January and may continue in session four weeks.

Fourth Term, beginning on the forty-first Monday after the first Monday in January and may continue in session six weeks.

In the County of Foard

First Term, beginning on the sixth Monday after the first Monday in January and may continue in session two weeks.

Second Term, beginning on the seventeenth Monday after the first Monday in January and may continue in session two weeks.

Third Term, beginning on the thirty-sixth Monday after the first Monday in January and may continue in session two weeks.

In the County of Hardeman

First Term, beginning on the eighth Monday after the first Monday in January and may continue in session three weeks.

Second Term, beginning on the nineteenth Monday after the first Monday in January and may continue in session three weeks.

Third Term, beginning on the thirty-eighth Monday after the first Monday in January and may continue in session three weeks.

Fourth Term, beginning on the forty-seventh Monday after the first Monday in January and may continue in session three weeks.

[Acts 1925, S.B. 84. Amended by Acts 1931, 42nd Leg., p. 748, ch. 294.]

47.—Randall, Potter and Armstrong

Sec. 1. The 47th Judicial District shall be composed of the Counties of Randall, Potter, and Armstrong.

Sec. 2. The 47th District Court shall have and exercise all jurisdiction now or hereafter prescribed by the Constitution and laws of this state for district courts.

Sec. 3. The jurisdiction of the 47th District Court shall be concurrent in Randall County with the 181st District Court. The jurisdiction of the 47th District Court shall be concurrent in Potter County with the 108th and 181st District Courts.

Sec. 4. The terms of the 47th District Court shall be as follows:

(a) In the County of Randall, on the first Monday in January; on the sixteenth Monday after the first Monday in January; and on the eighth Monday after the first Monday in August.

(b) In the County of Potter, on the fourth Monday in January; on the fifteenth Monday after the fourth Monday in January; on the first Monday in August; and on the fourteenth Monday after the first Monday in August.

(c) In the County of Armstrong, on the tenth Monday after the fourth Monday in January; and on the eleventh Monday after the first Monday in August.

Each term of court in each county may continue until the date herein fixed for the beginning of the next succeeding term therein. The judge, may in his discretion, hold as many sessions of court in any term of the court in any county as is deemed by him proper and expedient for the dispatch of business.

Sec. 5. (a) The judge of the 47th District Court may transfer cases to the docket of any district court which has jurisdiction over the case with the approval of the judge of the court to which the case is transferred. The judge of the 47th District Court may sit for the judge of any other district court without transferring the case on the dockets.

(b) All process and writs issued out of the district court from which any transfer is made shall be returnable to the court to which the transfer is made. All bonds executed and recognizances entered into in any district court from which any transfer is made shall bind the parties for their appearance or to fulfill the obligations of such bonds and recognizances at the terms of the court to which the transfer is made as the terms are fixed by this Act.

Sec. 6. The district clerk of Potter County shall act as the district clerk for the 47th District Court in Potter County; and the district clerk of Randall County shall act as the district clerk for the 47th District Court in Randall County; and the district clerk of Armstrong County shall act as the district clerk for the 47th District Court in Armstrong County.

Sec. 7. The sheriff of Potter County shall perform for the 47th District Court in connection with all of its cases in Potter County, all of the duties in connection with the court as provided by law for

sheriffs to perform in connection with district courts. The sheriff of Randall County shall perform for the 47th District Court in connection with all its Randall County cases, the duties in connection with the court as provided by law for sheriffs to perform in connection with district courts. The sheriff of Armstrong County shall perform for the 47th District Court in connection with all its Armstrong County cases, the duties in connection with the court as provided by law for sheriffs to perform in connection with district courts.

Sec. 8. The judge of the 47th District Court shall appoint an official shorthand reporter for the court who shall be well-skilled in his profession. The reporter shall be a sworn officer of the court and shall be compensated as provided by law.

Sec. 9. The 47th District Court may hear and determine, in whichever county in the district is convenient for the court, all preliminary or interlocutory matters in which a jury may not be demanded, in any case pending in any county in the district, regardless of whether the cases were filed in the county in which the hearing is held. The District Court for the 47th Judicial District of Texas, may, unless there is some objection filed by a party to the suit, hear, in any county in the district which is convenient for the court, any non-jury case (including but not limited to divorces, adoptions, default judgments, and matters where there has been citation by publication) pending in any county in the district, regardless of whether the cases were filed in the county in which the hearing is held.

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., p. 10, ch. 7; Acts 1933, 43rd Leg., p. 873, ch. 248; Acts 1933, 43rd Leg., Spec.L., p. 55, ch. 47; Acts 1941, 47th Leg., p. 743, ch. 464; Acts 1943, 48th Leg., p. 331, ch. 212, § 1; Acts 1969, 61st Leg., 2nd C.S., p. 159, ch. 23, § 5.007, eff. Sept. 19, 1969].

48.—Tarrant. See 17th District

49.—Webb and Zapata

Sec. 1. The 49th Judicial District is composed of the counties of Webb and Zapata.

Sec. 2. The 49th District Court shall have and exercise all jurisdiction now or hereafter prescribed by the Constitution and laws of this state for district courts.

Sec. 3. The terms of the 49th District Court shall be:

In the County of Zapata on the fourth Mondays in February, May, and September.

In the County of Webb on the third Mondays in March, June, and October.

Each term of court in each county may continue until the date fixed for the beginning of the next succeeding term. The judge of the court, in his discretion, may hold as many sessions of court in any term of the court in any county as is deemed by

him proper and expedient for the dispatch of business.

[Acts 1925, S.B. 84. Amended by Acts 1935, 44th Leg., p. 291, ch. 106; Acts 1943, 48th Leg., p. 37, ch. 34, § 1; Acts 1969, 61st Leg., p. 697, ch. 239, § 1, eff. Sept. 1, 1969; Acts 1981, 67th Leg., p. 1844, ch. 429, § 10, eff. Sept. 1, 1981.]

50.—Baylor, Knox, King and Cottle

(a) The 50th Judicial District of Texas, shall be composed of Baylor, Knox, King and Cottle Counties; the terms of the District Court shall be held therein each year as follows:

In the County of Baylor on the first Monday in January and September.

In the County of Knox on the first Monday in February and October.

In the County of King on the first Monday in March and November.

In the County of Cottle on the first Monday in April and December.

Each term of said Court in each of such counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

(b) The Judge of said Court in his discretion, may hold as many sessions of Court in any term of the Court in any County as is deemed by him proper and expedient for the dispatch of business.

(c) All process issued, bonds and recognizances made, and all grand and petit juries drawn before this Act takes effect shall be valid for, and returnable to, the next succeeding term of the District Courts of the several Counties as herein fixed as though issued and served for such terms and returnable to and drawn from the same.

(d) It is further provided that if any Court in any County of said District shall be in session at the time this Act takes effect, such Court or Courts affected thereby, shall continue in session until the term thereof shall expire under the provisions of existing laws, provided further that the District Court shall convene in the County of Baylor on May 10th, 1943, and continue in session until the next succeeding term as herein provided, and further provided that the District Court shall convene in Knox County, on the first Monday in June, 1943, and shall continue in session until the next succeeding term under the provisions of this Act. Hereafter all Courts in said District shall conform to the general provisions of this Act.

[Acts 1925, S.B. 84. Amended by Acts 1929, 41st Leg., p. 39, ch. 14, §§ 7, 8; Acts 1943, 48th Leg., p. 117, ch. 36, § 1; Acts 1943, 48th Leg., p. 390, ch. 263, § 1.]

51.—Tom Green, Irion, Schleicher, Coke and Sterling

Sec. 1. The following Counties shall hereafter constitute the Fifty-first (51) Judicial District of the

State of Texas, to-wit: Tom Green, Irion, Schleicher, Coke and Sterling.

Sec. 2. The 51st Judicial District of Texas shall continue as it is now to be composed of the Counties of Tom Green, Coke, Irion, Schleicher and Sterling; the terms of the District Court shall be held therein each year as follows:

In the County of Tom Green on the first Mondays in January and June.

In the County of Coke on the first Mondays in February and August.

In the County of Irion on the first Mondays in March and September.

In the County of Schleicher on the first Mondays in April and October.

In the County of Sterling on the first Mondays in May and November.

Each term of Court in each of such Counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

The Judge of said Court may hold as many sessions of Court in any terms of the Court in any County as is deemed by him proper and expedient for the dispatch of business.

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

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

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., 1st C.S., p. 22, ch. 12; Acts 1931, 42nd Leg., p. 864, ch. 367, §§ 1, 2; Acts 1939, 46th Leg., p. 171; Acts 1943, 48th Leg., p. 478, ch. 319, § 1; Acts 1949, 51st Leg., p. 492, ch. 268, § 1; Acts 1953, 53rd Leg., p. 525, ch. 189, § 1.]

52.—Coryell

The 52nd Judicial District of Texas shall be composed of Coryell County, and the terms of the District Court shall be held therein each year on the first Mondays in January and June.

Each term of court may continue until the date herein fixed for the beginning of the next succeeding term therein.

[Acts 1925, S.B. 84. Amended by Acts 1937, 45th Leg., 2nd C.S., p. 1921, ch. 38, § 1; Acts 1943, 48th Leg., p. 395, ch. 267, § 1; Acts 1977, 65th Leg., p. 9, ch. 5, § 3, eff. April 1, 1977.]

53, 98, 126.—Travis

Sec. 1. The 53rd Judicial District shall continue as it is now, to be composed of the County of Travis and the terms of said Court shall remain unchanged and shall be as follows: On the first Monday in January and may continue until and including the last Saturday before the first Monday in March; on the first Monday in March and may continue until and including the last Saturday before the first Monday in May; on the first Monday in May and may continue until and including the last Saturday in July; provided, that said May term may by order of the Court entered in the minutes be continued for such time as may be fixed by said order; and on the first Monday in October and may continue until the last Saturday before the 25th day of December.

Sec. 2. The 98th District Court of Travis County shall continue to be composed of the County of Travis; and the terms of said Court shall be held as follows: on the first Monday in February and may continue until and including the last Saturday in March; on the first Monday in April and may continue until and including the last Saturday in May; on the first Monday in June and may continue until and including the last Saturday in July; provided, that said June term may by order of the Court entered in the minutes be continued for such time as may be fixed by said order; on the first Monday in October and may continue until and including the last Saturday in November; and on the first Monday in December and may continue until and including the last Saturday in January.

Sec. 3. The 126th Judicial District of Texas is hereby created and said Judicial District shall be composed of the County of Travis, and the terms of said Court shall be convened and held as follows: On the first Monday in September and may continue until and including the last Saturday in October; on the first Monday in November and may continue until and including the Saturday before the third Monday in January; on the third Monday in January and may continue until and including the Saturday before the third Monday in March; on the third Monday in March and may continue until and including the Saturday before the third Monday in June; and on the third Monday in June and may continue until and including the last Saturday in July; provided, that said June term may by order of the Court entered in the minutes be continued for such time as may be fixed by said order.

Sec. 4. The said three District Courts of Travis County shall have jurisdiction over all matters, both civil and criminal, of which jurisdiction is given or shall be given by the Constitution and Laws of Texas to District Courts; and said three District Courts shall have concurrent civil and criminal jurisdiction of all matters, civil and criminal, of which jurisdiction is given to the District Court by the Constitution and the Laws of the State of Texas.

Sec. 5. All three of said District Courts shall have the right to select Jury Commissioners and

empanel Grand Juries. The District Judge of the 53rd District Court shall order drawn a Grand Jury for the January and May terms of said Court; the District Judge of the 98th District Court shall order drawn a Grand Jury for the April and October terms of said Court; and the Judge of the 126th District Court shall order drawn a Grand Jury for the September and June terms of said Court. The respective Judges of said Courts may order both Grand and Petit Juries to be drawn for such other terms of his said Court as in his judgment is necessary, by an order entered in the minutes of the Court.

Sec. 6. The Judge of each of said Courts may, in his discretion, either in term time or in vacation, on motion of any party or an agreement of the parties, or on his own motion, transfer any cause, civil or criminal, on his docket to the docket of one of the other said District Courts; and the Judge of said Courts may, in their discretion, exchange benches of Districts from time to time; and whenever a Judge of one of said Courts is disqualified, he shall transfer the case from his Court to one of the other Courts, and any of said Judges may in his own courtroom try and determine any case or proceeding pending in either of the other Courts, without having the case transferred, or may sit in any of the other said Courts and there hear and determine any case there pending, and each judgment and order shall be entered in the minutes of the Court in which the case is pending, and two or more Judges may try different cases in the same Court at the same time and each may occupy his own courtroom or the room of any other Court. In case of absence, sickness or disqualification of any of said Judges, any other of said Judges may hold Court for him. Any of said Judges may hear any part of any case or proceeding pending in any of said Courts and determine the same or may hear or determine any question in any case and any other of said Judges may complete the hearing and render judgment in the case. Any of said Judges may head and determine demurrers, motions, petitions for injunction, application for appointment of receivers, interventions, pleas of privilege, pleas in abatement, and all dilatory pleas, motions for new trials and all preliminary matters, questions and proceedings and may enter judgment or order thereon in the Court in which the case is pending, without having the case transferred to the Court of the Judge acting and the Judge in whose Court the case is pending may thereafter proceed to hear, complete and determine the case or other matter or any part thereof and render final judgment, thereon. Any of the Judges of said Courts may issue restraining orders and injunctions returnable to any of the other Judges or Courts.

Sec. 7. The District Clerk of Travis County shall be the clerk of the District Courts of the 53rd Judicial District, of the 98th District Court and of the 126th Judicial District and shall perform all the duties of clerk of said three Courts; and the District

Attorney for the 53rd Judicial District shall represent the State in all criminal cases in the 98th District Court and in the 126th District Court, as well as in the 53rd District Court, and perform such other duties as are, or may be provided by law governing District Attorneys.

Sec. 9. The Judges of each of said three District Courts, each for his own Court, shall have the right to appoint an official Court Reporter who shall have the qualifications and receive the same compensation as are now, or may hereafter be, fixed by law, for Court Reporters in District Courts.

[Acts 1925, S.B. 84. Amended by Acts 1929, 41st Leg., p. 379, ch. 172; Acts 1931, 42nd Leg., 1st C.S., p. 13, ch. 8.]

54.—McLennan. See 19th District

55.—Harris. See 11th District

56.—Galveston. See 10th District

57.—Bexar. See 37th District

58, 60.—Jefferson

Jefferson County shall constitute the Fifty-eighth Judicial District as well as the Sixtieth Judicial District. Neither of said two district courts shall have or exercise any criminal jurisdiction in Jefferson County, such criminal jurisdiction having been by law vested exclusively in a criminal district court. Said district courts of the Fifty-eighth and Sixtieth Judicial Districts shall have and exercise concurrent jurisdiction coextensive within the limits of Jefferson County in all civil cases, proceedings and matters of which district courts are given jurisdiction by the Constitution and laws of this State. There shall be two terms of each of said two civil district courts in Jefferson County in each year, and the first term, which shall be known as the January-June term, shall be begun in each of said courts on the first Monday in January and shall continue until and including Sunday next before the first Monday in July; and the second term, which shall be known as the July-December term, shall begin in each of said courts on the first Monday in July, and shall continue until and including Sunday next before the first Monday in the following January.

The Clerk of the district court of Jefferson County shall perform the duties of the clerk of the courts of both the Fifty-eighth and Sixtieth Judicial Districts, and in case of vacancy in said office of said clerk, the same shall be filled by appointment by the judge of the Fifty-eighth Judicial District.

In all suits, actions or proceedings it shall be sufficient for the address and designation to be merely the "District Court of Jefferson County," and the clerk of said court shall file and docket the even numbers thereof in the court of the Fifty-eighth Judicial District, and the odd numbers thereof, in the court of the Sixtieth Judicial District, but any cases pending in either of said courts may, in the discretion of the judge thereof, be transferred from one of said district courts to the other, and so on from time to time. In case of the disqualification

of the judge of either of said courts, in any case, such case on the suggestion of such judge of this disqualification entered on the docket, shall stand transferred to the other of said courts, and be docketed by the clerk accordingly.

(a) During each term of said Courts, said Courts may sit at any time in Port Arthur, Texas, to try, hear and determine any civil non-jury cases over which they have jurisdiction, and may hear and determine motions, arguments and such other non-jury civil matters which said Courts may have jurisdiction over; provided further, that nothing herein shall be construed to deprive the Courts of jurisdiction to try non-jury civil cases and hear and determine motions, arguments and such other non-jury civil matters at the county seat at Beaumont, Texas.

The District Clerk of Jefferson County or his deputy shall wait upon the said Courts when sitting at Port Arthur, Texas, and shall be permitted to transfer all necessary books, minutes, records, and papers to Port Arthur, Texas, while the Courts are in session there, and likewise to transfer all necessary books, minutes, records and papers from Port Arthur, Texas, to Beaumont, Texas, at the end of each session in Port Arthur, Texas.

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

The official court reporter of said Courts shall be in attendance upon the Courts while sitting at Port Arthur, Texas, and perform such duties as he may be directed to perform, either as required by law or under the order of the Courts.

The Commissioners Court of Jefferson County, Texas, is hereby authorized to provide suitable quarters for said Courts while sitting at Port Arthur, Texas, which said quarters shall be located within the sub-courthouse in Port Arthur, Jefferson County, Texas.

[Acts 1925, S.B. 84. Amended by Acts 1929, 41st Leg., 2nd C.S., p. 166, ch. 84; Acts 1955, 54th Leg., p. 601, ch. 208, § 1.]

59.—Collin. See 15th District

60.—Jefferson. See 58th District

61.—Harris. See 11th District

62.—Lamar, Delta, Franklin and Hopkins

Sec. 1. (a) The Sixty-second Judicial District of Texas shall be composed of the Counties of Lamar, Delta, Franklin, and Hopkins.

(b) There shall be two (2) terms of each District Court in each County of the district each year, one beginning on the first Monday in January and continuing until the convening of the next regular term, and the other beginning on the first Monday in July and continuing until the convening of the next regular term.

(c) In any of the above-named Counties in which there are two (2) or more District Courts, such District Courts shall have concurrent jurisdiction with each other in said Counties throughout the limits thereof, of all matters, civil and criminal of which jurisdiction is given to the District Court by the Constitution and Laws of this State.

(d) The judge of said Court in his discretion may hold as many sessions of Court in any term of the Court in any County as is deemed by him proper and expedient for the dispatch of business.

(e) In any of the above said Counties in which there are two (2) or more District Courts, the judges of such Courts may, in their discretion, either in termtime or in vacation, on motion of any party or on agreement of the parties, or on their own motion, transfer any case, or proceeding, civil or criminal, on their dockets to the docket of one of the other said District Courts; and the judges of said Courts may, in their discretion, exchange benches or districts from time to time; and whenever a judge of one of said Courts is disqualified, he shall transfer the case, or proceeding, from his Court to one of the other Courts, and any of said judges may in his own courtroom try and determine any case or proceeding pending in either of the other Courts, without having the case transferred or may sit in any of the other said Courts and there hear and determine any case, or proceeding, there pending, and each judgment and order shall be entered in the minutes of the Court in which the case is pending, and two (2) or more judges may try different cases in the same Court at the same time and each may occupy his own courtroom or the room of any other Court. In case of absence, sickness or disqualification of any of said judges, any other of said judges may hold Court for him. Any of said judges may hear any part of any case or proceeding pending in any of said Courts and determine the same or may hear or determine any question in any case or proceeding and any other of said judges may complete the hearing and render judgment in the same. Any of said judges may hear and determine demurrers, motions, petitions for injunction, application for appointment of receivers, interventions, pleas of privilege, pleas in abatement and all dilatory pleas, motions for new trials and all preliminary matters, questions and proceedings and may enter judgment or order thereon in the Court in which the case or proceeding is pending, without having the same transferred to the Court of the judge acting and the judge in whose Court the same is pending may thereafter proceed to hear, complete and determine the same or other matter or any part thereof and render final judgment thereon. Any of the judges of said Courts may issue restraining orders and injunctions returnable to any of the other judges of Courts.

The specific matters mentioned in this Section shall not be construed as any limitation on the powers of such judges when acting for any other judge by exchange of benches or otherwise.

(f) The judge of the Sixty-second Judicial District shall never impanel the grand jury in said court in the Counties of Lamar, Delta, Franklin, and Hopkins, unless in his judgment he thinks it necessary.

(g) The district clerk and the sheriff of each County shall perform all the duties and functions relative to all District Courts of their County as is required by law for the District Court thereof.

Sec. 2. The District Courts of the Sixth and Sixty-second Judicial Districts in Lamar County shall have concurrent jurisdiction with each other in said County throughout the limits thereof, of all matters, civil and criminal, of which jurisdiction is given to the District Court by the Constitution and Laws of the State; and the District Courts of the Sixth and Sixty-second Judicial Districts in Delta County shall have concurrent jurisdiction with each other in said County throughout the limits thereof, of all matters, civil and criminal, of which jurisdiction is given to the District Court by the Constitution and Laws of the State; and the Seventy-sixth and Sixty-second Judicial District Courts in Franklin County shall have concurrent jurisdiction with each other in said County throughout the limits thereof of all matters, civil and criminal of which jurisdiction is given to the District Court by the Constitution and Laws of the State.

Sec. 3. The judge of said Court in his discretion may hold as many sessions of Court in any term of the Court in any county as is deemed by him proper and expedient for the dispatch of business.

Sec. 4. Either of the Judges of the District Court of Lamar County, may, in his discretion, either in termtime or vacation, transfer any case or cases, civil or criminal, that may at any time be pending in his Court, to the other District Court in said County of Lamar, by or for orders entered upon the minutes of the Court making such transfer; and, where such transfer or transfers are made, the Clerk of said Court shall enter such case or cases upon the dockets of said Court to which such transfer or transfers are made, and, when so entered upon the docket, the Judge of said Court shall try and dispose of said cases in the same manner as if such cases were originally filed in said Court. Either of the Judges of the District Court of Delta County may, in his discretion, either in termtime or vacation, transfer any case or cases, civil or criminal, that may at any time be pending in his Court, to the other District Court in said County of Delta, by order or orders entered upon the minutes of the Court making such transfer; and where such transfer or transfers are made, the Clerk of said Court shall enter such case or cases upon the dockets of the Court to which such transfer or transfers are made, and, when so entered upon the docket, the Judge of said Court shall try and dispose of said cases in the same manner as if such cases were originally filed in said Court. Either of the Judges of the District Court of Franklin County may, in his discretion, either in termtime or vacation, transfer

any case or cases, civil or criminal, that may at any time be pending in his Court, to the other District Court in said County of Franklin, by order or orders entered upon the minutes of the Court making such transfer; and, where such transfer or transfers are made, and when so entered upon the docket, the Judge of said Court shall try and dispose of said cases in the same manner as if such cases were originally filed in said Court.

Sec. 5. All processes, writs issued out of, and bonds and recognizances entered into, and all grand and petit jurors drawn and selected before this Act shall take effect shall be valid and returnable to the next succeeding term of the District Court in and for the several Counties, as herein fixed, as though issued and served for such terms, and returnable to and drawn for the same, and all such processes, writs, bonds and recognizances taken before or issued by the Courts and officers of the various Counties affected by this Act shall be as valid as though no change had been made in the length of the terms or the time of the holding thereof of the District court in the Counties affected by this Act.

Sec. 6. The Clerk of the District Court of Delta County shall be the Clerk of both the Eighth and Sixty-second District Courts in said county. The clerk of the District Court of Lamar County, as heretofore constituted, and his successors in office shall be the Clerk of both the Sixth and Sixty-second District Courts in said county respectively. The clerk of the District Court of Franklin County, as heretofore constituted, and his successors in office shall be the clerk of both the Seventy-sixth and Sixty-second District Courts in said county, respectively.

[Acts 1925, S.B. 84. Amended by Acts 1937, 45th Leg., p. 348, ch. 170, §§ 1 to 7; Acts 1947, 50th Leg., p. 793, ch. 394, § 1; Acts 1955, 54th Leg., p. 1198, ch. 473, § 1; Acts 1969, 61st Leg., 2nd C.S., p. 162, ch. 23, § 5.010, eff. Sept. 19, 1969.]

63.—Val Verde, Terrell, Kinney, and Edwards

Sec. 1. The Sixty-third Judicial District shall be composed of the Counties of Val Verde, Terrell, Kinney and Edwards, and the terms of the District Court are hereby designated and shall be held therein each year as follows:

In the County of Val Verde on the first Monday in January and the first Monday in June;

In the County of Terrell on the first Monday in February and the third Monday in August;

In the County of Kinney on the first Monday in April and the first Monday in October; and

In the County of Edwards on the first Monday in May and the third Monday in October.

Each term of Court in each of such counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

Sec. 2. The judge of said court, in his discretion, may hold as many sessions of Court in any term of

the Court in any county as is deemed by him proper and expedient for the dispatch of business.

[Acts 1925, S.B. 84. Amended by Acts 1929, 41st Leg., p. 397, ch. 183, § 1; Acts 1935, 44th Leg., p. 281, ch. 101; Acts 1945, 49th Leg., p. 197, ch. 150, § 1; Acts 1945, 49th Leg., p. 516, ch. 314, §§ 1, 2; Acts 1951, 52nd Leg., p. 3, ch. 3, § 1; Acts 1975, 64th Leg., p. 1341, ch. 500, § 1, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 1844, ch. 429, § 11, eff. Sept. 1, 1981.]

64.—Hale, Swisher and Castro

Sec. 2. From and after the effective date of this Act, the 64th Judicial District shall be composed of the Counties of Hale, Swisher and Castro.

Sec. 6. The terms of the 64th Judicial District Court in each county of the district shall begin on the first Mondays in January and July of each year and be designated as the January and July Terms, respectively.

Sec. 7. Each term of Court shall continue until the convening of the next regular term of Court therein. The Judge of the 64th District Court may, in his discretion, hold as many sessions of Court in any term of Court as may be determined by him to be proper and expedient for the disposition of the Court's business and the jurors therefor may be summoned to appear before such District Court at such time as may be designated by the Judge thereof.

[Acts 1957, 55th Leg., p. 1476, ch. 506. Amended by Acts 1979, 66th Leg., p. 105, ch. 65, § 2, eff. April 19, 1979.]

65.—El Paso. See 34th District

66.—Hill

On the first Mondays in January, March, May, July, September and November, and each term may continue in session for eight (8) weeks.

[Acts 1925, S.B. 84. Amended by Acts 1933, 43rd Leg., 1st C.S., p. 112, ch. 35, § 1.]

67.—Tarrant. See 17th District

68.—Dallas. See 14th District

69.—Moore, Hartley, Sherman and Dallam

The 69th Judicial District shall be composed of the Counties of Moore, Hartley, Sherman, and Dallam and the terms of the District Court as hereby designated and shall be held therein each year as follows:

In the County of Moore on the Tenth Monday after the Second Monday in January and July;

In the County of Hartley on the Twelfth Monday after the Second Monday in January and July;

In the County of Sherman, on the Fourteenth Monday after the Second Monday in January and July;

In the County of Dallam on the Sixteenth Monday after the Second Monday in January and July.

Each term of Court in each of such counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., p. 226, ch. 155; Acts 1943, 48th Leg., p. 101, ch. 72, § 1; Acts 1947, 50th Leg., p. 259, ch. 154, § 3; Acts 1977, 65th Leg., p. 10, ch. 5, § 4, eff. April 1, 1977.]

70.—Midland and Ector

Sec. 1. From and after the passage of this Act, the 70th Judicial District of Texas shall be composed of and confined to the Counties of Midland and Ector.

Sec. 2. The terms of the 70th Judicial Court shall be as follows:

In the County of Midland on the first Monday in February, April, June, September, and November.

In the County of Ector on the first Monday in January, March, May, July, October, and December.

Each term of Court in each of such Counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., p. 134, ch. 87, § 1; Acts 1929, 41st Leg., p. 50, ch. 19, § 1; Acts 1933, 43rd Leg., p. 371, ch. 145, § 2; Acts 1935, 44th Leg., p. 150, ch. 63; Acts 1941, 47th Leg., p. 417, ch. 247, § 1; Acts 1943, 48th Leg., p. 44, ch. 1; Acts 1949, 51st Leg., p. 620, ch. 330.]

71.—Harrison

The 71st Judicial District shall be composed of the County of Harrison, and the terms of the District Court are hereby designated and shall be held therein each year as follows: On the first Monday in January, March, May, July, September, and November of each year and each term of the court shall continue in session until and including the Saturday before the next succeeding term begins or until all business is disposed of.

[Acts 1925, S.B. 84. Amended by Acts 1943, 48th Leg., p. 380, ch. 254, § 1; Acts 1969, 61st Leg., 2nd C.S., p. 156, ch. 23, § 5.001, eff. Sept. 19, 1969.]

72.—Crosby and Lubbock

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

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

In the County of Lubbock, beginning on the second Monday in February and the second Monday in August.

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., 1st C.S., p. 72, ch. 22, §§ 1, 4; Acts 1929, 41st Leg., p. 104, ch. 49, § 1; Acts 1943, 48th Leg., p. 3, ch. 4, § 1; Acts 1959, 56th Leg., p. 425, ch. 190, § 2, eff. Sept. 1, 1959.]

73.—Bexar. See 37th District

74.—McLennan. See 19th District

75.—Liberty

Sec. 1. The 75th Judicial District shall be composed of Liberty County. The District Court of the 75th Judicial District shall have and exercise civil and criminal jurisdiction coextensive with the limits of Liberty County in all actions, proceedings, matters and causes of which District Courts of general jurisdiction are given jurisdiction by the Constitution and laws of the State of Texas.

Sec. 2. There shall be two (2) terms of the District Court of the 75th Judicial District, beginning on the first Mondays of April and October of each year, each of said terms to continue until the beginning of the next succeeding term of said Court.

[Acts 1925, S.B. 84. Amended by Acts 1949, 51st Leg., p. 319, ch. 152, §§ 1 to 4; Acts 1955, 54th Leg., p. 1056, ch. 399; Acts 1983, 68th Leg., p. 4962, ch. 889, § 11, eff. Sept. 1, 1983.]

76.—Titus, Camp, and Morris

Sec. 1. (a) The 76th Judicial District of Texas shall be composed of the Counties of Titus, Camp, and Morris, and the terms of the District Court within those Counties shall be held as follows:

Beginning on the first Mondays in January, May, July, and November and beginning on the third Monday in September in Morris County; beginning on the first Mondays in February, August, September, October, and December in Titus County; and beginning on the first Mondays in March and April in Camp County. Each term of court continues in each county until the next succeeding term of the court begins.

(b) The Judge of the Court, in his discretion, may hold as many sessions of court in any term of the Court in any county as may be deemed by him proper and expedient for the dispatch of business.

Sec. 2. The Clerk of the District Court in each of the Counties, and his successors in office, shall be the Clerk of the 76th Judicial District Court in the Counties, and shall perform all duties pertaining to the Clerkship of the Court.

Sec. 3. The Judge and all District Officers of the 76th Judicial District, as heretofore constituted, shall be the Judge and District Officers of the 76th Judicial District as constituted and reorganized by this Act, during the terms for which each was respectively elected.

Sec. 4. All processes, writs and bonds, civil and criminal, issue or executed prior or subsequent to the taking effect of this Act and returnable to the terms of the Court as heretofore fixed by law in the several Counties composing the 76th Judicial District as well as all grand and petit jurors, are made returnable to the terms of the Court, as the terms are fixed by this Act, and in conformity with the changes made herein. All bonds executed and re-

cognizances entered into in the Court shall bind the parties for their appearances, or to fulfill the obligations of the bonds and recognizances at the terms of the Court as they are here fixed by this Act. All processes of any kind heretofore issued or returned, as well as all bonds and recognizances heretofore or hereafter taken or entered into in any of the Courts of the District shall be as valid and as binding as if no change had been made in the time of holding the Courts.

Sec. 5. (a) The District Court of the 76th Judicial District in Titus, Camp, and Morris Counties shall exercise general jurisdiction over civil and criminal matters as is now, or may hereafter be provided by law.

(b) The 76th Judicial District Court in Camp, Morris, and Titus Counties shall have concurrent jurisdiction with the 276th Judicial District Court in the counties. The Judges of the 76th and 276th District Courts in Camp, Morris, and Titus Counties may transfer on their dockets any case to be tried in Camp, Morris, and Titus Counties with the consent of the Court to which transferred, and each may sit in the other Court to hear cases without transferring the case.

(c) The 76th District Court in each of the Counties of Camp and Morris shall have and exercise concurrent jurisdiction with the County Court over all matters of criminal jurisdiction, original and appellate, in cases over which under the constitution and laws of this state the County Court has jurisdiction. In each of the counties, matters and proceedings in the concurrent jurisdiction of the 76th District Court and the County Court may be filed in either Court and all cases of concurrent jurisdiction may be transferred between the 76th District Court and the County Court.

(d) All writs and processes issued and bonds and recognizances made in cases transferred are returnable to the Court to which transferred, as if originally issued there. The officers serving the 76th District Court in Camp, Morris, and Titus Counties shall serve in the same manner the 276th Judicial District Court in Camp, Morris, and Titus Counties.

Sec. 6. The Judge of the 76th Judicial District Court in Titus County shall have summoned and empaneled a Grand Jury for the terms beginning in that County on the first Monday in January of each year and the thirty-seventh Monday after the first Monday in January of each year; and for the term beginning on the sixteenth Monday after the first Monday in January of each year the Judge of that Court in his discretion may have a Grand Jury summoned and empaneled. In the event a Grand Jury is not had for the term, all bonds, processes issued, recognizances made, and all writs of any nature whatsoever, shall be valid and returnable to

the next succeeding term of Court in Titus County as though issued and served for each term.

[Acts 1925, S.B. 84. Amended by Acts 1937, 45th Leg., p. 270, ch. 142, § 1; Acts 1939, 46th Leg., p. 173, § 1; Acts 1949, 51st Leg., p. 210, ch. 115, § 1; Acts 1971, 62nd Leg., p. 1015, ch. 199, § 2, eff. July 1, 1971; Acts 1975, 64th Leg., p. 1857, ch. 581, § 1, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 55, ch. 25, § 9, eff. April 8, 1981.]

Section 20 of the 1981 amendatory act provides:

"The county attorney in each of the Counties of Yoakum and Morris shall represent the state in all matters pending before the district court in his respective county. The duties of the District Attorney of the 76th Judicial District in the County of Morris are divested from him and invested in the county attorney. The District Attorney of the 76th Judicial District shall represent the state in all matters pending before the district court in the Counties of Titus and Camp and shall be elected from only the Counties of Titus and Camp.

77, 87.—Limestone and Freestone

The terms of the 77th District Court shall be as follows:

1. Limestone County: On the first Mondays in December, March, June and September of each year; and each term of said court shall continue in session until the date herein fixed for the beginning of the next succeeding term.

2. Freestone County: On the first Mondays in February, May, August and November of each year; and each term of said court shall continue in session until the date herein fixed for the beginning of the next succeeding term.

The said district court shall have concurrent jurisdiction of all cases, civil and criminal and appellate, over which the district courts of this State have jurisdiction under the Constitution and laws of this State, co-extensive with the limits of Limestone County and Freestone County, respectively, and grand juries shall be drawn for the Eighty-seventh District Court in Limestone County at the May and November terms and grand juries shall be drawn for said court in Freestone County for the January and July terms, and at such other terms of said court, both in Limestone and Freestone Counties, as the judge of said court may, from time to time, so order. There shall be organized grand juries at the March and September terms of the Seventy-seventh District Court in Limestone County, and at the May and November terms of said court in Freestone County, and at such other terms of said court in each county, as may be determined and ordered by the judge thereof.

The judges of the Seventy-seventh and Eighty-seventh Districts for the counties of Limestone and Freestone shall each, in his discretion, either in term time or vacation, on motion of any party, or on agreement of the parties, or in his own motion, where he thinks the administration of justice may be facilitated thereby, or for the purpose of equalizing the dockets of said court, transfer any cause, civil or criminal, from the dockets of their respective courts to the docket of the other district court of said county, and shall cause said transfer to be

entered of record upon the minutes of his court, whereupon the clerk of the district court to which said cause has been transferred shall docket same and the same shall be tried and disposed of as if it had been originally filed in said court, and no transcript of the record shall be necessary to the jurisdiction of the court to which such case has been transferred and no formal proceedings shall be necessary to such transfer; provided that in any cause pending on any of the dockets of said district courts in either of said counties in which the judge of said court may be disqualified, recused or otherwise unable to try, he shall transfer said cause as above provided, to the other district court in the county where such cause is pending.

The clerks of the said district courts shall make up the dockets of the district courts of said counties, respectively, and shall file the new cases in the courts to which he may be directed to file same by the party filing them; and all criminal cases shall be originally filed in the court to which the indictment or information is returned, and all appeals in probate cases shall be to the court beginning the first term after such appeal is filed. The clerks of said courts shall respectively prepare civil, divorce, criminal and tax dockets as may now be customary or provided by law for the Seventy-seventh and the Eighty-seventh District Courts in their respective counties, and shall place letters on the envelope containing the file papers in each case after the number of said case, designating by the letter "A" causes pending in the Seventy-seventh District Court, and by the letter "B" causes pending in the Eighty-seventh District Court.

The clerk of the Seventy-seventh District Court in Limestone County and the clerk of the Seventy-seventh District Court in Freestone County shall be the clerk of the Eighty-seventh District Court of said counties, respectively; and the district attorney of the Seventy-seventh Judicial District shall be district attorney of said district in both Limestone and Freestone Counties and shall represent the State in all criminal causes in said court in said counties. The office of district attorney for the Eighty-seventh District is hereby abolished, and the duties enjoined by law upon said attorney shall be performed by the respective county attorneys of said district.

[Acts 1925, S.B. 84. Amended by Acts 1949, 51st Leg., p. 685, ch. 357, § 1.]

78.—Wichita

The Seventy-eighth Judicial District of Texas shall be composed of Wichita County as now constituted, and the District Court and terms thereof shall be held therein as follows: Beginning the First Mondays in March, June, September and December, in each year, and each of said terms shall continue until, and close at midnight of the Saturday preceding the Monday for the opening of the new and succeeding term, but nothing herein shall prevent the judge of said court from adjourning the same

prior to the end of the term if the work of the court has been finished.

[Acts 1925, S.B. 84. Amended by Acts 1929, 41st Leg., p. 405, ch. 186, §§ 1, 2.]

79.—Jim Wells and Brooks

Sec. 1. The 79th Judicial District shall be composed of the counties of Jim Wells and Brooks.

Sec. 2. The 79th District Court shall have and exercise all jurisdiction now or hereafter prescribed by the Constitution and laws of this state for district courts.

Sec. 3. The terms of the 79th District Court shall be:

In the County of Brooks, beginning at 10 a.m. on the first Monday in February and at 10 a.m. on the first Monday in September and may continue in session until 10 a.m. of the Monday for convening the next regular term of such court in Brooks County.

In the County of Jim Wells, beginning at 10 a.m. on the first Monday in March and at 10 a.m. on the first Monday in October and may continue in session until 10 a.m. of the Monday for convening the next regular term of such court in Jim Wells County.

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

[Acts 1925, S.B. 84. Amended by Acts 1931, 42nd Leg., p. 876, ch. 370; Acts 1933, 43rd Leg., 1st C.S., p. 131, ch. 38; Acts 1950, 51st Leg., 1st C.S., p. 90, ch. 27, § 1; Acts 1969, 61st Leg., p. 697, ch. 239, § 2, eff. Sept. 1, 1969.]

80.—Harris County

The Eightieth District shall be composed of Harris County.

Sec. 1. There shall be two terms of the district court of the Eightieth Judicial District in each year, and the first term in each year, which shall be known as the January-June term, shall be begun on the first Monday in January in each year and shall continue until and including Sunday next before the first Monday in July of the same year, and the second term in each year, which shall be known as the July-December term, shall be begun on the first Monday in July in each year and shall continue until and including Sunday next before the first Monday in the following January.

Sec. 2. All cases and proceedings pending in the district court of Waller County when this law takes effect, shall be and are hereby transferred from the Eightieth Judicial District as now constituted by said county, to the Ninth Judicial District Court as constituted by this Act; and all cases and proceedings pending in the district court of the Seventy-fifth Judicial District in Montgomery County when this law takes effect, shall be and are hereby transferred from the docket of the Seventy-fifth Judicial

District Court as the same is now constituted in said county, to the docket of the Ninth Judicial District Court as the same is constituted by this Act; and all cases and proceedings pending on the docket of the Ninth Judicial District Courts in the counties of Hardin and Liberty when this Act takes effect, shall be and the same are hereby transferred from the Ninth Judicial District as now constituted in said counties, to the dockets of the Seventy-fifth Judicial District Courts of said Hardin and Liberty Counties as the same are constituted by this Act, and the judges of said Ninth and Seventy-fifth Judicial Districts as created by this Act shall carry into effect these provisions.

Sec. 3. The present judges of the Ninth and Seventy-fifth Judicial Districts as the same now exists, shall remain the district judges of their respective districts as reorganized under the provisions of this Act, and shall hold their offices until the next general election and until their successors are appointed or elected and duly qualified, and they shall receive the same compensation as is now, or may hereafter be provided by law for district judges, and a vacancy in either of said offices shall be filled as is now, or may hereafter be provided by law, and the present judge of the district court for the Eightieth Judicial District shall hold his office until his term expires and until his successor is elected and qualified, and a judge of said court shall hereafter be elected at the time and in the manner provided by law by the qualified voters of Harris County.

Sec. 4. The district attorneys of the Ninth and Seventy-fifth Judicial Districts as the same now exists, shall be and continue to remain as the district attorneys of said Ninth and Seventy-fifth Judicial Districts as the same are hereby reorganized, unless disqualified under the law to hold such offices hereunder, in which event the Governor shall appoint a district attorney for one or both of said districts with the qualifications required by law and he shall receive the salary as provided by law for such officers.

Sec. 5. All process and writs issued out of the district courts of the Seventy-fifth Judicial District in Montgomery County and out of the district court of the Ninth Judicial District in Hardin and Liberty Counties, and out of the district court of the Eightieth Judicial District in Waller County and all jurors selected prior to the taking effect of this Act are hereby made returnable to the terms of the Ninth Judicial District Court in Waller County and Montgomery County and the Seventy-fifth Judicial District Courts in Hardin and Liberty Counties, as said terms are fixed by this Act; and all bonds executed and recognizances entered in said courts shall bind the parties for their appearances or to fulfill the obligations of such bonds and recognizances at the terms of said courts as they are fixed by this Act; and all processes heretofore returned, as well as all bonds and recognizances heretofore taken in any of the district courts of said counties shall be as valid

as though no change had been made in said districts and the times of holding courts therein.

Sec. 6. Should a district court be in session under the existing law in any county affected by this Act, the same shall continue and end its term under such existing law as if no change in the district had been made, and all process writs, judgments and decrees issued and rendered therein shall be valid and shall not be affected by the change of said districts and the time of holding courts therein made by this Act.

[Acts 1925, S.B. 84.]

81.—Karnes, Frio, LaSalle, Atascosa and Wilson

The Eighty-first Judicial District shall be composed of the Counties of Karnes, Frio, LaSalle, Atascosa, and Wilson, and the terms of the District Court are hereby designated and shall be held therein each year as follows:

In the County of LaSalle on the first Monday in March, and the first Monday in September.

In the County of Atascosa on the third Monday in March, and the third Monday in September.

In the County of Wilson on the second Monday in April, and the second Monday in October.

In the County of Karnes on the first Monday in May, and the first Monday in November.

In the County of Frio on the fourth Monday in May, and the fourth Monday in November.

Each term of Court in each of such Counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

The Judge of said Court in his discretion may hold as many sessions of Court in any term of Court in any County as is deemed by him proper and expedient for the dispatch of business.

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

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

[Acts 1925, S.B. 84. Amended by Acts 1943, 48th Leg., p. 22, ch. 19, § 1.]

82.—Falls and Robertson

Section 1. The 82nd Judicial District of the State of Texas is composed of the Counties of Falls and Robertson. The terms of the District Court shall be held on the first Monday in the months of January,

March, May, September and November in Falls County and on the first Monday in the months of January and July in Robertson County. Each term may continue until the beginning of the next succeeding term. Grand juries in Falls County shall be organized at the May and November terms of said court, and at such other terms as the judge of said district may determine and order.

Sec. 2. The District Court of the 82nd Judicial District shall have all the jurisdiction prescribed by the constitution and laws of this state for district courts and also shall have and exercise original and appellate jurisdiction in all civil and criminal matters and causes over which the county courts have original or appellate jurisdiction.

[Acts 1925, S.B. 84. Amended by Acts 1975, 64th Leg., p. 84, ch. 39, § 2, eff. April 8, 1975; Acts 1983, 68th Leg., p. 2744, ch. 468, § 2, eff. Aug. 29, 1983.]

83.—Jeff Davis, Presidio, Brewster, Pecos, Upton and Reagan

The terms of the District Court of the 83rd Judicial District of this State composed of the Counties of Jeff Davis, Presidio, Brewster, Pecos, Upton and Reagan shall be held as follows:

Jeff Davis County: On the second Monday in January and July of each year and may continue in session until and including the Saturday immediately preceding the Monday for convening of the next regular term of said Court in Jeff Davis County.

Presidio County: On the third Monday after the first Monday in January and July of each year and may continue in session until and including the Saturday immediately preceding the Monday for convening the next regular term of said Court in Presidio County.

Brewster County: On the sixth Monday after the first Monday in January and July of each year and may continue in session until and including the Saturday immediately preceding the Monday for convening the next regular term of said Court in Brewster County.

Pecos County: On the ninth Monday after the first Monday in January and July of each year and may continue in session until and including the Saturday immediately preceding the Monday for convening the next regular term of said Court in Pecos County.

Upton County: On the twelfth Monday after the first Monday in January and July of each year and may continue in session until and including the Saturday immediately preceding the Monday for convening the next regular term of said Court in Upton County.

Reagan County: On the fourteenth Monday after the first Monday in January and July of each year and may continue in session until and including the Saturday immediately preceding the Monday for

convening the next regular term of said Court in Reagan County.

[Acts 1925, S.B. 84. Amended by Acts 1929, 41st Leg., 3rd C.S., p. 245, ch. 11, § 3; Acts 1953, 53rd Leg., p. 393, ch. 109, § 1.]

84.—Hutchinson, Hansford and Ochiltree

The 84th Judicial District of the State of Texas, shall be composed of the Counties of Hutchinson, Hansford and Ochiltree, and the terms of the District Court shall be held therein each year as follows:

Hutchinson County: Beginning on the First Monday of June of each year; and on the Fourth Monday of November of each year.

Hansford County: Beginning on the Third Monday of March of each year; and on the Second Monday of September of each year.

Ochiltree County: Beginning on the Fourth Monday of April of each year; and on the Second Monday of October of each year.

Each term of court in each of such counties shall continue until 10:00 a.m. of the Monday herein fixed for the beginning of the next succeeding term thereof.

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

[Acts 1927, 40th Leg., p. 60, ch. 42. Amended by Acts 1929, 41st Leg., p. 11, ch. 6; Acts 1931, 42nd Leg., p. 826, ch. 342, § 1; Acts 1933, 43rd Leg., p. 875, ch. 249, § 1; Acts 1933, 43rd Leg., Spec.L., p. 103, ch. 79; Acts 1937, 45th Leg., p. 688, ch. 346, § 1; Acts 1943, 48th Leg., p. 102, ch. 73, § 1; Acts 1947, 50th Leg., p. 494, ch. 290, § 2; Acts 1963, 58th Leg., p. 82, ch. 51, § 1, eff. April 12, 1963.]

85.—Brazos

The 85th Judicial District of the State of Texas shall hereafter be composed of the County of Brazos. The terms of the District Court shall be held therein on the first Monday in April and October and may continue until the date herein fixed for the beginning of the next succeeding term therein.

[Acts 1925, S.B. 84. Amended by Acts 1943, 48th Leg., p. 39, ch. 36, § 1; Acts 1949, 51st Leg., p. 76, ch. 44, § 1; Acts 1965, 59th Leg., p. 414, ch. 202, § 2, eff. Sept. 1, 1965.]

86.—Kaufman and Rockwall

Sec. 1. The Eighty-sixth Judicial District of Texas shall be composed of the Counties of Kaufman and Rockwall, and the terms of the District Court are hereby designated and shall be held therein each year as follows:

In the County of Kaufman on the first Mondays in February and July.

In the County of Rockwall on the first Mondays in April and October.

Each term of Court in each of such Counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

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

[Acts 1925, S.B. 84. Amended by Acts 1935, 44th Leg., p. 145, ch. 59, § 1; Acts 1941, 47th Leg., p. 394, ch. 226, § 1; Acts 1943, 48th Leg., p. 59, ch. 53, § 1; Acts 1981, 67th Leg., p. 1845, ch. 429, § 12, eff. Sept. 1, 1981.]

87.—Anderson, Limestone, Freestone and Leon

Sec. 1. The terms of the 87th District Court shall be as follows:

1. Anderson County: On the first Mondays in February and August of each year; and each term of said court shall continue in session until the date herein fixed for the beginning of the next succeeding term.

2. Limestone County: On the first Mondays in May and November of each year; and each term of said court shall continue in session until the date herein fixed for the beginning of the next succeeding term.

3. Freestone County: On the first Mondays in January, April, July and October of each year; and each term of said court shall continue in session until the date herein fixed for the beginning of the next succeeding term.

4. Leon County: On the fifth Monday after the first Monday in May, and on the fifth Monday after the first Monday in November of each year; and each term of said court shall continue in session until the date herein fixed for the beginning of the next succeeding term.

Sec. 2. The Judge of the 87th Judicial District now elected and acting as such, shall, after the passage of this Act, continue to hold the office of District Judge until the time for which he has been elected expires, and until his successor is duly elected and qualified.

Sec. 3. The Clerk of the District Court of each of the Counties of Anderson, Limestone, Freestone and Leon, and his successor in office, shall be the Clerk of the 87th Judicial District Court from and after the passage of this Act, in his respective county, until the time for which he has been elected expires, and until his successor is duly elected and qualified.

Sec. 4. The District Attorney of the 12th Judicial District now elected and acting, shall represent the State in all criminal and civil actions in which the State is interested, arising in the 87th Judicial District of Leon County, Texas.

In Anderson County, the District Attorney of the Third Judicial District now elected and acting, shall continue to represent the State in all criminal and civil actions in which the State is interested, arising

in the 87th District Court of said County. In Freestone and Limestone Counties, the County Attorney of each county shall continue to represent the State in all criminal and civil actions in which the State is interested, arising in the 87th Judicial District in said counties respectively.

Sec. 5. That the District Court of the 87th Judicial District, shall have such jurisdiction and power as is conferred on District Courts under the Constitution and existing laws of Texas, and as shall be hereafter given by law.

Sec. 6. The Judge of the 12th Judicial District of Texas, may, in his discretion, either in term time or in vacation, by order entered upon the minutes of the District Court of Leon County, transfer any case or cases that may at that time be pending in said 12th Judicial District Court of that county, to the District Court of the 87th Judicial District, reorganized by this Act, and holding session in that county, and said 87th District Court shall have the same power and authority to try and finally dispose of such case or cases so transferred as the Court possessed from which the same were transferred; and the Judge of the 87th District Court may, in his discretion, either in term time or in vacation by order or orders entered upon the minutes of his Court, in Leon County, transfer any case or cases pending upon his docket to the District Court of the 12th Judicial District, holding sessions in Leon County, and when such case or cases are transferred, the Court in which the transfer is made shall have the same right and authority to try and finally dispose of same as was originally had by said 87th District Court. In all counties wherein there are two separate District Courts, under the provisions of this Act, either of the Judges of said Courts may in their discretion, either in term time, or vacation, transfer any case or cases, civil or criminal, that may at any time be pending in his Court, to the other District Court in said county, by order or orders entered upon the minutes of the Court making such transfer; and, when such transfer or transfers are made, the clerks of said Court shall enter such case or cases upon the dockets of the Court to which such transfer or transfers are made, and when so entered upon the docket the Judge of said Court shall try and dispose of said cases in the same manner as if such cases were originally filed in said Court.

Sec. 7. Any party or persons desiring to bring a civil suit over which the District Court of the 12th Judicial District has jurisdiction in Leon County, shall have the right to file same either in said Court or in the 87th District Court, hereby reorganized, subject to the rights of the Judges of said Courts to transfer the same as herein provided.

Sec. 8. The District Clerk of Leon County shall, immediately upon taking effect of this Act, secure a seal having engraved thereon a star of five points in the center and the words, "87th District Court of Leon County, Texas," and the imprints of which

shall be attached to all processes, issued out of said 87th District Court, except subpoenas out of said 87th District Court in said county, and shall be kept by said Clerk and used to authenticate his official acts as Clerk of said Court.

[Acts 1939, 46th Leg., p. 176. Amended by Acts 1939, 46th Leg., p. 181, § 1; Acts 1949, 51st Leg., p. 686, ch. 358, § 1.]

88.—Hardin and Tyler

Sec. 3. The 88th Judicial District shall be composed of and confined to Hardin and Tyler Counties, and shall be known as the District Court of the 88th Judicial District. The District Court of the 88th Judicial District shall have and exercise civil and criminal jurisdiction co-extensive with the limits of Hardin and Tyler Counties in all actions, proceedings, matters and causes of which District Courts of general jurisdiction are given jurisdiction by the Constitution and laws of the State of Texas.

Sec. 4. There shall be two (2) terms of the District Court of the 88th Judicial District, composed of the Counties of Hardin and Tyler, in each of said Counties each year, as follows:

In Hardin County beginning on the first Mondays of April and October of each year, each of said terms to continue until the beginning of the next succeeding term of said Court in Hardin County.

In Tyler County beginning on the first Mondays of June and December of each year, each of said terms to continue until the beginning of the next succeeding term of said Court in Tyler County.

Sec. 6. The Judge of the District Court of the 88th Judicial District now serving as such, shall continue to serve as Judge of the 88th Judicial District in and for Hardin and Tyler Counties until the term for which he has been elected expires and until his successor is duly elected and qualified.

Sec. 7. (a) The District Attorney of the 88th Judicial District is elected only from Hardin County.

(b) The District Attorney of the 88th Judicial District shall perform the duties imposed and have the powers conferred on District Attorneys by the general law of this state in Hardin County. The District Attorney may not perform the duties of and may not exercise the powers conferred on District Attorneys in Tyler County.

Sec. 10. The District Clerks of Hardin and Tyler Counties shall continue to serve as Clerks of the 88th Judicial District in and for Hardin and Tyler Counties, respectively, until the terms for which elected have expired and until their successors are duly elected and qualified. Such clerks shall be compensated as provided by law for District Clerks.

Sec. 12. The official shorthand reporter of the District Court of the 88th Judicial District shall continue to serve as official shorthand reporter for the District Court of the 88th Judicial District in and for Hardin and Tyler Counties at the pleasure

of the Judge of said Court, and shall be compensated as provided by law.

[Acts 1951, 52nd Leg., p. 287, ch. 170. Amended by Acts 1955, 54th Leg., p. 1056, ch. 399; Acts 1983, 68th Leg., p. 5327, ch. 979, § 12, eff. Sept. 1, 1983.]

89.—Wichita. See 30th District

90.—Stephens and Young

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

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

In the County of Young, on the first Monday in March, June, September and December of each year and may continue in session until the date herein fixed for convening the next regular term of such Court in Young County.

[Acts 1925, S.B. 84. Amended by Acts 1941, 47th Leg., p. 1386, ch. 626, § 2; Acts 1961, 57th Leg., p. 79, § 1, eff. Sept. 1, 1961; Acts 1977, 65th Leg., p. 2158, ch. 860, § 7, eff. Sept. 1, 1977.]

91.—Eastland

Ninety-first District: On the first Mondays in February, April, June, August, October and December, and may continue until the business of the court is disposed of.

The District Courts of Eastland County shall have concurrent civil and criminal jurisdiction with each other in said county in matters over which the jurisdiction is given or shall be given by the Constitution and laws of Texas to district courts; provided, that no grand jury shall be impaneled in the Ninety-first District Court, except that by the special order of the judge of said court, a grand jury shall be called for said court.

Either of the judges in the said District Courts of Eastland County may, in his discretion, either in term time or in vacation, transfer any case or cases, civil or criminal, to the other of said district courts by order entered on the minutes of his court, or minutes or orders made in chambers as the case may be, which orders when made shall be copied and certified to by the clerk of said courts together with all orders made in said case, and such certified copies of such orders shall be filed among the papers of any case thus transferred, and the fees thereof shall be taxed as a part of the costs of said suit, and the clerk of said court shall docket any such case in the court to which it shall have been transferred, and when so entered, the court to which it shall have been transferred shall have like jurisdiction therein as in cases originally brought in said court, and the same shall be dropped from the docket of the court from which it was transferred; provided, that when there shall be a transfer of any

case from one court to the other, as herein provided, on motion of either of the parties to said suit, notice must be given to either the opposite party, or his attorney, by the party making the motion to transfer, one week before the time of entering the order of transfer.

The district clerk of Eastland County shall be the clerk of the district court of said Ninety-first Judicial District, sitting in Eastland County.

The county attorney of Eastland County shall perform all the duties of county attorney and district attorney in both of said district courts and shall receive the same compensation for his services as is or may be fixed by law for a district attorney acting in judicial districts composed of two or more counties.

The clerk of the District Court of Eastland County shall file all suits in his office alternately in said Eighty-eighth and Ninety-first District Courts.

[Acts 1925, S.B. 84.]

92.—Hidalgo

Sec. 2. This act shall be in effect from and after January 1, 1932; provided, that upon the taking effect of this act there shall be, and there is, created the Ninety-second Judicial District, the limits of which shall be co-extensive with limits of Hidalgo County.

(a) The district court of the Ninety-second Judicial District shall have and exercise the jurisdiction prescribed by the Constitution and laws of this State for district courts in general, and the judge thereof shall have and exercise the powers conferred by the Constitution and laws of this State on the judges of district courts. Its jurisdiction shall be concurrent with that of the district court of Hidalgo county for the Ninety-first Judicial District.¹ From and after the effective date of this act the county attorney of Hidalgo county shall act as and perform the duties of district attorney for the Ninety-second and Ninety-third Judicial Districts.

(b) The terms of the district court, Ninety-second Judicial District, shall begin on the first Monday in January and on the first Monday in July of each year; and each term of court continues until the next succeeding term begins.

(c) In addition to the jurisdiction vested in the district court for the Ninety-second Judicial District under the Constitution and general laws of this State, said court shall have and exercise jurisdiction over all civil matters over which, by general law, the county court of Hidalgo county would have original jurisdiction, except as in this act otherwise specially provided.

(d) From and after the taking effect of this act, the county court of Hidalgo county shall cease to have or exercise any civil jurisdiction, except as hereinafter specified and enumerated, nor shall the judge thereof be restricted or deprived of any duties, rights or powers now vested in him or re-

quired of him by the general laws except the civil jurisdiction by this act transferred from said court to the district court of the Ninety-second Judicial District.

The county court of Hidalgo county, shall have and retain jurisdiction of all cases appealed from the justice courts, and the general jurisdiction of a probate court as provided by the Constitution and laws of this State, and the county court or the judge thereof shall have power to issue all writs necessary to the enforcement of the jurisdiction of said court in all matters the jurisdiction of which, by this act, is not transferred from said court to the district court of the Ninety-second Judicial District.

(e) The clerk of the district courts of Hidalgo county shall, upon the taking effect of this act assume the duties of clerk of the Ninety-second District Court, and shall thereafter perform the duties of such, as though the court had existed at the time of his election. He shall promptly prepare a docket for the Ninety-second District Court, placing thereon all cases then on file in the Seventy-ninth District Court, such cases as may be filed in the Ninety-second District Court, and such cases as may be transferred to said court.

(f) The letters "A" and "B" shall be placed upon the docket and court papers in the respective district courts of Hidalgo county to distinguish them; "A" being used in connection with the Ninety-second District Court, and "B" being used in connection with the Ninety-third District Court.

(g) All suits and proceedings hereafter instituted in the district courts of Hidalgo county shall be numbered consecutively beginning with the next number after the last file number on the docket of any existing court, and shall be entered upon the dockets of said courts in the same manner as provided in paragraph (f) of this section.

(j) The respective judges of the Ninety-third and Ninety-second Judicial Districts shall, from time to time, as occasion may require, transfer cases or other proceedings from one court to the other in order that business may be equally distributed between them, that the judges of both said courts may at all times be provided with cases, or other proceedings to be tried or otherwise considered, and that the trial of no case or other proceedings need be delayed because of the disqualifications of the judge in whose court it is pending; and the judges of such courts may, in their discretion, exchange benches or districts from time to time, and either of them may in his own court room try and determine any case or proceeding pending in the other court without having the case transferred, or may sit in the other court and there hear and determine any case pending, and every judgment and order shall be entered in the minutes of the court in which the case is pending, and at the time the judgment or order is rendered. The judge of either of said

courts may issue restraining orders and injunctions returnable to the other judge or court.

[Acts 1931, 42nd Leg., p. 876, ch. 370. Amended by Acts 1983, 68th Leg., p. 628, ch. 138, § 1, eff. Jan. 1, 1984.]

¹ Probably means 93rd District.

93.—Hidalgo

The terms of court of the 93rd Judicial District Court begin on the first Monday in January and on the first Monday in July of each year. Each term of court continues until the next succeeding term begins.

[Acts 1925, S.B. 84. Amended by Acts 1983, 68th Leg., p. 628, ch. 138, § 2, eff. Jan. 1, 1983.]

94.—Nueces

Sec. 1. There is hereby created for and within Nueces County the 94th Judicial District of Texas, and a District Court for said Judicial District, the limits of which shall be coextensive with the limits of Nueces County.

Sec. 2. The District Court for the 94th Judicial District shall have and exercise the jurisdiction prescribed by the Constitution and the Laws of this State for District Courts in general, and the Judge thereof shall have and exercise the powers conferred by the Constitution and Laws of this State on the Judges of District Courts. Its jurisdiction shall be concurrent with that of the District Court of Nueces County for the 28th Judicial District and District Court of Nueces County for the 117th Judicial District.

Sec. 3. The terms of the 94th District Court shall be held as follows: a term to be known as the January-July term shall begin on the first Monday in January of each year and shall continue to and including the Sunday preceding the first Monday in July of the same year, and a term to be known as the July-January term shall begin on the first Monday in July of each year and continue until and including the Sunday preceding the first Monday in January of the succeeding year.

Sec. 4. The Clerk of the District Courts of Nueces County shall, upon the taking effect of this Act, assume the duties of Clerk of the 94th District Court, and shall thereafter perform the duties of such, as if the Court had existed at the time of his election. He shall promptly prepare a docket for the 94th District Court, placing thereon such cases as may be filed in said Court and as may be transferred to said Court; provided that no case then on trial in the 28th District Court of Nueces County or the 117th District Court of Nueces County nor any case pending on appeal therefrom shall be transferred to the docket of the Court created hereby.

Sec. 5. The letters "A", "B", and "C" shall be placed upon the dockets and Court papers in the respective District Courts of Nueces County to distinguish them, "A" being used in connection with

the 28th District Court, "B" the 117th District Court, and "C" the 94th District Court.

Sec. 6. All suits and proceedings hereafter instituted in the District Courts of Nueces County shall be numbered consecutively, beginning with the next number after the last file number on the docket of the existing Courts, and shall be entered upon the dockets of said Courts in the same manner as provided in Section 5 of this Act.

Sec. 7. The respective Judges of the 28th, 117th, and 94th Judicial Districts shall from time to time, as occasion may require, transfer cases from one to another in order that the business may be equally distributed among them, that the Judges of all of said Courts may at all times be provided with cases to be tried or otherwise considered, and that the trial of no case need be delayed because of the disqualification of the Judge in whose Court it is pending; provided, however, no case shall be transferred from one Court to another without the consent of the Judge of the Court to which it is transferred. When any transfer is made, proper order shall be entered on the Minutes of the Court as evidence thereof, and notice of the transfer shall be given in writing by the Clerk to the attorneys of record of all parties to the cause.

Sec. 8. This Act shall not, in any manner, affect the status of the Criminal District Court of Nueces County nor the Judge or District Attorney thereof.

Sec. 9. The Governor, upon this Act taking effect, shall appoint a suitable person possessing qualifications prescribed by the Constitution and Laws of this State as Judge of the District Court of the 94th Judicial District of Texas, as herein constituted, and such person shall hold said office until the next general election, and until his successor shall have been elected and qualified, and thereafter the Judge of the District Court of the 94th Judicial District of Texas shall be elected as prescribed by the Constitution and Laws of this State for the election of District Judges.

[Acts 1941, 47th Leg., p. 104, ch. 84. Amended by Acts 1945, 49th Leg., p. 45, ch. 28, § 1; Acts 1947, 50th Leg., p. 776, ch. 385, § 3.]

95.—Dallas. See 14th District

96.—Tarrant. See 17th District

97.—Archer, Clay and Montague

Sec. 1. The Counties of Archer, Clay and Montague shall hereafter constitute and be the Ninety-seventh Judicial District of the State of Texas, and the terms of the District Courts shall be held in said District as follows:

In Archer County on the first Monday in January; on the first Monday in April; on the first Monday in July; on the first Monday in October.

In Clay County on the first Monday in February; on the first Monday in May; on the first Monday in August; on the first Monday in November.

In Montague County on the first Monday in March; on the first Monday in June; on the first Monday in September; on the first Monday in December.

Each term of Court in each of such Counties shall continue until the date herein fixed for the beginning of the next succeeding term therein.

It is further provided that if any Court in any County of said District shall be in session at the time this Act takes effect such Court or Courts affected thereby shall continue in session until the time for the beginning of the next succeeding term therein, as provided for herein, but thereafter all Courts in said District shall conform to the requirements of this Act.

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

[Acts 1925, S.B. 84. Amended by Acts 1941, 47th Leg., p. 1386, ch. 626, § 3; Acts 1943, 48th Leg., p. 454, ch. 302; Acts 1945, 49th Leg., p. 107, ch. 75.]

98.—Travis. See 53rd Judicial District

99.—Lubbock

Sec. 1. The terms of the District Court for the 99th Judicial District in and for Lubbock County shall be held as follows:

On the first Monday in January and July of each calendar year, and shall continue in session until and including the Saturday immediately preceding the Monday for convening the next regular term of said 99th District Court in Lubbock County, Texas.

[Acts 1927, 40th Leg., p. 85, ch. 61, §§ 1, 2. Amended by Acts 1927, 40th Leg., 1st C.S., p. 72, ch. 22, § 2; Acts 1945, 49th Leg., p. 200, ch. 153, § 1.]

100.—Carson, Hall, Donley, Collingsworth and Childress

The 100th Judicial District of the State of Texas, shall be composed of the Counties of Carson, Hall, Donley, Collingsworth, and Childress, and the terms of the District Court shall be held therein each year as follows:

Carson County: Beginning on the First Monday of January of each year; and on the First Monday of August of each year.

Hall County: Beginning on the First Monday of February of each year; and on the First Monday of September of each year.

Donley County: Beginning on the First Monday of March of each year; and on the First Monday of October of each year.

Collingsworth County: Beginning on the First Monday of April of each year; and on the First Monday of November of each year.

Childress County: Beginning on the First Monday of May of each year; and on the First Monday of December of each year.

Each term of Court in each of such Counties shall continue until 10:00 a. m. of the Monday herein fixed for the beginning of the next succeeding term thereof.

[Acts 1925, S.B. 84. Amended by Acts 1934, 43rd Leg., 4th C.S., p. 42, ch. 13; Acts 1935, 44th Leg., p. 548, ch. 234, § 1; Acts 1943, 48th Leg., p. 30, ch. 28, § 1; Acts 1947, 50th Leg., p. 494, ch. 290, § 3.]

101.—Dallas

Sec. 1. An additional district court is hereby created in and for Dallas County, the limits of which shall be coextensive with the limits of the county. The district shall be known as the One Hundred and First Judicial District.

Sec. 2. The One Hundred and First District Court shall not have or exercise any criminal jurisdiction, but in all other respects it shall have and exercise the jurisdiction prescribed by the Constitution and laws of the State for district courts in general, and the judge thereof shall have and exercise the powers conferred by the Constitution and laws of the State on the judges of district courts. Its jurisdiction shall be concurrent with that of the existing district courts of Dallas County.

Sec. 3. The terms of the One Hundred and First District Court shall begin on the first Mondays, respectively in March _____ June _____, September _____ and December _____ of each year, and each term shall continue until the Sunday immediately preceding the date set for the beginning of the next term thereof.

Sec. 4. The Governor shall appoint a suitable person as judge for said One Hundred and First District Court, who shall hold his office until the next general election until his successor shall have been elected and qualified. Thereafter the judge of said court shall be elected as provided by the Constitution and laws of the State for the election of district judges.

Sec. 5. The clerk of the district courts of Dallas County shall, upon the taking effect of this Act, assume the duties of clerk of the One Hundred and First District Court and shall thereafter perform the duties of such position as if the court had existed at the time of his election. He shall promptly prepare a docket for the One Hundred and First District Court, placing thereon every fifth pending case on the respective dockets of the Fourteenth, Forty-fourth, Sixty-eighth and Ninety-fifth District Courts, continuing in this manner through said dockets until all the cases thereon are exhausted and the dockets of the five courts are equalized as near as may be; provided, that no case then on trial in any of the existing district courts nor any case pending on appeal therefrom shall be transferred to the docket of the court created hereby. The cases so transferred shall bear the same docket numbers

as in the court from which they are transferred, and the judges of the existing district courts, respectively, shall make proper orders transferring from said courts to the One Hundred and First District Court the cases which shall have been placed upon the docket of the latter court in pursuance of this Act.

Sec. 6. The letters A, B, C, D, and E shall be placed on the dockets and court papers in the respective district courts of Dallas County to distinguish them. A being used in connection with the Fourteenth District Court, B, the Forty-fourth District Court, C the Sixty-eighth District Court, D the Ninety-fifth District Court and E the One Hundred and First District Court.

Sec. 7. All suits, prosecutions and proceedings hereafter instituted in the district courts of Dallas County shall be numbered consecutively, beginning with the next number after the last file number on the dockets of the existing courts, and shall be entered by the district clerk upon the dockets of said courts alternately, beginning with the Fourteenth District Court; next, the Forty-fourth District Court, third, the Sixty-eighth District Court, fourth, the Ninety-fifth District Court and fifth, the One Hundred and First District Court.

Sec. 8. The respective judges of the district courts of Dallas County shall from time to time, as occasion may require, transfer cases from any one of such courts to any other such court in order that the business may be equally distributed among them, that the judges thereof may at all times be provided with cases to be tried or otherwise considered, and that the trial of no case need be delayed because of the disqualification of the judge in whose court it is pending; provided, however, no case shall be transferred from one court to another without the consent of the judge of the court to which it is transferred. When any transfer is made, proper order shall be entered on the minutes of the court as evidence thereof and notice of the transfer shall be given in writing by the clerk to the attorneys of record of all parties to the cause.

[Acts 1925, S.B. 84.]

102.—Bowie and Red River

(1) The 102nd Judicial District of Texas shall be composed of the Counties of Bowie and Red River, Texas, and the terms of District Court in each of the Counties shall be as follows:

(a) In Bowie County on the first Monday in January, April, July, and October, and each term shall continue until the beginning of the next succeeding term.

(b) In Red River County on the first Monday in February, May, August, and November, and each term shall continue until the beginning of the next succeeding term.

The Judge of the Court may hold as many sessions in any term of Court in any county as is

deemed by him proper and expedient for the dispatch of business.

(2) During each term of the Court in Bowie County, the Court may sit at any time in Texarkana, Texas, to try, hear and determine any civil and criminal nonjury case, and may hear and determine motions, arguments and such other nonjury civil and criminal matters as may come before the Court; provided further, that nothing herein shall be construed to deprive the Court of jurisdiction to try nonjury civil and criminal cases and hear and determine motions, arguments and such other nonjury civil and criminal matters at the county seat at Boston, Texas.

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

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

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

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

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

(8) All processes issued, bonds and recognizances made, and all grand and petit jurors drawn before this Act takes effect shall be valid and returnable to

the next succeeding terms of the District Courts of the several Counties as herein fixed respectively as though issued and served for such terms and Courts and returnable to and drawn for the same.

(9) The Judge and all District Officers of the 102nd Judicial District as heretofore constituted shall be the Judge and District Officers of the 102nd Judicial District as constituted and reorganized by this Section during the terms for which they each respectively were elected.

[Acts 1925, S.B. 84. Amended by Acts 1933, 43rd Leg., p. 885, ch. 253, § 1; Acts 1933, 43rd Leg., Spec.L., p. 145, ch. 103; Acts 1935, 44th Leg., p. 406, ch. 158, § 1; Acts 1937, 45th Leg., p. 268, ch. 141, § 1; Acts 1953, 53rd Leg., p. 727, ch. 284, § 1; Acts 1955, 54th Leg., p. 505, ch. 147, § 1; Acts 1961, 57th Leg., p. 398, ch. 201, § 1, eff. May 23, 1961; Acts 1969, 61st Leg., p. 1116, ch. 363, § 2, eff. May 27, 1969.]

103.—Cameron and Willacy

(a) The One Hundred and Third Judicial District of Texas shall be composed of Willacy and Cameron Counties; the terms of the District Court shall be held therein each year as follows:

In the County of Willacy on the first Mondays in January and June.

In the County of Cameron on the first Mondays in February and July.

Each term of Court in each of such Counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

(b) The Judge of said Court in his discretion may hold as many sessions of Court in any term of the Court in any County as is deemed by him proper and expedient for the dispatch of business.

(c) All processes issued, bonds and recognizances made and all Grand and Petit Juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding term of the District Courts of the Counties as herein fixed as though issued and served for such terms and returnable to and drawn from the same.

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

[Acts 1925, S.B. 84. Amended by Acts 1943, 48th Leg., p. 296, ch. 191, § 1.]

104.—Taylor

Composition of District

Sec. 1. The 104th Judicial District of Texas is composed of Taylor County.

Terms of Court

Sec. 2. The 104th District Court shall convene on the eleventh Monday after the first Monday in January of each year, and on the twenty-fourth Monday after the first Monday in January of each year and on the ninth Monday after the first Monday in September of each year, and each of said terms of Court in said County shall continue until the convening of the next succeeding term of Court in said County.

Quarters for Court

Sec. 3. It shall be the duty of the Commissioners Court of Taylor County to provide in the county courthouse of said County suitable quarters for holding the terms of Court of said 104th Judicial District of Texas, in Taylor County as well as suitable quarters for the officers of said Court.

District Clerk

Sec. 4. The District Clerk of Taylor County shall act as Clerk of the reorganized 104th Judicial District of Texas, in Taylor County, as well as the 42nd Judicial District of Texas, and in filing civil suits, said Clerk shall file same alternately in said two (2) District Courts and in numbering all suits in each of said Courts, said Clerk shall place after all numbers of all suits which are filed after this Act takes effect the letters A or B, so as to distinguish causes pending in said two (2) Courts, placing after the number of all suits filed in said 42nd District Court the capital letter A, and placing after the number of all suits filed in said 104th District Court the capital letter B.

Concurrent Jurisdiction

Sec. 5. The 42nd Judicial District of Texas and the 104th Judicial District of Texas, and the Courts of said Judicial Districts in and for Taylor County, shall have concurrent civil and criminal jurisdiction with each other in said County in all matters over which jurisdiction is given or shall be hereafter given by the Constitution and laws of this State to district courts. Either of the Judges of said District Courts for Taylor County may in their discretion, in term-time or vacation, transfer any case or cases, civil or criminal, to said other District Court by order entered on the minutes of his Court from which said case is transferred or minutes or orders made in chambers as the case may be, which orders, when made, shall be copied and certified to by the District Clerk of Taylor County together with all orders made in said case and such certified copies of such orders, together with the original papers, shall be filed among the papers of any case thus transferred, and the fees thereof shall be taxed as a part of the costs of said suit, and the Clerk of said Court shall docket any such case in the court to which it shall have been transferred, and when so entered the court to which same shall have been thus transferred shall have like jurisdiction therein as in cases originally brought in said Court, and the same shall

be dropped from the docket of the said Court from which it was transferred.

Sec. 6. [Classified as art. 326k-62.]

[Acts 1927, 40th Leg., p. 44, ch. 32, §§ 2, 5, 7 to 9. Amended by Acts 1929, 41st Leg., p. 467, ch. 217, § 2; Acts 1939, 46th Leg., p. 182, § 1; Acts 1961, 54th Leg., p. 365, ch. 184, § 2, eff. Jan. 1, 1962; Acts 1967, 60th Leg., p. 1201, ch. 538, § 1 (1) to (5), eff. Aug. 28, 1967; Acts 1977, 65th Leg., p. 2158, ch. 860, § 8, eff. Sept. 1, 1977.]

105.—Nueces, Kleberg and Kenedy

Sec. 1. An additional Judicial District is hereby created, the limits of which district shall be coextensive with the limits of the Counties of Nueces, Kleberg, and Kenedy, to be known as the 105th Judicial District, and an additional Judicial District Court is hereby created in and for the Counties of Nueces, Kleberg and Kenedy which shall be known as the 105th District Court. The 105th District Court shall have such jurisdiction as is provided by the Constitution and General Laws of this State for District Courts and in addition in the County of Nueces, it shall have and exercise jurisdiction in civil matters over which, by General Law, the County Court of Nueces County would have original jurisdiction, except that jurisdiction which is now exercised by the County Court of Nueces County; this added jurisdiction shall be concurrent with the jurisdiction of the District Court for the 117th Judicial District in Nueces County.

Sec. 2. Immediately upon the enactment of this Law, the Governor shall appoint a suitable person, having the qualifications provided by the Constitution and Laws of the State of Texas for District Judges, as Judge of the 105th District Court. He shall hold office as such Judge until the next general election, and until his successor shall be duly elected and qualified; thereafter such Judge shall be elected as provided by the Constitution and Laws of the State of Texas. The 105th District Court shall give preference to criminal cases, and the Judges of the District Courts for the 28th, 94th and 117th Judicial Districts may transfer to the docket of the 105th District Court any and all criminal cases on the dockets of said Courts and the Judge of said 105th District Court shall thereafter have power, authority and jurisdiction to try and determine such cases so transferred to such Court, and in addition, to approve all statements of fact, bills of exceptions and to make any and all orders, decrees, and judgments proper and necessary in any criminal case theretofore tried and so transferred, subject to the same rules and regulations and other provisions of law which would have governed the Judge of the Court from which such case or cases were transferred; provided, however, that said actions be taken within the period of time prescribed by law, within which same would have been done in the court from which such case or cases were transferred, returnable to any of the Courts from which same were transferred, shall be considered as returnable to the 105th District Court herein created; and all such

processes and writs are hereby legalized and validated as if the same had been made returnable to the 105th District Court herein created and at the time herein prescribed; and all bail bonds, bonds and recognizances in criminal cases pending in said named courts from which any such case or cases are transferred to the 105th District Court, binding any person or persons to appear in any of said Courts in any of the Counties named in this Act, shall have the authority to require such person or persons to appear at the first term of the 105th District Court held respectively in the Counties of Nueces, Kleberg and Kenedy, where said bail bonds, bond and recognizances have heretofore been given and taken in any of such Courts so transferring any case or cases, and there to remain in said 105th District Court in said respective Counties from day to day and from term to term until fully discharged under the same penalties as provided by law in such cases and to the same effect as if the case or matter was still pending in the District Court in which said bail bond, bond or recognizance was originally given or taken. Civil cases may be transferred from the District Courts of the 28th, 94th and 117th Judicial Districts to the 105th District Court in the same manner as cases are now transferred from the 28th or 94th or 117th District Courts to any of the other of said Courts, and the provisions of Section 4, of House Bill No. 694, Chapter 385, Acts of the Regular Session of the Fiftieth Legislature, 1947,¹ shall apply to the functioning of said named Courts and the 105th District in Nueces County and the Judge of the 105th District Court shall participate in the election of a presiding Judge in said county under the terms of said Act, last above referred to, and the Assignment Clerk therein provided for shall serve the 105th District Court in the same manner as such Clerk now serves said other named Courts.

Sec. 3. In the Counties of Nueces, Kleberg and Kenedy, the Judges of the 28th and 105th Judicial District Courts may sit for each other and dispose of all matters in each of said Courts without the necessity of transferring cases from one docket to another, and in the County of Nueces, the Judge of the 105th District Court shall have all of the powers, privileges and duties as do the Judges of the 28th, 94th and 117th District Courts in said counties; and the terms and provisions of Section 4, of House Bill No. 694, Acts of the Regular Session of the Fiftieth Legislature, 1947, are hereby expressly adopted by reference and applied to the 105th District Court in the same manner as same now apply to the other three (3) named Courts in said Counties.

Sec. 4. There shall be two (2) terms of the 105th District Court in each of the Counties within said District each year as follows:

In the County of Nueces, on the first Mondays in February and August, and shall continue until the convening of the next succeeding term; in the County of Kleberg, on the first Mondays in April and October, and shall continue until the convening of

the next succeeding term; and in the County of Kenedy, on the first Mondays in June and December, and shall continue until the convening of the next succeeding term.

The Judge of the 105th District Court, at his discretion, may hold as many sessions of court in any term of court in any county in his district as may be deemed by him proper and expedient for the disposition of the court's business; and the jurors therefor may be summoned to appear before such District Court at such times as may be designated by the Judge thereof. All existing laws relative to juries and grand juries in the counties comprising the 105th Judicial District shall apply to Juries and Grand Juries selected and impaneled by the 105th District Court.

Sec. 5. The Sheriff and Clerk of the District Courts of Nueces County, as now provided by law, shall be the Sheriff and Clerk respectively of the 105th District Court in Nueces County; and the Sheriff and Clerk of the District Courts of Kleberg County, as now provided by law, shall be the Sheriff and Clerk respectively of the 105th District Court in Kleberg County; and the Sheriff and Clerk of the District Courts of Kenedy County, as now provided by law, shall be the Sheriff and Clerk respectively of the 105th District Court in Kenedy County; and the District Attorney of the 28th Judicial District, elected or appointed, and as now acting for such District in accordance with the provisions of law, shall be the District Attorney for the 105th Judicial District Court in the Counties of Nueces, Kleberg and Kenedy; and shall hold his office until the time for which he has been elected or appointed, or otherwise qualified and acting as such District Attorney for the 28th Judicial District shall expire and until his successor is duly elected and qualified; and there shall be elected for a term of two (2) years beginning with the next general election after the effective date of this Act, a District Attorney for the 105th Judicial District of Texas whose powers and duties shall be the same as other District Attorneys and who shall serve all of the District Courts of Nueces, Kleberg and Kenedy Counties; and said Sheriffs and Clerks and District Attorney shall respectively receive such fees and salaries and expenses as are now or may hereafter be prescribed by law for such offices in the District Courts of the State of Texas, to be paid in the same manner.

Sec. 5a. The District Judge of the 105th Judicial District shall appoint an officer of the court in Nueces County of the 105th Judicial District to act as bailiff and probation officer for said court. The bailiff and probation officer shall be paid a salary out of the General Fund of said county of not more than Four Hundred (\$400.00) Dollars per month, and shall be set by the District Judge of said district with the approval of the Commissioners Court. The bailiff and probation officer shall perform any and all duties imposed upon other bailiffs and probation officers in this State under the General Laws. In addition thereto, he shall contact the employment

offices within his district and assist those persons placed upon probation in obtaining employment.

Sec. 5b. The District Judge of the 105th Judicial District is authorized to appoint with the approval of the Commissioners Court an official interpreter of the Court in Nueces County. The said Commissioners Court shall by resolution fix the salary of said official interpreter not to exceed Three Hundred and Fifty Dollars (\$350) per month nor less than Three Hundred Dollars (\$300) per month, said salary to be paid out of the General Fund of Nueces County.

The District Judge of the 105th Judicial District shall have authority to terminate such employment of such interpreter at any time.

The official interpreter so appointed by the said District Judge shall take the constitutional oath of office, and in addition thereto shall make oath that as such official interpreter he will faithfully interpret all testimony in said District Court, and which oath shall suffice for his service as official interpreter of such Court in said County in all cases before such Court during his term of office.

The official interpreter may be assigned by said District Judge to assist the Probation Officer of said Court in the discharge of his, the said Probation Officer's, official duties in addition to the duties heretofore enumerated.

Sec. 6. Said 105th District Court hereby created shall have a seal in like design as now prescribed by law for District Courts.

Sec. 7. The Judge of the 105th District Court, after his appointment, shall appoint an official Court Reporter to serve said Court in accordance with existing law, who shall receive the same fees and salary as is now provided by law for the official Court Reporters of the 28th, 94th and 117th District Courts.

[Acts 1949, 51st Leg., p. 556, ch. 305. Amended by Acts 1949, 51st Leg., p. 669, ch. 343, § 1; Acts 1950, 51st Leg., 1st C.S., p. 92, ch. 29, § 1; Acts 1951, 52nd Leg., p. 594, ch. 349, § 1.]

¹ 28th district of this article.

106.—Lynn, Garza, Dawson and Gaines

The 106th Judicial District of Texas shall be composed of the Counties of Lynn, Garza, Dawson and Gaines. The terms of the District Court shall begin therein each year as follows:

In the County of Lynn, beginning on the first Monday in February and on the third Monday in September.

In the County of Garza, beginning on the first Monday in March and on the fourth Monday in September.

In the County of Dawson, beginning on the third Monday in February and on the second Monday in September.

In the County of Gaines, beginning on the first Monday in April and on the first Monday in October.

Each term of court shall continue until the beginning of the next succeeding term of said court. [Acts 1925, S.B. 84. Amended by Acts 1941, 47th Leg., p. 529, ch. 325, § 1; Acts 1959, 56th Leg., p. 425, ch. 190, § 3, eff. Sept. 1, 1959.]

107.—Willacy and Cameron

Sec. 1. On the effective date of this Act, the Criminal District Court of Nueces, Kleberg, Kenedy, Willacy and Cameron Counties shall become a Court of general jurisdiction, with the jurisdiction provided by the Constitution and Laws of the State of Texas for District Courts, and shall be composed of the Counties of Willacy and Cameron, and thenceforth be known as the 107th Judicial District of Texas; and shall have concurrent jurisdiction with the 103rd Judicial District Court within said two Counties; provided that the 107th District Court shall give preference to criminal cases. The 103rd Judicial District Court shall be a Court of general jurisdiction, with the jurisdiction provided by the Constitution and Laws of the State of Texas, and shall continue to be composed of the Counties of Willacy and Cameron, but shall give preference to civil cases and shall not, except in cases of emergency, be required to empanel Grand Juries.

Sec. 2. All cases upon the docket of the Criminal District Court of Nueces, Kleberg, Kenedy, Willacy and Cameron Counties, in the Counties of Nueces, Kleberg and Kenedy, shall, on the effective date of this Act, be transferred by the District Clerks of said Counties to the docket of the 28th District Court, and the Judge of said 28th District Court to which said cases shall be transferred, shall thereafter have power, authority, and jurisdiction to try such cases so transferred to such Court, and in addition to approve all statements of fact, bills of exception, and to make any and all orders, decrees and judgments proper and necessary in any case theretofore tried by the said Criminal District Court above named, within said Counties; provided that any such action or actions be taken within the same time limits that would have governed the Judge of the Court from which said cause or causes, were transferred.

Sec. 3. All cases upon the docket of the Criminal District Court of Nueces, Kleberg, Kenedy, Willacy and Cameron Counties in the Counties of Cameron and Willacy, shall, on the effective date of this Act, be considered as on file in the 107th District Court, as herein denominated, and the Judge of said 107th District Court, as herein denominated shall have power, authority, and jurisdiction to try all such cases; and in addition, to approve all statements of fact, bills of exception, and to make any and all orders, decrees, and judgments proper and necessary in any cases theretofore tried by the said Criminal District Court, hereinabove named, within said two Counties; provided, that any such action or

actions be taken within the same time limits that would have governed the Judge of the Court from which said cause or causes were transferred.

Sec. 4. After the effective date of this Act, the District Attorney for the Criminal District Court for Nueces, Kleberg, Kenedy, Willacy and Cameron Counties shall serve the 28th Judicial District Court as designated by this Act, and shall thenceforth be known as the District Attorney for the 28th Judicial District of Texas, and at the next general election such office shall be filled by the election of a District Attorney for the 28th Judicial District of Texas for the Counties of Nueces, Kleberg and Kenedy, said office to be voted upon by the qualified voters of said three named Counties only.

The County Attorneys of Willacy and Cameron Counties shall, respectively, from and after the effective date of this Act, represent the State of Texas in all matters now handled by the above mentioned District Attorney for the above mentioned Criminal District Court within said respective Counties.

Sec. 5. Each term of Court within the 107th Judicial District shall begin on the first Mondays of January and July of each year, respectively, and may continue until the beginning of the succeeding term. The Judge of the 107th Judicial District Court, at his discretion, may hold as many sessions of Court in any term of the Court in either County in his district as may be deemed by him proper and expedient for the disposition of the Court's business, and the jurors therefor may be summoned to appear before such District Court at such times as may be designated by the Judge thereof.

Sec. 5a. Repealed by Acts 1965, 59th Leg., p. 999, ch. 486, § 2, eff. Aug. 30, 1965.

Sec. 6. Nothing contained in this Act shall affect the present terms of the 28th and the 103rd Judicial District Courts but said terms shall continue as now provided by law for said respective Courts.

Sec. 7. In any County which is situated within two (2) Judicial Districts and in which the County Attorney of such County is performing the duties of a District Attorney, as well as those of a County Attorney, and in which Counties the office of District Attorney, or the office of Criminal District Attorney has been abolished since the enactment of Section 13, Article 3912-e, Revised Civil Statutes of Texas, Acts 1939, 46th Legislature, Special Laws, page 608, Section 1, the Commissioners Court of any such County is hereby authorized, at their discretion, to pay such County Attorney so performing such duties of District Attorney, as compensation, over and above the salary which such County Attorney draws as County Attorney, a sum not to exceed the amount of Three Thousand, Six Hundred Dollars (\$3,600) per annum, such additional compensa-

tion to be paid in twelve (12) equal monthly installments.

[Acts 1945, 49th Leg., p. 472, ch. 300, § 1. Amended by Acts 1949, 51st Leg., p. 678, ch. 351, § 1; Acts 1950, 51st Leg., 1st C.S., p. 96, ch. 33, § 1; Acts 1965, 59th Leg., p. 425, ch. 211, § 1, eff. May 18, 1965; Acts 1965, 59th Leg., p. 999, ch. 486, § 2, eff. Aug. 30, 1965.]

108.—Potter

Sec. 1. The 108th Judicial District is composed of the County of Potter.

Sec. 2. The 108th District Court shall have and exercise all jurisdiction now or hereafter prescribed by the Constitution and laws of this state for district courts.

Sec. 3. The jurisdiction of the 108th District Court shall be concurrent in Potter County with the 47th and 181st District Courts for the 47th and 181st Judicial Districts.

Sec. 4. The terms of the 108th District Court shall begin on the first Mondays in January, May, and September of each year. Each term of said court may continue until the date herein fixed for the beginning of the next succeeding term thereof. The judge of said court may, in his discretion, hold as many sessions of said court as is deemed by him proper and expedient for the dispatch of business.

Sec. 5. (a) The judge of the 108th District Court may transfer cases to the docket of any district court which has jurisdiction over the case with the approval of the judge of the court to which the case is transferred. The judge of the 108th District Court may sit for the judge of any other district court without transferring the case on the dockets.

(b) All process and writs issued out of the district court from which any transfer is made shall be returnable to the court to which the transfer is made. All bonds executed and recognizances entered into in any district court from which any transfer is made shall bind the parties for their appearance or to fulfill the obligations of such bonds and recognizances at the terms of the courts to which the transfer is made as the terms are fixed by this Act.

Sec. 6. The district clerk of Potter County shall act as the district clerk for the 108th Judicial District Court in Potter County.

Sec. 7. The district attorney of the 47th Judicial District shall act as the district attorney for the 108th Judicial District.

Sec. 8. The sheriff of Potter County shall perform for the 108th District Court in connection with all of its cases in Potter County, all of the duties in connection with the court as provided by law for sheriffs to perform in connection with district courts.

Sec. 9. The judge of the 108th District Court shall appoint an official shorthand reporter for the court who shall be well-skilled in his profession.

The reporter shall be a sworn officer of the court and shall be compensated as provided by law.

[Acts 1927, 40th Leg., p. 10, ch. 7, § 2. Amended by Acts 1934, 43rd Leg., 2nd C.S., p. 98, ch. 42, § 1; Acts 1943, 48th Leg., p. 330, ch. 211, § 1; Acts 1969, 61st Leg., 2nd C.S., p. 160, ch. 23, §§ 5.008, 5.011, eff. Sept. 19, 1969.]

109.—Andrews, Crane and Winkler

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

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

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

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

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

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

Sec. 4. All process issued and returnable to a succeeding term of court, and all bonds and recognizances made and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding terms of the 109th District Court of the several counties as herein fixed as though issued and served for such terms and returnable to and drawn for the same. All process issued and made returnable on or before Monday next after the expiration of twenty (20) days from the date of service thereof shall be valid, and unaffected by this Act.

Sec. 5. It is further provided that if any court in any county of said district shall be in session at the time this Act takes effect, such court or courts affected thereby shall continue in session until the time for the beginning of the next succeeding term therein, as provided for herein, but thereafter all

courts in said district shall conform to the requirements of this Act.

[Acts 1929, 41st Leg., p. 50, ch. 19, § 2. Amended by Acts 1933, 43rd Leg., p. 371, ch. 145, § 3; Acts 1943, 48th Leg., p. 43, ch. 40, § 1; Acts 1955, 54th Leg., p. 974, ch. 379, § 7; Acts 1961, 57th Leg., p. 897, ch. 395, eff. Aug. 28, 1961.]

110.—Briscoe, Floyd, Motley and Dickens

(a) The One Hundred and Tenth Judicial District of Texas shall be composed of Briscoe, Floyd, Motley and Dickens Counties; the terms of the District Court shall be held therein each year as follows:

In the County of Briscoe on the first Mondays in January and June.

In the County of Floyd on the first Mondays in February and July.

In the County of Motley on the first Mondays in March and August.

In the County of Dickens on the first Mondays in April and November.

Each term of Court in each of such counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

(b) The Judge of said Court in his discretion may hold as many sessions of Court in any term of the Court in any county as is deemed proper and expedient for the dispatch of business.

(c) All processes issued, bonds and recognizances made and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding term of the District Courts of the several counties as herein fixed as though issued and served for such terms and returnable to and drawn from the same.

(d) It is further provided that if any Court in any county of said district shall be in session at the time this Act takes effect such Court or Courts affected thereby shall continue in session until the term thereof shall expire under the provisions of existing laws, but thereafter all Courts in said district shall conform to the requirements of this Act.

[Acts 1929, 41st Leg., p. 39, ch. 14. Amended by Acts 1929, 41st Leg., p. 385, ch. 175, § 1; Acts 1943, 48th Leg., p. 121, ch. 91, § 1.]

111.—Webb

Sec. 1. The 111th Judicial District of Texas is hereby created to be composed of the County of Webb in the State of Texas, and a District Court is established therein to be known as the District Court of Webb County, Texas, in and for the 111th Judicial District of Texas.

Sec. 2. The District Court hereby created shall have jurisdiction over all matters, both Civil and Criminal, over which the District Courts of this State are given jurisdiction by the Constitution and laws of this State, and shall have concurrent jurisdiction in Webb County, Texas, with the District Court of Webb County, Texas, in and for the 49th

Judicial District of Texas in all Civil and Criminal matters over which the said 49th District Court now has jurisdiction under the Constitution and laws of this State; provided that the Judge of the 111th District Court shall never impanel a grand jury unless in his judgment he thinks it necessary to do so.

Sec. 3. The terms of the 111th District Court hereby created shall begin on the first Mondays, respectively, in January, March, May, July, September and November of each year, and each term may continue in session until the Sunday immediately preceding the date for the beginning of the next term thereof as provided in this Section.

Sec. 4. The Clerk of the District Court of Webb County in and for the 49th Judicial District shall, upon the taking effect of this Act, in addition to the duties now performed by him as Clerk of said 49th District Court, assume the duties of Clerk of said 111th District Court and said Clerk shall thereafter be known and designated as Clerk of the District Courts of Webb County, Texas, and shall perform the duties of Clerk of said 49th District Court and said 111th District Court, and said Clerk shall thereupon promptly prepare a docket for the 111th District Court, placing upon said docket all Civil cases, except tax suits, pending on the docket of said 49th District Court up to and including No. 8000, and also place on the docket of said 111th District Court all Civil cases pending in said 49th District Court in which the Judge of said latter Court shall have entered his disqualification, and also place on said docket every odd numbered Civil case, except tax suits, then pending on the docket of said 49th District Court following Cause No. 8000 on docket thereof; provided, however, that no case then on trial in said 49th District Court nor any case pending on appeal from said latter Court shall be transferred to the docket of the said 111th District Court. The cases to be so transferred shall bear the same docket numbers in the 111th District Court as they now bear in the 49th District Court, and the Judge of the 49th District Court shall make proper orders transferring the said cases from said latter Court to the 111th District Court.

Sec. 5. After the organization of the 111th District Court and the transfers of cases have been made as herein provided, then all Civil cases, except tax suits, thereafter be filed with the Clerk of said District Courts shall be noted and listed upon one file docket to be kept by said Clerk to be known as the Clerk's Civil File Docket and such cases shall be numbered consecutively, and each Civil case, except tax suits, so filed shall be assigned to and docketed in the Court designated by the attorney filing the same. The Clerk shall keep a separate file docket for Criminal cases, to be known as the Clerk's Criminal File Docket and a separate file docket for tax suits to be known as the Clerk's Tax Suit Docket, and all Criminal cases and tax suits shall be by the Clerk filed and docketed in the 49th District Court. The cases on the Clerk's Tax Suit File

Docket shall bear a separate series of numbers and shall be numbered consecutively. The cases on the Clerk's Criminal File Docket shall bear a separate series of numbers and shall be numbered consecutively.

Sec. 6. The sheriff of Webb County, Texas, and all other officers shall, in addition to the duties now performed by them, perform the duties in connection with the 111th District Court as provided by law for sheriffs and other officers to perform in connection with District Courts, and the Judge of the 111th District Court shall appoint some legally qualified person as official shorthand reporter for said Court and such person shall hold his office at the pleasure of the Court and shall be entitled to the same fees and salary and perform the same duties and take the same oath as now or may hereafter be provided by the General Laws of this State relating to stenographers for District Courts in this State.

Sec. 7. The District Attorney of the 49th Judicial District of Texas shall, in addition to the duties now performed by him, prosecute all Criminal cases that may be filed in or transferred to the 111th District Court, and he shall also represent the State in said latter Court in all matters where the State is a party and he shall receive such fees for his services as are now or may hereafter be provided for district attorneys by the General Laws of the State of Texas.

Sec. 9. The Judge of the 49th District Court in his discretion is hereby authorized upon his own motion or upon the motion of any party, either in term time or vacation, to transfer any Civil or Criminal case pending in Webb County on the dockets of the 49th District Court to the 111th District Court, and in like manner the Judge of the 111th District Court in his discretion is hereby authorized upon his own motion or upon the motion of any party, either in term time or vacation, to transfer to the 49th District Court any Civil or Criminal case pending on the dockets of the 111th District Court, and when any such transfer is made, proper orders shall be entered on the Minutes of the Court from which the case is transferred as evidence of such transfer and notice of the transfer shall be given in writing by the Clerk to the attorneys of record of all parties to said cause, and in all cases pending on the dockets of either of said Courts, in which the Judge of said Court has entered or may enter his disqualification, the Judge of the other of said Courts may sit in the Court in which said cause is pending for the purpose of ordering the transfer of all such cases.

Sec. 10. The Governor of this State shall, upon the taking effect of this Act, appoint a Judge of the 111th District Court who shall hold the office of Judge of said Court until the next general election and until his successor shall have been elected and qualified, and thereafter the Judge of said 111th District Court shall be elected as provided by the

Constitution and Laws of this State for the election of District Judges.

[Acts 1929, 41st Leg., p. 73, ch. 39.]

¹The word "be" should be omitted.

112.—Pecos, Upton, Sutton, Reagan, and Crockett

Sec. 1. The One Hundred and Twelfth Judicial District shall be composed of the Counties of Pecos, Upton, Sutton, Reagan, and Crockett, and the terms of the district court shall be held therein as follows:

In Pecos County, beginning on the first Monday in January, May and November and second Monday in July.

In Upton County, beginning on the first Monday in February and the second Monday in June.

In Sutton County, beginning on the third Monday in March and the first Monday in September.

In Reagan County, beginning on the first Monday in March and the first Monday in October.

In Crockett County, beginning on the first Monday in April and the third Monday in September.

Each term of court in each of such counties shall continue until the date herein fixed for the beginning of the next succeeding term. The judge of the district may hold as many sessions of court during each term as is deemed proper and expedient for the dispatch of business.

Sec. 6. The said Thirty-third, Eighty-third and One Hundred Twelfth Judicial Districts of Texas, as herein constituted shall each respectively elect a District Attorney at the next general election and each two years thereafter.

Sec. 10. It shall hereafter be sufficient to address a petition or other pleading to be filed in the District Court of said Pecos County, TO THE DISTRICT COURT OF PECOS COUNTY, TEXAS, or if to be filed in the District Court of said Upton County, TO THE DISTRICT COURT OF UPTON COUNTY, TEXAS, without giving the number of the District Court in such address.

Sec. 11. The District Courts of the Eighty-Third Judicial District and the One Hundred and Twelfth Judicial Districts herein created in Pecos and Upton Counties shall have concurrent jurisdiction with each other throughout the limits of each of said counties of all matters civil and criminal of which jurisdiction is given to the District Courts by the Constitution and laws of this State. The Clerk of the District Court of Pecos County, Texas, as heretofore constituted and his successors in office shall be the clerk of both the Eighty-Third and the One Hundred Twelfth District Courts of said Pecos County and shall perform all the duties pertaining to the clerkship of both of said Courts. The Clerk of the District Court of Upton County, Texas, as heretofore constituted and his successors in office shall be the clerk of both the Eighty-Third and One Hundred Twelfth District Courts of said Upton County and shall perform all the duties pertaining to the clerkship of both of said Courts.

Sec. 12. There shall be elected at the next general election and every four years thereafter, a Judge of the One Hundred Twelfth Judicial Districts of Texas.

[Acts 1929, 41st Leg., 3rd C.S., p. 245, ch. 11. Amended by Acts 1945, 49th Leg., p. 10, ch. 6, § 1; Acts 1955, 54th Leg., p. 882, ch. 337, § 3; Acts 1979, 66th Leg., p. 888, ch. 408, § 1, eff. Sept. 1, 1979.]

Section 2 of the 1979 amendatory act provided:

"This Act takes effect only if the 66th Legislature, Regular Session, does not create two or more new judicial districts in the same Act. If no bill creating two or more new judicial districts by the 66th Legislature, Regular Session, becomes law, this Act takes effect September 1, 1979."

No such bill became law.

113.—Harris. See 11th District

114.—Smith and Wood

(a) The Special District Court of Smith and Wood Counties and now existing by virtue of Acts 1945, 49th Legislature, page 284, Chapter 206, is hereby continued as a permanent, regular District Court. The District Court created and provided for by this Act shall be designated the 114th Judicial District Court and composed of Smith and Wood Counties, and the terms of said District Court shall be held therein as follows:

In Smith County on the first Mondays in January, April, July and October.

In Wood County on the first Mondays in March, June, September and December.

Each term of court in each county shall continue in session until the date fixed herein for the beginning of the next term in each county, respectively.

(b) The Judge of said court may, in his discretion, hold as many sessions of the court in any terms in either county, for the trial of cases, as is deemed necessary and expedient for the proper dispatch of the business of the court.

(c) The 114th Judicial District Court composed of Smith and Wood Counties as herein provided for shall have, and the Judge thereof shall have, all of the jurisdiction and authority of a District Court of General jurisdiction, and a District Judge, as provided by the constitution and laws of this state; and the Judges of said court and of the 7th Judicial District Court in Smith and Wood Counties may transfer cases from one of said courts to the other in said counties, either in term time or vacation, and any cases so transferred may be tried and disposed of by the court to which it is transferred.

(d) The Judge of the 114th Judicial District Court of Smith and Wood Counties shall have the authority to approve all bills of exceptions, statements of fact, and all other matters to complete the disposition of any cases that may have been heard and tried in said Special District Court before this Act becomes effective.

(e) The compensation of the Judge of said 114th Judicial District Court, as hereby reorganized and

continued, shall be the same as the compensation paid to the Judges of other District Courts, including the expenses as provided for by law for District Judges; and the Comptroller of the State of Texas is hereby authorized to draw his warrant on the State Treasurer for such payment, and the compensation herein provided for shall be paid in the manner in which other District Judges of the State of Texas are paid.

(f) The District Attorney of the 7th Judicial District of Texas shall represent the state in all cases wherein the State of Texas is a party, in said District Court, in said county; and in case of the absence or inability of said District Attorney to so represent the state in any case pending in said District Court, then the County Attorney in said county in which said case is pending shall represent the state.

(g) The Judge of the Special District Court of Smith and Wood Counties shall continue to serve in said Special District Court until the date for the expiration of said Special District Court on June 15, 1947, as provided in said Acts 1945, 49th Legislature, Chapter 206. Immediately after the passage of this Act it shall be the duty of the Governor, with the advice and consent of the Senate, as provided by law, to appoint a person qualified by law as Judge of said 114th Judicial District Court herein created to take office at the time said court comes into existence as herein provided, which appointee shall hold office until the next General Election in this state, and until his successor is elected and qualified as provided by law. The terms of the Judge of said court shall thereafter be four (4) years, as provided by law for other District Judges.

(h) The District Clerks in Smith and Wood Counties, respectively, are hereby made clerks of the District Court herein provided for in their respective counties.

(i) The 114th Judicial District of Texas shall be composed of Wood and Smith Counties; the terms of the District Court shall be held therein each year as follows:

In the County of Wood on the first Mondays in January and July.

In the County of Smith on the first Mondays in January and July.

Each term of court in each of such counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

(j) The Judge of said court in his discretion may hold as many sessions of court in any term of court in any county as is deemed proper and expedient for the dispatch of business.

[Acts 1935, 44th Leg., p. 7, ch. 3. Amended by Acts 1937, 45th Leg., p. 227, ch. 123, § 1; Acts 1939, 46th Leg., p. 155, § 1; Acts 1943, 48th Leg., p. 645, ch. 368, § 1; Acts 1945, 49th Leg., p. 284, ch. 206, § 1; Acts 1947, 50th Leg., p. 385, ch. 215, § 1; Acts 1953, 53rd Leg., p. 568, ch. 213, § 1.]

115.—Upshur and Marion

(a) The 115th District Court of Texas shall be composed of Upshur and Marion Counties, and the terms of the Court shall be held as follows:

In the County of Upshur on the first Mondays in January and June of each year, and may continue in session until and including the Saturday immediately preceding the Monday for convening the next regular term of said Court in Upshur County.

In the County of Marion on the first Mondays in March and September, and may continue in session until and including the Saturday immediately preceding the Monday for convening the next regular term of said Court in Marion County.

The Judge of the 115th District Court in his discretion may hold as many sessions of Court in any term of the Court in any County as is deemed by him proper and expedient for the dispatch of business.

(b) The jurisdiction of the 115th District Court is concurrent with the jurisdiction of the 276th District Court in Marion County. The Judges of the 115th and 276th District Courts in Marion County may transfer on their dockets any case to be tried in Marion County with the consent of the court to which transferred, and each may sit in the other court to hear cases without transferring the case. The 115th District Court in Marion County shall have and exercise concurrent jurisdiction with the County Court over all matters of criminal jurisdiction, original and appellate, in cases over which under the constitution and laws of this state the County Court has jurisdiction. In the County, matters and proceedings in the concurrent jurisdiction of the 115th District Court and the County Court may be filed in either Court and all cases of concurrent jurisdiction may be transferred between the 115th District Court and the County Court. All writs and processes issued and bonds and recognizances made in cases transferred are returnable to the court to which transferred, as if originally issued there.

(c) The officers serving the 276th District Court in Marion County shall serve in the same manner the 115th Judicial District Court in Marion County.

[Acts 1949, 51st Leg., p. 316, ch. 150, § 2. Amended by Acts 1969, 61st Leg., p. 519, ch. 181, § 4, eff. May 9, 1969; Acts 1975, 64th Leg., p. 1857, ch. 581, § 2, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 56, ch. 25, § 10, eff. April 8, 1981; Acts 1983, 68th Leg., p. 4964, ch. 889, § 12, eff. Sept. 1, 1983.]

116.—Dallas

Sec. 1. One additional District Court is hereby created in and for Dallas County, the limits of which shall be co-extensive with the limits of the County.

The District shall be known as the One Hundred and Sixteenth Judicial District.

Sec. 2. The One Hundred and Sixteenth District Court shall not have or exercise any Criminal jurisdiction, but in all other respects it shall have and exercise the powers conferred by the Constitution and Laws of the State on the Judges of District Courts. No jurisdiction shall be concurrent with that of the existing District Courts of Dallas County.

Sec. 3. The terms of the One Hundred and Sixteenth District Court shall begin on the first Monday, respectively in January, April, July and October of each year, and each term of said Court shall continue until the Sunday immediately preceding the date set for the beginning of the next term thereof.

Sec. 4. The Governor shall appoint a suitable person as Judge for said office until the next general election, and until his successor shall have been provided by the Constitution and Laws of the State for the election of District Judges.

Sec. 5. The Clerk of the District Courts of Dallas County shall, upon the taking effect of this Act, assume the duties of Clerk of the One Hundred and Sixteenth District Court, and shall thereafter perform the duties of such position as if the Court had existed at the time of his election. He shall promptly prepare a docket for the One Hundred and Sixteenth District Court, placing thereon every sixth pending case on the respective dockets of the Fourteenth, Forty-Fourth, Sixty-Eighth, Ninety-Fifth, One Hundred and First District, and One Hundred and Sixteenth District Courts, continuing in this manner through said dockets until all the cases thereon are exhausted and the dockets of the six Courts are equalized as nearly as may be; provided, that no case on trial in any of the existing District Courts, nor any case pending on appeal therefrom, shall be transferred to the docket of the Court created hereby. The cases so transferred shall bear the same docket numbers as in the Court from which they are transferred, and the Judges of the existing Courts, respectively, shall make proper orders transferring from said Courts to the One Hundred and Sixteenth District Court the cases which shall have been placed upon the docket of the latter Court in pursuance of this Act.

Sec. 6. The letters A, B, C, D, E, and F, shall be placed on the docket and Court papers in the respective District Courts of Dallas County to distinguish them; A, being used in connection with the Fourteenth District Court; B, the Forty-Fourth District Court; C, the Sixty-Eighth District Court; D, the Ninety-Fifth District Court; E, the One Hundred and First District Court and F, the One Hundred and Sixteenth District Court.

Sec. 7. All suits, prosecutions and proceedings hereafter instituted in the District Courts of Dallas County shall be numbered consecutively, beginning with the next number after the last file number on

the dockets of the existing Courts, and shall be entered by the District Clerk upon the dockets of said Courts, alternatively, beginning with the Fourteenth District Court; next the Forty-Fourth District Court, third the Sixty-Eighth District Court; fourth, the Ninety-First District Court; fifth, the One Hundred and First District Court; sixth, the One Hundred and Sixteenth District Court.

Sec. 8. The respective Judges of the District Courts of Dallas County shall, from time to time, as occasion may require, transfer cases from any one of such Courts to any other such Court in order that the business may be equally distributed among them, that the Judges thereof may, at all times, be provided with cases to be tried or otherwise considered, and that the trial of no case need be delayed because of the disqualification of the Judge in whose Court it is pending; provided, however, no case shall be transferred from one Court to another without the consent of the Judge of the Court to which it is transferred. When any transfer is made, proper order shall be entered on the Minutes of the Court as evidence thereof, and notice of the transfer shall be given in writing by the Clerk to the attorneys of record of all parties to the cause.

[Acts 1930, 41st Leg., 5th C.S., p. 228, ch. 71.]

117.—Nueces

Sec. 1. There is hereby created for and within Nueces County the 117th Judicial District of Texas, and a District Court for said Judicial District, the limits of which shall be co-extensive with the limits of Nueces County.

Sec. 2. The District Court for the 117th Judicial District shall have and exercise the jurisdiction prescribed by the Constitution and the laws of this State for District Courts in general, and the Judge thereof shall have and exercise the powers conferred by the Constitution and Laws of this State on the Judges of District Courts. Its jurisdiction shall be concurrent with that of the District Court of Nueces County for the 28th Judicial District.

Sec. 3. The terms of the 117th District Court shall be held as follows: a term to be known as the January-July term shall begin on the first Monday in January of each year and shall continue to and including the Sunday preceding the first Monday in July of the same year, and a term to be known as the July-January term shall begin on the first Monday in July of each year and shall continue until the and including the Sunday preceding the first Monday in January of the succeeding year.

Sec. 4. Repealed by Acts 1949, 51st Leg., p. 692, ch. 362, § 19.

Sec. 5. From and after the passage of this Act the County Court of Nueces County shall cease to have or exercise any Civil jurisdiction, except as hereinafter specified and enumerated, provided that said Court shall not be restricted nor deprived of any jurisdiction now vested in it by the General Laws, nor shall the Judge thereof be restricted nor

deprived of any duties, rights or powers now vested in or required of him by the General Laws except the Civil jurisdiction by this Act transferred from said Court to the District Court for the 117th Judicial District. The County Court of Nueces County shall have and retain jurisdiction of all cases appealed from the Justice Courts, and the general jurisdiction of a Probate Court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards; grant letters testamentary and of administration; settle accounts of executors; transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the settlement, partition and distribution of estates of deceased persons; and to apprentice minors as provided by Law, and the County Court or the Judge thereof shall have power to issue all writs necessary to the enforcement of the jurisdiction of said Court in all matters the jurisdiction of which, by this Act, is not transferred from said Court to the District Court of the 117th Judicial District.

Sec. 6. The Clerk of the District Court of Nueces County shall, upon the taking effect of this Act, assume the duties of Clerk of the 117th District Court, and shall thereafter perform the duties of such, as if the Court had existed at the time of his election. He shall promptly prepare a docket for the 117th District Court, placing thereon such cases as may be filed in said Court and as may be transferred to said Court; provided, that no case then on trial in the 28th District Court of Nueces County nor any case pending on appeal therefrom shall be transferred to the docket of the Court created hereby.

Sec. 7. The letters "A" and "B" shall be placed upon the dockets and Court papers in the respective District Courts of Nueces County to distinguish them; "A" being used in connection with the 28th District Court and "B" the 117th District Court.

Sec. 8. All suits and proceedings hereafter instituted in the District Courts of Nueces County shall be numbered consecutively, beginning with the next number after the last file number on the docket of the existing Court, and shall be entered upon the dockets of said Courts in the same manner as provided in Section 7 of this Act.

Sec. 10. The respective Judges of the 28th and 117th Judicial Districts shall from time to time, as occasion may require, transfer cases from one to the other in order that the business may be equally distributed among them, that the Judges of both of said Courts may at all times be provided with cases to be tried or otherwise considered, and that the trial of no case need be delayed because of the disqualification of the Judge in whose Court it is pending; provided, however, no case shall be transferred from one Court to another without the consent of the Judge of the Court to which it is transferred. When any transfer is made, proper

order shall be entered on the Minutes of the Court as evidence thereof, and notice of the transfer shall be given in writing by the Clerk to the attorneys of record of all parties to the cause.

Sec. 11. This Act shall not, in any manner, affect the status of the Criminal District Court of Nueces County, nor the Judge or District Attorney thereof.

Sec. 12. The Governor, upon this Act taking effect, shall appoint a suitable person possessing qualifications prescribed by the Constitution and Laws of this State as Judge of the District Court of the 117th Judicial District of Texas, as herein constituted, and such person shall hold said office until the next general election, and until his successor shall have been elected and qualified, and thereafter the Judges of the District Court of the 117th Judicial District of Texas shall be elected as prescribed by the Constitution and Laws of this State for the election of District Judges. There shall be elected for four years by the qualified voters of Nueces County, beginning with the next general election after this Act takes effect, a Judge for the District Court of the 117th Judicial District of Texas, whose power and duties shall be the same as other District Judges, and who shall receive such salary as is now or may hereafter be prescribed by Law for District Judges of the District Courts of the State of Texas, to be paid in the same manner.

[Acts 1930, 41st Leg., 5th C.S., p. 224, ch. 69. Amended by Acts 1947, 50th Leg., p. 776, ch. 385, § 2; Acts 1949, 51st Leg., p. 692, ch. 362, § 19.]

118.—Howard, Glasscock and Martin

Sec. 6. The 118th Judicial District of Texas is hereby created and shall be composed of the Counties of Howard, Glasscock and Martin. Said District Court shall be known as the 118th Judicial District.

Sec. 7. The terms of said 118th Judicial Court shall be as follows:

In the County of Howard on the fourth Monday of August, the fourth Monday in October, the fourth Monday in January, and the fourth Monday in June.

In the County of Glasscock on the first Monday in September and on the first Monday in February.

In the County of Martin on the first Monday in October and the first Monday in January and the first Monday in June.

Each term of Court in each of such Counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

Sec. 14. The District Court of the 70th Judicial District and the District Court of the 118th Judicial District shall have such jurisdiction and power as is conferred on District Courts under the Constitution and existing laws of Texas, and such as shall be thereafter given by law.

Sec. 15. The Judges of the 70th Judicial Court and of the 118th Judicial District Court may each take a vacation and not attend Court for six (6) weeks in each year; the Judges of said Courts shall by agreement between themselves, take their vacations alternately so there shall be at all times at least one of said Judges in said Judicial Districts.

[Acts 1949, 51st Leg., p. 620, ch. 330.]

119.—Concho, Runnels and Tom Green

(a) The One Hundred and Nineteenth Judicial District of Texas shall be composed of Concho, Runnels, and Tom Green Counties; the terms of the District Court shall be held therein each year as follows:

In the County of Concho on the first Mondays in February and July.

In the County of Runnels on the first Mondays in March and October.

In the County of Tom Green on the first Mondays in April and November.

Each term of court in each of such counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

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

(c) All processes issued, bonds and recognizances made and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding term of the District Courts of the several counties as herein fixed as though issued and served for such terms and returnable to and drawn from the same.

(d) It is further provided that if any court in any county of said district shall be in session at the time this Act takes effect such court or courts affected thereby shall continue in session until the term thereof shall expire under the provisions of existing laws, but thereafter all courts in said district shall conform to the requirements of this Act.

[Acts 1931, 42nd Leg., p. 864, ch. 367, § 5. Amended by Acts 1933, 43rd Leg., 1st C.S., p. 78, ch. 24, § 1; Acts 1937, 45th Leg., p. 693, ch. 349, § 1; Acts 1939, 46th Leg., p. 171, § 2; Acts 1943, 48th Leg., p. 478, ch. 319, § 2; Acts 1969, 61st Leg., 2nd C.S., p. 156, ch. 23, § 5.003; Acts 1973, 63rd Leg., p. 826, ch. 375, § 1, eff. June 12, 1973.]

120.—El Paso County

Sec. 1. An additional judicial district is hereby created, the limits of which shall be coextensive with the limits of El Paso County, the District Court of which shall be known as the 120th District Court. Such Court shall have the jurisdiction provided by the Constitution and laws of this State for district courts, and it shall have concurrent jurisdiction with the 34th, 41st and 65th District Courts.

Sec. 2. Immediately on the effective date of this Act the Governor shall appoint a suitable person having the qualifications provided by the Constitution and laws of this State as Judge of the District Court for the 120th Judicial District who shall hold office until the next general election and until his successor shall be duly elected and qualified as provided by the Constitution and laws of this State, and he shall receive such compensation as allowed other district judges under the laws of this State.

Sec. 3. The terms of such Court shall be two (2) each year as follows: On the first Monday of January and the first Monday of July. Each term of Court shall continue until the convening of the next regular term of court therein. The Judge of the 120th District Court may, at his discretion, hold as many sessions of court in any term of court as may be deemed by him proper and expedient for the disposition of the court's business; and the jurors therefor may be summoned to appear before such District Court at such times as may be designated by the Judge thereof.

Sec. 4. Any one of the Judges of said District Courts in El Paso County may, in his discretion, either in term time or vacation, transfer any case or cases, civil or criminal, to any other of said District Courts by order entered on the minutes of his Court, which orders when made, shall be copied and certified to by the Clerk of said Courts, together with all orders made in said case, and said certified copies of said orders shall be filed among the papers of any case thus transferred, and the fees therefor shall be taxed as part of the costs of said suit. And the Clerk of said Courts shall docket any such cause in the Court to which it shall have been transferred, and when so entered, the Court to which the same shall have been transferred shall have like jurisdiction therein as in cases originally brought in said Court, and the same shall be dropped from the docket of the Court from which it was transferred; provided, that where there shall be a transfer of any case from one Court to another, as herein provided, on motion of either of the parties to said suit, notice must be given to either the opposite party or his attorney by the party making the motion to transfer, one week before the time of entering the order of transfer.

Sec. 5. The District Attorney of the 34th Judicial District shall also act as District Attorney in and for the 120th Judicial District and the Clerk of the 34th, 41st and 65th District Courts shall act as Clerk of the 120th District Court.

Sec. 6. The Judge of the 120th District Court shall appoint an official Court Reporter to serve said court in accordance with existing law who shall receive the same fees and compensation as is now provided by law for official court reporters.

Sec. 7. The Sheriff of El Paso County shall attend either in person or by deputy the Court as required by law in El Paso County, or when required by the Judge thereof and the sheriffs and

constables of the several counties of this State when executing process out of said court shall receive fees provided by general law for executing process out of district courts.

Sec. 8. All process, writs, bonds, recognizances or other obligations issued out of District Courts of El Paso County are hereby made returnable to the terms of the District Courts of El Paso County, as said terms are fixed by law and by this Act, and all bonds executed and recognizances entered in said courts shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of such court as fixed by law and by this Act; and all process heretofore returned, as well as all bonds and recognizances heretofore taken in the District Courts of El Paso County, shall be valid.

[Acts 1957, 55th Leg., p. 635, ch. 276.]

121.—Terry and Yoakum

(a) There is created the 121st Judicial District of Texas, to be composed of the Counties of Terry and Yoakum. The District Court of the 121st Judicial District shall have the jurisdiction provided by the Constitution and Laws of this State for District Courts.

(b) The terms of the District Court shall be held therein each year as follows:

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

In the County of Yoakum, beginning on the second Monday in June and the second Monday in December.

Each term of court continues until the next succeeding term begins.

[Acts 1959, 56th Leg., p. 425, ch. 190, § 1, eff. Sept. 1, 1959. Amended by Acts 1981, 67th Leg., p. 58, ch. 25, § 15, eff. April 8, 1981.]

122.—Galveston

Sec. 1. There is hereby created in and for Galveston County, Texas, an additional District Court to be known as the District Court of the 122nd Judicial District of Texas, composed of the County of Galveston.

Sec. 2. The District Court for the 122nd Judicial District of Texas shall have and exercise the jurisdiction prescribed by the Constitution and laws of this State for district courts in general. The judge thereof shall have and exercise the powers conferred by the Constitution and laws of this State on the judges of the district courts.

The jurisdiction of the District Court of the 122nd Judicial District shall be concurrent with the District Courts of the 10th and 56th Judicial Districts in Galveston County. Either of the judges of said District Courts for Galveston County may in his discretion in termtime or in vacation transfer a case

or cases, civil or criminal, to said other District Court with the consent of the judge of said other District Court by order entered on the minutes of his Court from which said case is transferred or minutes or orders made in chambers as the case may be, which orders when made shall be copied and certified to by the district clerk of Galveston County, together with all orders made in said case and such certified copies of such orders together with the original papers shall be filed among the papers of any case thus transferred and the fees thereof shall be taxed as a part of the costs of said suit. The district clerk shall docket any such case in the court to which it shall have been transferred and when so entered the court to which same shall have been thus transferred shall have like jurisdiction therein as in cases originally filed in said court and the same shall be dropped from the docket of the said court from which it was transferred, provided that all process and writs issued out of the District Court from which any such transfer is made shall be returnable to the term of court to which said transfer is made according to the terms of the District Court of said respective courts as fixed by this Act. All bonds executed and recognizances entered into any District Court from which any such transfer is made shall bind the parties for their appearance or to fulfill the obligations of such bonds and recognizances at the terms of said Court to which said transfer is made as said terms are fixed by this Act.

Sec. 3. The terms of the District Court of the 122nd Judicial District in and for Galveston County shall be continuous commencing on the first Monday in January and the first Monday in July. Each term of the Court continues until the next succeeding term begins.

Sec. 4. The district clerk of Galveston County shall act as the district clerk for the Court herein created. Immediately upon the effective date of this Act the Judge of the 10th Judicial District Court and the Judge of the 56th Judicial District Court shall enter an order transferring a portion of the cases on the dockets in said Courts to the District Court of the 122nd Judicial District herein created. The district clerk of Galveston County shall thereupon transfer such cases accordingly and enter the same upon the docket of the Court created by this Act, together with all records and papers relating thereto.

Sec. 5. The district attorney of Galveston County shall perform the duties for the District Court herein created in connection with the Court as provided by law.

Sec. 6. The sheriff of Galveston County shall perform the duties in connection with the Court herein created as provided by law for services performed in connection with District Courts.

Sec. 7. The Judge of the District Court of the 122nd Judicial District shall appoint an official shorthand reporter for such Court who shall be

well-skilled in his profession, and who shall be sworn officer for the Court and hold office at the pleasure of the Judge of the Court and shall be compensated as provided by law.

Sec. 8. Upon the effective date of this Act the Governor shall appoint a Judge of the District Court for the 122nd Judicial District herein created who shall have the qualifications required of judges of district courts of this State and who shall hold his office until the next General Election and until his successor is duly elected and qualified, and he shall be compensated as provided by law.

Sec. 9. All grand and petit juries drawn and selected under existing laws in Galveston County shall be considered lawfully drawn and selected for the next ensuing term of the 122nd District Court.

[Acts 1957, 55th Leg., p. 1467, ch. 503. Amended by Acts 1979, 66th Leg., p. 1128, ch. 539, § 2, eff. Aug. 27, 1979.]

123.—Panola and Shelby

Sec. 4. The 123rd Judicial District of Texas is hereby created and shall be composed of the Counties of Panola and Shelby and shall be known as the District Court of said Counties in and for the 123rd Judicial District.

Sec. 5. The terms of the said 123rd Judicial District Court shall be as follows: in the County of Panola on the first Monday in January, May and September of each year, and may continue in session for seven (7) weeks thereafter, or until the business thereof is disposed of; in the County of Shelby on the first (1st) Monday in March, July and November of each year and may continue in session for eight (8) weeks thereafter or until the business is disposed of.

Sec. 10. That the District Courts of the 4th Judicial District, and the 123rd Judicial District shall have such jurisdiction and power as is conferred on District Courts under the constitution and existing laws of Texas and such as shall be hereafter given by Law.

[Acts 1931, 42nd Leg., p. 873, ch. 369.]

124.—Gregg

Sec. 1. Gregg County, Texas, shall hereafter constitute the One Hundred Twenty-fourth Judicial District of the State of Texas.

Sec. 2. The terms of the Court of the said One Hundred Twenty-fourth Judicial District Court of Gregg County, Texas, shall be held in Gregg County, Texas, each year as follows: On the first Monday in January, March, May, July, September and November of each year and each term of said Court shall continue in session until and including the Saturday before the next succeeding term begins or until all business is disposed of provided, however, that the first regular term of said Court shall be and become in session immediately upon the taking effect of this Act and the appointment and qualifica-

tion of the Judge thereof as hereinafter provided for.

Sec. 6. The Governor of the State of Texas, immediately upon this Act's taking effect, shall appoint a suitable and qualified person as District Judge of said One Hundred Twenty-fourth Judicial District, having the qualifications as provided by the Laws of the State of Texas, as District Judge of said One Hundred Twenty-fourth Judicial District created by this Act, who shall hold his office until his successor is duly elected, at the next general election after this Act becomes effective, and qualifies, and said Judge and his successor in office shall receive such salary as is now provided for District Judges under and by virtue of the General Laws of the State of Texas.

Sec. 13. The Judge of the Seventy-first Judicial District Court for Gregg County, Texas, either in term time or in vacation, may enter an order upon the minutes of the District Court for the Seventh-first Judicial District for Gregg County, Texas, transferring any cases that may be pending in said Court to the One Hundred Twenty-fourth Judicial District Court, or the Special District Court for Gregg County, Texas [Expired], created by this Act and said One Hundred Twenty-fourth Judicial District Court, and the Special District Court for Gregg County, Texas, shall have the same power, authority and jurisdiction to try and finally dispose of said case or cases so transferred as would the Court from which the same were transferred. And the Judge of the One Hundred Twenty-fourth Judicial District Court, hereby created, may, at any time, either in term time or in vacation, by an order or orders, entered upon the minutes of his Court, transfer any case of cases pending upon the docket of said One Hundred Twenty-fourth Judicial District Court, to the District Court of the Seventy-first Judicial District, or to the District Court for the Special District Court for Gregg County, Texas, and when said case or cases are transferred, the Court to which transfer is made shall have the same right, authority and jurisdiction to try and finally dispose of the same as was originally had by the Court making such transfer. And the Judge of the Special District Court for Gregg County, Texas, created by this Act, may at any time, either in term time or in vacation, by an order or orders entered upon the minutes of his Court, transfer any case or cases pending upon the docket of the Special District Court for Gregg County, Texas, to the District Court of the Seventy-first Judicial District for Gregg County, Texas, or the District Court for the One Hundred Twenty-fourth Judicial District of Gregg County, Texas, and when said case or cases are transferred, the Court to which transfer is made shall have the same right, authority and jurisdiction to try and finally dispose of the same as was originally had by the Court making such transfer.

Sec. 14. Any party or parties desiring to institute or file any suit over which the District Court of the Seventy-first Judicial District, the District Court

of the One Hundred Twenty-fourth Judicial District and/or the Special District Court for Gregg County, Texas [Expired], has jurisdiction, shall have the right to file the same in either of said Courts, subject to the right of the Judge of either of said Courts to transfer the same, as herein provided for.

Sec. 15. The District Clerk or Gregg County, Texas, shall, when suits are filed, file the same in the Court designated by the Attorney filing said suit, and in order to designate cases filed in said Courts, the Clerk shall place after the number of each suit filed in the Seventy-first Judicial District Court for Gregg County, Texas, the capital letter "A", and after the number of each suit filed in the One Hundred Twenty-fourth Judicial District Court for Gregg County, Texas, the capital letter "B", and after the number of each suit filed in the Special District Court for Gregg County, Texas [Expired], the capital letter "C".

Sec. 16. The Seventy-first Judicial District Court in and for Gregg County, Texas; the One Hundred Twenty-fourth Judicial District Court for Gregg County, Texas, herein created, and the Special District Court for Gregg County, Texas [Expired], also herein created, shall have concurrent civil and criminal jurisdiction with each other in Gregg County, Texas, in all matters over which jurisdiction is given or may be given by the Constitution and Laws of the State of Texas to District Courts.

Sec. 17. The District Clerk of Gregg County, Texas, duly elected and now acting as such, shall be the District Clerk of the One Hundred Eighty-eighth and the One Hundred Twenty-fourth Judicial Districts. He shall receive such salary as is now or may be hereafter prescribed for District Clerks of the State of Texas.

Sec. 18. As a necessary incident to the extension of this Court and for purpose of retaining and perfecting the organization and proper functioning thereof the office of Criminal District Attorney for the One Hundred Twenty-fourth Judicial District of Texas is hereby continued; a Criminal District Attorney shall be elected at the next general election and each succeeding general election thereafter and shall hold his office for a period of two (2) years and until his successor is elected and qualified; he shall possess all the qualifications and take the oath and give the bond required by the Constitution and Laws of this State for other District Attorneys provided that the present Criminal District Attorney of the One Hundred Twenty-fourth Judicial District of Texas shall continue in office, take the oath and give the bond required by the Constitution and laws for other District Attorneys, and continue and assume the duties and be known as the Criminal District Attorney of the One Hundred Twenty-fourth Judicial District of Texas. He shall continue with the organization of his office and proceed to organize and arrange the affairs of the office of Criminal District Attorney, appoint Assistants as provided herein, and shall receive the fees provided

for herein for such office until the next general election and until his successor shall be elected and qualified. A vacancy in the office shall be filled in the manner provided for filling a vacancy in the office of District Attorney.

Sec. 19. The Criminal District Attorney for the One Hundred Twenty-fourth Judicial District of Texas shall have and exercise all such powers, duties and privileges as are now by law conferred, or which may hereafter be conferred, upon District and County Attorneys, and shall represent the State of Texas in all Criminal cases under examination or prosecution in the One Hundred Twenty-fourth Judicial District and One Hundred Eighty-eighth Judicial District Courts and in the County Court, Justice Courts and all Municipal Courts of Gregg County, Texas, where the defendant is charged with violating a state law, and shall be entitled to collect the fees provided by law for representing the State of Texas in Municipal Courts, which fees are the same as the fees for representing the state in Justice Courts.

Sec. 20. The Criminal District Attorney for the One Hundred Twenty-fourth Judicial District of Texas shall receive the same fees allowed by Law for County Attorneys in misdemeanor cases, and shall, in addition to the Constitutional salary of Five Hundred Dollars (\$500.00) per annum allowed to District Attorneys, to be paid by the State of Texas in the manner provided by Law for paying the salary of District Attorneys, be paid the same fees which are now allowed and paid to County and District Attorneys in Counties where less than three thousand (3,000) votes were cast at the preceding presidential election.

Sec. 21. It is hereby made the duty of the Criminal District Attorney of the One Hundred Twenty-fourth Judicial District of Texas to represent the State of Texas in all Criminal cases under examination or prosecution in Gregg County in the Seventy-first Judicial District of Texas, and in the two Courts herein created, and in all criminal cases in any and all Courts in Gregg County, Texas, and it is further his duty to represent the State of Texas in all cases both criminal and civil in any and all cases wherein it is the duty of a District or County Attorney to represent the State of Texas that may arise in Gregg County, Texas. The Criminal District Attorney of the One Hundred Twenty-fourth Judicial District of Texas shall be permitted to retain out of the fees earned and collected by him the sum of Four Thousand Two Hundred and Fifty Dollars (\$4250) per annum. After deducting the Four Thousand Two Hundred and Fifty Dollars (\$4250), the remaining amount is to be applied first to the payment of the salary of his assistants and the actual and necessary expenses incurred by him in the conduct of his office; said expenses to be allowed as provided by law, the cost of premiums on whatever surety bonds may be required of the Criminal District Attorney in qualifying for his office and the conduct thereof; expense of securing

evidence, making criminal investigations, clerical and stenographic and bookkeeping expense when deemed by the Criminal District Attorney necessary over and above the amounts now allowed to him by law; stamps, stationery, books, telephone, telegraph, traveling expenses, and all other actual and necessary expenses incident to the conduct of his office; and the balance remaining to be paid over to Gregg County in accordance with the terms and provisions of the Maximum Fee Bill; provided that in arriving at the amount collected by him he shall include fees arising from all classes of criminal cases, whether felony or misdemeanor, arising in any of the Municipal, Justice, County or District Courts, in said County of Gregg, or which may hereafter be created, including habeas corpus hearings, fines and forfeitures, but shall not include the Five Hundred Dollars (\$500) annual Constitutional salary paid by the State of Texas; provided that on the 1st day of March each year he shall make a full and complete report and account, as now provided by law for officers required to make annual reports of fees collected, of all fees collected by him, and shall keep the account and make the report provided in Article 3899, Revised Civil Statutes; provided that in addition to the above he shall receive ten per cent (10%) for the collection of bond forfeitures and fines collected for the State and County as is now provided by law, relating to the collection of fees for County and District Attorneys. Said Criminal District Attorney shall represent the State and County in all tax suits, including suits for inheritance tax, as is now provided for District and County Attorneys, and shall receive the same fees for said services as received by District and County Attorneys.

Sec. 22. (a) Said Criminal District Attorney is hereby authorized to appoint at his discretion a First Assistant Criminal District Attorney who shall receive a salary of Thirty-six Hundred Dollars (\$3600) per annum, and said Criminal District Attorney is hereby authorized to appoint at his discretion a Second Assistant Criminal District Attorney who shall receive a salary of Three Thousand Dollars (\$3,000) per annum, and the salaries of said Assistant Criminal District Attorneys shall be paid out of the General Fund of the County in twelve (12) equal monthly installments by warrants drawn on said Fund. Such Assistant Criminal District Attorneys shall take the Constitutional Oath of office and be authorized to represent the State in all of the Courts of the County in which the Criminal District Attorney is authorized by this Act to represent the State, such authority to be exercised under the direction of the Criminal District Attorney, and such Assistants shall be subject to removal at the will of the Criminal District Attorney. Each of said Assistants shall be and are hereby authorized to administer oaths, file informations, examine witnesses before the Grand Jury and generally perform any duty devolving upon the Criminal District Attorney, and to exercise any power conferred by law upon the County and District Attorneys, and the Criminal

District Attorney when by him so authorized. The Criminal District Attorney shall be paid the same fees for services rendered by his Assistants as he would be entitled to receive if the services had been rendered by himself.

(b) Providing further that the Criminal District Attorney is hereby authorized when in his judgment the efficient conduct of his office so requires to appoint a criminal investigator who shall receive a salary of Three Thousand Dollars (\$3,000) per year. Such Criminal District Attorney may, also, if in his judgment the efficient conduct of his office so requires, appoint a stenographer for said office who shall receive a salary of Eighteen Hundred Dollars (\$1800) per year. The salary of such investigator and stenographer shall be paid out of the General Fund of the County in which they are appointed in twelve (12) equal installments, upon the certificate of the Criminal District Attorney by warrants drawn on said fund.

[Acts 1931, 42nd Leg., 1st C.S., p. 37, ch. 23. Amended by Acts 1935, 44th Leg., p. 11, ch. 4; Acts 1937, 45th Leg., p. 655, ch. 324, § 1; Acts 1969, 61st Leg., 2nd C.S., p. 156, ch. 23, § 5.002, eff. Sept. 19, 1969; Acts 1971, 62nd Leg., p. 53, ch. 29, §§ 1, 2, eff. March 18, 1971.]

125.—Harris. See 11th District

126.—Travis. See 53rd District

127.—Harris. See 11th District

128.—Orange

Sec. 1. From and after the passage of this Act, the temporary District Court of Orange County, Texas, known as the 128th Judicial District Court and now existing by virtue of Acts, 1947, Fiftieth Legislature, Page 198, Chapter 116, is hereby continued as a permanent, regular District Court and shall continue to be designated as the 128th Judicial District Court as composed of Orange County.

Sec. 2. The terms of the said 128th Judicial District Court shall be as follows: The first Monday in January, May and September of each year; and each term of said Court shall continue in session until the date herein fixed for the beginning of the next succeeding term.

Sec. 7. The District Court of the 128th Judicial District, as hereby created, shall have such jurisdiction and power as is conferred on District Courts under the Constitution and existing laws of Texas and such as shall be hereafter given by law.

[Acts 1947, 50th Leg., p. 198, ch. 116, §§ 6 to 10. Amended by Acts 1949, 51st Leg., p. 869, ch. 468.]

129.—Harris. See 11th District

130.—Matagorda

Sec. 1. An additional District Court is hereby created in and for the Counties of Brazoria, Fort Bend, Matagorda and Wharton, Texas, the limits of which district shall be co-extensive with the limits of said counties. Said court shall be known as the 130th District Court.

Sec. 1a. (a) Notwithstanding any other provision of this Act, from and after January 1, 1981, the 130th Judicial District shall be composed of the County of Matagorda.

(b) Beginning at the general election in 1980, the judge of the 130th Judicial District shall stand for election and be elected only from the County of Matagorda.

(c) From and after January 1, 1981, the provisions of this Act do not apply to the 130th District Court and the judge of the 130th District Court in the counties of Brazoria, Fort Bend and Wharton.

Sec. 2. Immediately upon passage of this law the Governor shall appoint a suitable person, having the qualifications provided by the Constitution and Laws of Texas for District Judges, as Judge of the 130th District Court. He shall hold office as such Judge until the next general election, and until his successor shall be duly elected and qualified. Thereafter such Judge shall be elected as provided by the Constitution and Laws of the State of Texas.

Sec. 3. There shall be two terms of the District Court of the 130th District in each of said counties each year. In Brazoria County the first term shall be known as the January-June term and shall begin each year on the first Monday in January and shall continue until and including Saturday before the first Monday in July; the second term of said court in Brazoria County, Texas, which shall be known as the July-December term shall begin each year on the first Monday in July and shall continue until and including Saturday before the first Monday in the following January.

In Fort Bend County the first term shall be known as the February-July term, and shall begin each year on the first Monday of February and shall continue until and including Saturday before the first Monday in August; the second term, which shall be known as the August-January term, shall begin each year on the first Monday in August and continue until and including Saturday before the first Monday in the following February.

In Matagorda County the first term shall be known as the March-August term, and shall begin each year on the first Monday in March and shall continue until and including Saturday before the first Monday in September; and the second term shall be known as the September-February term and shall begin each year on the first Monday in September and shall continue until and including Saturday before the first Monday in the following March.

In Wharton County the first term shall be known as the April-September term and shall begin each year on the first Monday in April and shall continue until and including Saturday next before the first Monday in October of each year; and the second term, which shall be known as the October-March term, shall begin each year on the first Monday in October and shall continue until and including Sat-

urday before the first Monday in the following April.

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

Sec. 4. The clerk of the District Courts in each of the respective counties included in said Judicial District shall also be clerk of the District Court of the 130th District in such respective counties.

Sec. 5. There shall be one general docket for the 23rd District and the 130th District in each of the counties of Brazoria, Matagorda, Wharton, and Fort Bend. All suits and other proceedings instituted in any county in the district of which the District Court has jurisdiction shall be addressed to the District Court of the county in which the suit or other proceeding is instituted. The Judge of either the District Court of the 23rd District or the 130th District may hear and dispose of any suit or other proceeding on the general docket of the District Court of the county in which the suit or other proceeding is instituted, without the necessity of transferring the suit or other proceeding from one court to another. Every judgment and order shall be entered in the minutes of the District Court of the county in which the proceedings are pending and the clerk of the District Court in said county shall keep one set of minutes in which shall be recorded all the judgments and orders of the 23rd District Court and the 130th District Court. All citations and other process issued by the District Clerk and all notices, restraining orders and other process authorized to be issued by the Judge of the 23rd District Court or the 130th District Court shall be returnable to the District Court of the county in which such suit or other proceeding is pending, without reference to the number of the District Court, and on the return of such process a hearing or trial shall be presided over by the Judge of either the 23rd District Court or the 130th District Court.

Sec. 6. The official court reporter for the 23rd Judicial District shall also be the official court reporter for the 130th Judicial District, providing that at any time his services may be required in both the 130th and the 23rd District Courts at the same time, he shall be, and he is hereby, authorized and empowered to employ some competent qualified person to act for him in one of said District Courts, which said person so employed shall receive the same compensation for such services as is provided by law for the official court reporter for the 23rd Judicial District, and shall be paid for such services out of the same fund and in the same manner as the court reporter for the 23rd Judicial District.

Sec. 8. The Judges of the 23rd and the 130th District Courts shall sign the minutes of each term of said courts in each of said counties within thirty (30) days after the end of each term, and shall also sign the minutes at the end of each column of the minutes, and each Judge sitting in said court shall

sign the minutes of such proceedings as were had before him.

Sec. 9. The Judges of the 23rd District Court and of the 130th District Court may each take a vacation and not attend court for six (6) weeks in each year; the Judges of said courts shall by agreement between themselves, take their vacations alternately so that there shall at all times be at least one of said Judges in the Judicial Districts composed of Brazoria, Fort Bend, Matagorda and Wharton Counties.

[Acts 1947, 50th Leg., p. 291, ch. 179. Amended by Acts 1977, 65th Leg., p. 2158, ch. 860, § 6, eff. Sept. 1, 1977.]

Acts 1981, 67th Leg., p. 54, ch. 25, § 6, provides:

"The provisions of Section 5, Chapter 179, Acts of the 50th Legislature, Regular Session, 1947 (Article 199(130), Vernon's Texas Civil Statutes), do not apply to the 23rd District Court and the judge of the 23rd District Court in Fort Bend County."

131.—Bexar

Sec. 1. The Special 37th Judicial District Court of Bexar County heretofore established as a permanent District Court under the terms of Senate Bill No. 395, Acts of the Fifty-fourth Legislature, 1955, Chapter 262, Page 730,¹ is hereby designated as and shall henceforth be known as the 131st Judicial District Court, the limits of which district shall be coextensive with the limits of Bexar County, Texas.

Sec. 2. The present District Judge of the Special 37th District Court of Bexar County, duly elected and acting as such, shall be the District Judge of the 131st Judicial District Court of Bexar County until the time for which he has been elected expires and until his successor is duly elected and qualified.

Sec. 3. All appropriations heretofore made or hereafter made for the payment of the salary and expenses of the Judge of the Special 37th Judicial District Court of Bexar County shall be made available for the payment of the salary and expenses of the Judge of the 131st Judicial District Court of Bexar County.

[Acts 1957, 55th Leg., p. 141, ch. 61.]

¹37th district of this article.

132.—Scurry and Borden

Sec. 6. The 132nd Judicial District of Texas is hereby created and shall be composed of Scurry and Borden Counties and shall be known as the District Court of the 132nd Judicial District, to be in existence from and after the effective date of this Act. The District Court of the 132nd Judicial District shall have and exercise civil and criminal jurisdiction coextensive with the limits of Scurry and Borden Counties in all actions, proceedings, matters and causes of which District Courts of general jurisdiction are given jurisdiction by the Constitution and laws of the State of Texas.

Sec. 7. The terms of the District Court of the 132nd Judicial District shall be as follows:

In Scurry County on the first Monday in February, April, June, August, October and December of

each year, and each term may continue in session until the Saturday immediately preceding the Monday for the convening of the next regular term of the Court in Scurry County.

In Borden County on the first Monday in January, March, May, July, September and November of each year, and each term may continue in session until the Saturday immediately preceding the Monday for the convening of the next regular term of the Court in Borden County.

[Acts 1951, 52nd Leg., p. 7, ch. 7. Amended by Acts 1955, 54th Leg., p. 895, ch. 346, § 2; Acts 1959, 56th Leg., p. 915, ch. 420, § 1, eff. Aug. 11, 1959.]

133.—Harris. See 11th District

134.—Dallas. See 14th District

135.—DeWitt, Goliad, Jackson, Refugio, Calhoun and Victoria

Sec. 1. The 135th Judicial District of Texas shall consist of DeWitt, Goliad, Jackson, Refugio, Calhoun and Victoria Counties.

Sec. 2. The present Judge of the 135th Judicial District shall continue to serve as Judge of the District for the remainder of the term to which he was elected and for which he has qualified and until his successor shall be duly elected and qualified. Thereafter such Judge shall be elected as provided by the Constitution and Laws of the State of Texas.

Sec. 3. There shall be two terms of the District Court of the 135th Judicial District in each county within its jurisdiction which commence on the first Monday in January and on the first Monday in July of each year.

Each term of court in each county continues until the next succeeding term begins.

Sec. 4. The district clerk of each of the respective Counties included in the Judicial District shall also be clerk of the District Court of the 135th Judicial District in such respective Counties. The district attorney of the 24th Judicial District shall represent the state in all cases before the 135th District Court in the Counties of Goliad, Jackson, Refugio, and DeWitt.

[Acts 1951, 52nd Leg., p. 498, ch. 306. Amended by Acts 1953, 53rd Leg., p. 358, ch. 86, § 1; Acts 1957, 55th Leg., p. 690, ch. 289, § 1; Acts 1981, 67th Leg., p. 57, ch. 25, § 13, eff. April 8, 1981.]

136.—Jefferson

Sec. 1. There is hereby created in and for Jefferson County, Texas, an additional District Court to be known as the District Court for the 136th Judicial District of Texas composed of the County of Jefferson.

Sec. 2. The District Court for the 136th Judicial District shall have and exercise concurrent jurisdiction with the 58th and 60th Districts Courts within the limits of Jefferson County in all civil cases or proceedings and matters over which District Courts

are given jurisdiction by the Constitution and laws of this State.

Sec. 3. The terms of the District Court for the 136th Judicial District shall be as follows:

There shall be two terms of said District Court for the 136th Judicial District in Jefferson County in each year, and the first term, which shall be known as the January-June term, shall be begun in said court on the first Monday in January and shall continue until and including Sunday next before the first Monday in July; and the second term, which shall be known as the July-December term, shall begin in said court on the first Monday in July, and shall continue until and including Sunday next before the first Monday in the following January.

Sec. 4. The place of sitting of the District Court for the 136th Judicial District shall be as follows:

Said court, in the discretion of the judge presiding, may sit at Port Arthur, Texas, for the trial of non-jury cases. Nothing herein, however, shall be construed to prevent the trial of non-jury cases at Beaumont, Texas, or to deprive the court of jurisdiction to try non-jury cases at the county seat.

Sec. 5. Immediately on the effective date of this Act, the Governor shall appoint a suitable person having the qualifications provided by the Constitution and laws of this State as judge of the District Court for the 136th Judicial District, who shall hold office until the next general election, and until his successor shall be duly elected and qualified, as provided by the Constitution and laws of this State; and he shall receive such compensation as allowed other district judges under the laws of this State.

Sec. 6. The judge of the 136th District Court is authorized to appoint an official shorthand reporter of such court who shall have the qualifications now required by law of official shorthand reporters. Such reporter shall perform such duties as are required by law, and such duties as may be assigned to him by the judge of the District Court for the 136th Judicial District, and shall receive as compensation for his services the compensation now allowed to the official shorthand reporters under the laws of this State.

Sec. 7. The District Clerk of Jefferson County shall also act as the District Clerk for the 136th Judicial District in Jefferson County. District Clerk of Jefferson County shall docket alternately on the dockets of the District Courts of the 58th, 60th and 136th Judicial Districts in Jefferson County all civil cases, actions, petitions, applications and other proceedings filed in the District Courts of Jefferson County, so that the first case or proceeding filed after the effective date of this Act and every third case or proceeding thereafter filed shall be docketed in the 58th Judicial District Court; and the second case or proceedings filed and every third case or proceedings thereafter filed shall be docketed in the 60th Judicial District Court; and so on seriatim; and all civil cases or proceedings in this manner

shall be docketed in and divided and distributed among the 58th Judicial District Court, the 60th Judicial District Court and the 136th Judicial District Court, one-third of each of them when first filed. All civil suits and proceedings shall be filed by the Clerk in the order in which the petitions are presented to or deposited with him, and immediately after being so presented or deposited.

Any cases or proceedings pending on the dockets of the 58th, 60th or 136th District Courts may in the discretion of the judge thereof be transferred from one of said courts to either of the other, either in term time or in vacation, and the judges may in their discretion exchange benches or districts from time to time. In the case of the disqualification of the judge of any of said courts in any case or proceeding, such case or proceeding on the suggestion of such judge of the disqualification entered on the docket shall be transferred to another of said courts, and the order of transfer may be made by such disqualified judge or by any judge of another of said courts; or instead of transferring the case or proceeding, the judge of any other of said courts may sit in the court in which the case or proceeding is then pending and there try the same, and all transferred cases or proceedings shall be docketed by the Clerk accordingly.

Sec. 8. All process, writs, bonds, recognizances or other obligations issued out of District Courts of Jefferson County are hereby made returnable to the terms of the District Courts of Jefferson County, as said terms are fixed by law and by this Act, and all bonds executed and recognizances entered in said courts shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of such court as fixed by law and by this Act; and all process heretofore returned, as well as all bonds and recognizances heretofore taken in the District Courts of Jefferson County, shall be valid.

Sec. 9. The sheriff of Jefferson County shall attend, either in person or by deputy, the court as required by law in Jefferson County or when required by the judge thereof, and the sheriffs and constables of the several counties of this State when executing process out of said court shall receive fees provided by General Law for executing process out of District Courts.

Sec. 10. The provisions of Article 52-160a, Code of Criminal Procedure of Texas,¹ shall be applicable to the court herein created as well as to the 58th and 60th Judicial District Courts, as well as to the Criminal District Court of Jefferson County, Texas.

[Acts 1955, 54th Leg., p. 634, ch. 216.]

¹1925 Code. See now Article 1926-62.

137.—Lubbock

Sec. 1. There is created in and for Lubbock County, Texas, an additional district court to be known as the District Court of the 137th Judicial

District of Texas, composed of the County of Lubbock.

Sec. 2. The District Court for the 137th Judicial District of Texas shall have and exercise the jurisdiction prescribed by the constitution and laws of this state for district courts in general, and the judge shall have and exercise the powers conferred by the constitution and laws of this state on the judges of district courts. The jurisdiction of the court shall be concurrent with the District Court of the 72nd Judicial District of this state in the County of Lubbock and the District Court of the 99th Judicial District of Texas in Lubbock County and the District Court of the 140th Judicial District of Texas in Lubbock County. Any judge of a district court for Lubbock County may in his discretion in termtime or in vacation, transfer a case or cases, civil or criminal, to another district court with the consent of the judge of the other district court by order entered on the minutes of the court from which the case is transferred, or minutes or orders made in chambers as the case may be. The orders when made shall be copied and certified to by the district clerk of Lubbock County, together with all orders made in the case. The certified copies of the orders, together with the original papers, shall be filed among the papers of any case transferred and the fees shall be taxed as a part of the costs of the suit. The clerk of the court shall docket any case in the court to which it is transferred and when so entered the court to which the case is transferred shall have the same jurisdiction as in cases originally filed in the court and the case shall be dropped from the docket of the court from which it was transferred. All process and writs issued out of the district court from which any transfer is made shall be returnable to the term of court to which the transfer is made according to the terms of the district court of the respective courts as fixed by this Act. All bonds executed and recognizances entered into in any district court from which any transfer is made shall bind the parties for their appearance or to fulfill the obligations of such bonds and recognizances at the terms of the court to which the transfer is made as the terms are fixed by this Act.

Sec. 3. The terms of the District Court of the 137th Judicial District in and for Lubbock County shall be held as follows:

On the first Monday in January and July of each calendar year, and shall continue in session until and including the Saturday immediately preceding the Monday for convening the next regular term of the 137th District Court in Lubbock County, Texas.

Sec. 4. The district clerk of Lubbock County shall act as the district clerk for the court herein created. Immediately upon the effective date of this Act the Judge of the 72nd Judicial District Court, the Judge of the 99th Judicial District Court, and the Judge of the 140th Judicial District Court shall enter an order transferring a portion of the

cases on the dockets in their courts to the District Court of the 137th Judicial District. The District Clerk of Lubbock County shall thereupon transfer such cases accordingly and enter them upon the docket of the court created by this Act, together with all records and papers relating thereto.

Sec. 5. The District Attorney in and for the 72nd Judicial District shall act also as the District Attorney for the District Court of the 137th Judicial District.

Sec. 6. The Sheriff of Lubbock County shall perform the duties in connection with the court herein created as provided by law for sheriffs to perform in connection with district courts.

Sec. 7. The Judge of the District Court of the 137th Judicial District shall appoint an official shorthand reporter for the court who shall be well skilled in his profession. He shall be a sworn officer of the court and shall be compensated as provided by law.

Sec. 8. Upon the effective date of this Act, the Governor shall appoint a Judge of the District Court for the 137th Judicial District who shall have the qualifications required of judges of district courts of this state and who shall hold his office until the next general election and until his successor is duly elected and qualified.

Sec. 9. A sum of \$16,000 for the fiscal year ending August 31, 1966, and a sum of \$16,000 for the fiscal year ending August 31, 1967, is hereby appropriated from the General Revenue Fund for the salary of the Judge of the District Court of the 137th Judicial District. The salary shall be paid as provided by law.

Sec. 10. All grand and petit juries drawn and selected under existing laws in Lubbock County shall be considered lawfully drawn and selected for the next ensuing term of the 137th District Court.

[Acts 1965, 59th Leg., p. 895, ch. 442, §§ 1 to 10, eff. Sept. 1, 1965.]

138.—Willacy and Cameron

Sec. 1. An additional Judicial District is hereby created, the limits of which shall be co-extensive with the limits of the Counties of Willacy and Cameron, the District Court of which shall be known as the 138th District Court. Such court shall have the jurisdiction provided by the Constitution and laws of this State for District Courts, and it shall have concurrent jurisdiction with the 103rd and 107th District Courts, except that in Willacy County the 138th District Court shall not have the jurisdiction of the 107th District Court which is in addition to the jurisdiction vested by the Constitution in District Courts. The 138th District Court shall give preference to criminal cases in each of said counties.

Sec. 2. The terms of such court shall be three (3) each year in each county as follows: (1) in the County of Willacy on the first Monday of January, May, and September; (2) in the County of Cameron on the first Monday of March, July, and November.

Each term of court in each of the said counties shall continue until the convening of the next regular term of court therein. The judge of the 138th District Court may, in his discretion, hold as many sessions of court in any term of court in either county of his district as may be deemed by him proper and expedient for the disposition of the court's business; and the jurors therefor may be summoned to appear before such District Court at such times as may be designated by the Judge thereof.

Sec. 3. All existing laws relative to juries and grand juries in the counties comprising the 138th Judicial District shall apply to juries and grand juries selected and impaneled by the 138th District Court; providing that the judge of the 138th District Court shall call grand juries at all times as required by law, but the judges of the 103rd and 107th District Courts need not call grand juries except in cases of emergency.

Sec. 4. The respective judges of the 103rd, the 107th, and the 138th District Courts may, from time to time, as occasion may require, transfer cases or other proceedings from one court to the other, of which such other court has jurisdiction, and the judges of each of the said courts in such respective counties may, in their discretion, exchange benches or districts from time to time; and any of them may, in his own courtroom, try and determine any case or proceeding pending in the other court without having the case transferred, or may sit in any other court and there hear and determine any case pending; and every judgment and order shall be entered on the minutes of the court in which the case is pending or order rendered as provided by law. The judge of any of said courts, in such respective counties, may issue restraining orders and injunctions returnable to the other judges or courts in such counties. It is provided, however, that in the County of Willacy the judges of the 103rd District Court and the 138th District Court shall not exchange benches with or sit for the judge of the 107th District Court in any case of which District Courts generally have no jurisdiction.

Sec. 5. The sheriffs and clerks of the District Courts of Willacy and Cameron Counties, as now provided by law shall be, respectively, the sheriffs and clerks of the 138th District Court in such counties. The County Attorneys of Willacy and Cameron Counties, each respectively, shall represent the State in said 138th District Court in Willacy and Cameron Counties.

Sec. 6. The judge of the 138th District Court shall appoint an official court reporter to serve said court in accordance with existing law, who shall receive the same fees and salary as is now provided by law for official court reporters.

Sec. 7. The 138th District Court shall have a seal in like design as is now prescribed by law for District Courts.

[Acts 1954, 53rd Leg., 1st C.S., p. 125, ch. 57, Art. I. Amended by Acts 1955, 54th Leg., p. 638, ch. 218, § 1.]

139.—Hidalgo

Sec. 1. An additional Judicial District is hereby created, the limits of which shall be co-extensive with the limits of Hidalgo County, the District Court of which shall be known as the 139th District Court. Such court shall have the jurisdiction provided by the Constitution and laws of this State for District Courts, and it shall have concurrent jurisdiction with the 92nd and 93rd District Courts.

Sec. 2. The terms of such court shall be two (2) each year in such county as follows: upon the first Monday of January and the first Monday of July. Each term of court shall continue until the convening of the next regular term of court therein. The judge of the 139th District Court may, in his discretion, hold as many sessions of court in any term of court as may be deemed by him proper and expedient for the disposition of the court's business; and the jurors therefor may be summoned to appear before such District Court at such times as may be designated by the judge thereof.

Sec. 3. The respective judges of the 92nd, the 93rd, and the 139th District Court may, from time to time, as occasion may require, transfer cases or other proceedings from one court to the other, of which such other court has jurisdiction, and the judges may, in their discretion, exchange benches or districts from time to time; and any of them may, in his own courtroom, try and determine any case or proceeding pending in the other court without having the case transferred, or may sit in any other court and there hear and determine any case pending; and every judgment and order shall be entered on the minutes of the court in which the case is pending or order rendered as provided by law. The judge of any of said courts, in such respective counties, may issue restraining orders and injunctions returnable to the other judges or courts in said Hidalgo County.

Sec. 4. The sheriff and clerk of the District Courts of Hidalgo County, as now provided by law shall be, respectively, the sheriff and clerk of the 139th Judicial District Court. The Criminal District Attorney of Hidalgo County shall represent the State in said 139th District Court.

Sec. 5. The Judge of the 139th District Court shall appoint an official court reporter to serve said court in accordance with existing law, who shall receive the same fees and salary as is now provided by law for official court reporters.

Sec. 6. The 139th District Court shall have a seal in like design as is now prescribed by law for District Courts.

[Acts 1954, 53rd Leg., 1st C.S., p. 125, ch. 57, Art. II. Amended by Acts 1955, 54th Leg., p. 638, ch. 218, § 2.]

140.—Lubbock

Sec. 1. There is hereby created in and for Lubbock County, Texas, an additional District Court to be known as the District Court of the 140th Judicial

District of Texas, composed of the County of Lubbock.

Sec. 2. The District Court for the 140th Judicial District of Texas shall have and exercise the jurisdiction prescribed by the Constitution and laws of this State for District Courts in general, and the Judge thereof shall have and exercise the powers conferred by the Constitution and laws of this State on the Judges of the District Courts. Its jurisdiction shall be concurrent with the District Court of the 72nd Judicial District of this State in the County of Lubbock and the District Court of the 99th Judicial District of Texas in Lubbock County. Either of the Judges of the said District Courts for Lubbock County may in his discretion in term-time or in vacation, transfer a case or cases, civil or criminal, to said other District Court with the consent of the Judge of said other District Court by order entered on the minutes of his Court from which said case is transferred, or minutes or orders made in chambers as the case may be, which orders when made shall be copied and certified to by the District Clerk of said Lubbock County, together with all orders made in said case; and such certified copies of such orders, together with the original papers, shall be filed among the papers of any case thus transferred and the fees thereof shall be taxed as a part of the costs of said suit; and the Clerk of said Court shall docket any such case in the Court to which it shall have been transferred and when so entered the Court to which same shall have been thus transferred shall have like jurisdiction therein as in cases originally filed in said Court and the same shall be dropped from the docket of the said Court from which it was transferred; provided that all process and writs issued out of the District Court from which any such transfer is made shall be returnable to the term of Court to which said transfer is made according to the terms of the District Court of said respective Courts as fixed by this Act, and that all bonds executed and recognizances entered into in any District Court from which any such transfer is made shall bind the parties for their appearance or to fulfill the obligations of such bonds and recognizances at the terms of said Court to which said transfer is made as said terms are fixed by this Act.

Sec. 3. The terms of the District Court of the 140th Judicial District in and for Lubbock County shall be held as follows:

On the first Monday in January and July of each calendar year, and shall continue in session until and including the Saturday immediately preceding the Monday for convening the next regular term of said 140th District Court in Lubbock County, Texas.

Sec. 4. The District Clerk of Lubbock County shall act as the District Clerk for the Court herein created. Immediately upon the effective date of this Act the Judge of the 72nd Judicial District Court and the Judge of the 99th Judicial District Court shall enter an order transferring a portion of

the cases on the dockets in said Courts to the District Court of the 140th Judicial District herein created; and the District Clerk of Lubbock County shall thereupon transfer such cases accordingly and enter the same upon the docket of the Court created by this Act, together with all records and papers relating thereto.

Sec. 5. The District Attorney in and for the 72nd Judicial District shall act also as the District Attorney for the District Court herein created.

Sec. 6. The Sheriff of Lubbock County shall perform the duties in connection with the Court herein created as provided by law for sheriffs to perform in connection with District Courts.

Sec. 7. The Judge of the District Court of the 140th Judicial District herein created shall appoint an official shorthand reporter for such court who shall be well skilled in his profession, and who shall be a sworn officer of the court and hold office at the pleasure of the Judge of the Court and shall be compensated as provided by law.

Sec. 8. Upon the effective date of this Act, the Governor shall appoint a Judge of the District Court for the 140th Judicial District herein created, who shall have the qualifications required of Judges of District Courts of this State and who shall hold his office until the next general election and until his successor is duly elected and qualified; and he shall be compensated as provided by law.

Sec. 9. All grand and petit juries drawn and selected under existing laws in Lubbock County shall be considered lawfully drawn and selected for the next ensuing term of the 140th District Court. [Acts 1955, 54th Leg., p. 630, ch. 214.]

141.—Tarrant. See Article 199a, Sec. 3.002

142.—Midland

Sec. 1. The District Court of the 142nd Judicial District of Midland County shall have the jurisdiction provided by the Constitution and Laws of this State for District Courts.

Sec. 2. The 70th District Court shall exercise jurisdiction in Ector County only. The Judge of the 70th District Court shall have authority and power to approve any and all statements of facts and bills of exception, and to make any other order necessary in cases tried in the 70th District Court in Midland County and appealed.

Sec. 3. The terms of the 142nd District Court shall begin on the first Monday in March and on the first Monday in September; and each term of court may continue until the date herein fixed for the beginning of the next succeeding term therein.

Sec. 4. The terms of the 70th District Court in Ector County shall begin on the first Monday in March and the first Monday in September; and each term of court may continue until the date herein fixed for the beginning of the next succeeding term therein; provided, however, that the term of the

District Court which is in progress on September 1, 1954 may continue until the beginning of a new term as fixed herein.

Sec. 5. The Judge of the 142nd District Court shall appoint an official shorthand reporter, who shall be compensated as provided by law. The District Clerk of Midland County shall be the clerk of the 142nd District Court of Midland County.

Sec. 6. The office of District Attorney of the 142nd Judicial District is hereby established and made permanent. The present District Attorney shall serve as District Attorney for the 142nd Judicial District and shall hold office until the time for which he was elected expires and until his successor qualifies. He shall possess the qualifications and receive the compensation provided by law for District Attorneys, and his compensation shall be paid in the same manner in which other District Attorneys are paid.

Sec. 7. The District Attorney of the 70th Judicial District shall perform the duties of his office in Ector County, only.

Sec. 8. The territorial limits of the 70th Judicial District shall hereinafter be composed of Ector County and the Judge and District Attorney of the 70th Judicial District shall hereafter be elected by the voters of Ector County, provided, however, that the present Judge and present District Attorney of the 70th Judicial District shall continue in office for the expiration of their present terms.

[Acts 1954, 53rd Leg., 1st C.S., p. 120, ch. 55. Amended by Acts 1955, 54th Leg., p. 632, ch. 215, § 3.]

143.—Ward, Reeves and Loving

Sec. 1. From and after the effective date of this Act, the 143rd Judicial District of Texas shall be composed and confined to the Counties of Ward, Reeves and Loving.

Sec. 2. The terms of the 143rd Judicial District Court shall be as follows:

In the County of Ward on the third Monday in February, the first Monday in June, the third Monday in September and the first Monday in December, and may continue in session until 10:00 A.M. of the Monday for convening the next regular term of such Court in Ward County.

In the County of Reeves on the first Monday in January and third Mondays in May, August and October and may continue in session until 10:00 A.M. of the Monday for convening the next regular term of such Court in Reeves County.

In the County of Loving on the first Monday in April, the first Monday in August and the third Monday in December and may continue in session until 10:00 A.M. of the Monday for convening the next regular term of such Court in Loving County.

[Acts 1955, 54th Leg., p. 974, ch. 379, § 8.]

144, 175.—Bexar

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

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

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

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

Sec. 5. Each of the said District Courts shall have an official seal as provided by law for District Courts.

[Acts 1961, 57th Leg., p. 38, ch. 24, eff. Aug. 28, 1961.]

145.—Nacogdoches

Sec. 1. The 145th Judicial District is composed of Nacogdoches County.

Sec. 2. The District Court of the 145th Judicial District shall have two terms each year, which shall begin on the first Mondays of March and September. Each term shall continue until the date for the beginning of the next term. The Judge may, in his discretion, hold as many sessions of court in any term of the court as is deemed by him proper and expedient for the dispatch of business.

Sec. 3. The 145th District Court shall have jurisdiction over all matters, both civil and criminal, of

which jurisdiction is given or shall be given by the constitution and laws of Texas to District Courts.

Sec. 4. The District Clerk of Nacogdoches County shall be the Clerk of the District Court of the 145th Judicial District.

Sec. 5. On the effective date of this Act, the District Clerk of Nacogdoches County shall transfer all civil and criminal cases pending in the 2nd District Court in Nacogdoches County to the 145th District Court. All citations and other process issued by the district clerk and all notices, restraining orders and other process authorized to be issued by the Judge of the 2nd District Court or the 145th Judicial District in Nacogdoches County shall be returnable to the 145th District Court.

Sec. 6. The Judge of the 145th District Court may appoint an official court reporter who shall have the qualifications and receive the same compensation as is now, or may hereafter be, fixed by law, for court reporters in District Courts.

Sec. 7. The Judge of the 145th District Court in office on the effective date of this Act shall continue in office for the term for which he was elected.

Sec. 8. The Judge of the 145th District Court may take a vacation and not attend Court for four weeks in each year.

[Acts 1955, 54th Leg., p. 1230, ch. 492. Amended by Acts 1969, 61st Leg., 2nd C.S., p. 158, ch. 23, § 5.006, eff. Sept. 19, 1969; Acts 1973, 63rd Leg., p. 791, ch. 353, § 2, eff. June 12, 1973.]

146.—Bell

Sec. 1. An additional District Court is hereby created in and for the County of Bell, State of Texas, the limits of which district shall be coextensive with the limits of said County. Said Court shall be known as the 146th District Court.

Sec. 2. Beginning with the General Election of 1960 and thereafter a Judge shall be elected as Judge of the 146th District Court as provided by the Constitution and Laws of the State of Texas, and no Judge shall be appointed to hold office until the first such election.

Sec. 3. The terms of the District Court of the 146th Judicial District shall be on the first Mondays in January, April, July, and October of each year, and each term of court continues until the next succeeding term begins.

Sec. 4. The District Clerk, Sheriff and District Attorney of the County shall perform all the duties and functions relative to all District Courts of their County as is required by law for the District Court thereof.

Sec. 5. The Judge of the 146th District Court is authorized to appoint an official court reporter for his Court and said court reporter shall have the qualifications now required by law for official shorthand reporters. Such reporter shall perform the duties as required by law and such duties as may be

assigned to the court reporter by the Judge of the Court to which the reporter is appointed and shall receive as compensation for his services the compensation now allowed or hereafter allowed for official shorthand reporters for District Courts under the Laws of this State.

Sec. 6. All process, writs, bonds, recognizances or other obligations issued out of District Courts of the county coming under this Act are hereby made returnable to the terms of the District Courts of said County, as said terms are fixed by law and by this Act; and all bonds executed and recognizances entered in said Courts shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of such Court as fixed by law and by this Act; and all process heretofore returned, as well as all bonds and recognizances heretofore taken in the District Courts of the County herein, shall be valid.

[Acts 1959, 56th Leg., p. 1075, ch. 490, eff. Aug. 11, 1959. Amended by Acts 1973, 63rd Leg., p. 1284, ch. 476, § 2, eff. June 14, 1973; Acts 1975, 64th Leg., p. 224, ch. 83, §§ 1 & 2, eff. April 30, 1975.]

147.—Travis

Sec. 1. There is hereby created the 147th Judicial District to be composed of and to have its boundaries coextensive with the boundaries of Travis County, Texas; and the Criminal District Court of Travis County is hereby designated and created as the 147th Judicial District Court of Travis County, Texas.

Sec. 2. The 147th Judicial District Court of Travis County, Texas, shall have jurisdiction over all matters, both civil and criminal, of which jurisdiction is given or shall be given by the Constitution and laws of the State of Texas to District Courts; provided, however, that such Court shall give preference to criminal matters.

Sec. 3. The present Judge of the Criminal District Court of Travis County, Texas, duly elected and acting as such, shall be the Judge of this Court and shall henceforth be known as the Judge of the 147th Judicial District Court of Travis County, and shall exercise all the powers and duties now or hereafter vested in and exercised by District Judges. He shall continue to serve as Judge of such Court until his present term of office expires and until his successor is elected and qualified as provided in the Constitution and laws of this State. He shall have the qualifications provided by the Constitution and laws of this State for District Judges of Travis County.

Sec. 4. All appropriations heretofore made and hereafter made for the payment of the salaries and expenses of the Judge of the Criminal District Court of Travis County shall be made available for the payment of the salary and expenses of the Judge of the 147th Judicial District Court of Travis County.

Sec. 5. The 147th Judicial District Court of Travis County, Texas, shall hold four (4) terms each year for the trial of causes and the disposition of business coming before it, such terms to be as follows:

Beginning on the first Monday of January of each year and may continue until the first Monday of April; beginning on the first Monday of April and may continue until the first Monday of July; beginning on the first Monday of July and may continue until the first Monday of October; beginning on the first Monday of October and may continue until the first Monday of January of the following calendar year. A grand jury shall be impaneled in said Court for each term thereof in the same manner as is now or may hereafter be required by law in District Courts and under like rules and regulations. The Judge of said Court may also impanel other grand juries at any time as in his judgment is necessary, by an order entered in the minutes of the Court. The other District Courts of Travis County shall be relieved of the mandatory duty of impaneling grand juries but may impanel same in their discretion when necessary in accordance with the provisions of law.

Sec. 6. The Judge of the 147th Judicial District Court of Travis County and the Judge of each other District Court of Travis County may in their discretion exchange benches and hear cases for each other in the same manner as the Judge of each of such District Courts of Travis County may now do as provided by law, and cases may be transferred from such District Courts to other District Courts within Travis County as is provided by law by appropriate orders made and entered on the docket of the Court so transferring same. Any of said Judges may hear any part of any case or proceeding pending in any of said Courts and determine the same, or may hear or determine any question in any case, and any other of said Judges may complete the hearing and render judgment in the case.

Sec. 7. On and after the effective date of this Act, all processes, writs, bonds, recognizances, or other obligations issued out of the Criminal District Court of Travis County or made returnable thereto, are hereby made returnable to the 147th Judicial District Court of Travis County, Texas, and all bonds executed and recognizances entered into in said Court shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of such Court as are fixed by law and by this Act; and all processes heretofore issued or returned, as well as all bonds and recognizances heretofore taken in the Criminal District Court of Travis County, Texas, shall be valid and binding.

Sec. 8. The 147th Judicial District Court shall have a seal of like design as now provided by law for District Courts in this State, which seal shall be used for all purposes for which seals of District Courts are required to be used; and certified copies

of the orders, proceedings, judgments, and other official acts of said Court, under the hand of the Clerk and attested by the seal of said Court, shall be admissible in evidence in all courts of this State in like manner as similar certified copies from courts of record are now or may hereafter be admissible.

Sec. 9. The Sheriff, District Attorney, County Attorney, and the Clerk of the District Court of Travis County, as heretofore provided by law shall be the Sheriff, District Attorney, County Attorney, and Clerk, respectively, of the 147th Judicial District Court under the same rules and regulations as are now or may hereafter be prescribed by law for Sheriffs, District Attorneys, County Attorneys, and Clerks of the District Courts of the State; and the Sheriff, District Attorney, County Attorney, and Clerk shall respectively receive such fees as are now or may hereafter be prescribed by law for such officers in the District Courts of this State to be paid in the same manner.

Sec. 10. The Judge of said 147th Judicial District Court shall have the right to appoint an official Court Reporter who shall have the qualifications and receive the same compensation as are now or may hereafter be fixed by law for Court Reporters in District Courts.

[Acts 1957, 55th Leg., p. 721, ch. 299. Amended by Acts 1963, 58th Leg., p. 120, ch. 71, § 1.]

148.—Nueces. See Article 199a, Sec. 3.001

149.—Brazoria. See Article 199a, Sec. 3.027

150.—Bexar

Sec. 1. There is hereby created an additional District Court in and for Bexar County, Texas, to be known as the 150th District Court. The limits of such District Court shall be coextensive with the limits of Bexar County, Texas.

Sec. 2. Immediately on the effective date of this Act the Governor shall appoint with the advice and consent of the Senate a suitable person having the qualifications provided by the Constitution and laws of this State as Judge of the 150th District Court of Bexar County who shall hold office until the next General Election and until his successor shall be duly elected and qualified as provided by the Constitution and laws of this State.

Sec. 3. From and after the effective date of this Act Bexar County shall constitute the 37th, 45th, 57th, 73rd, 131st, 150th, Criminal Judicial District of Bexar County and the Criminal Judicial District No. 2 of Bexar County, Texas. Each of the said eight (8) District Courts shall have and exercise civil and criminal jurisdiction in Bexar County, Texas. Said District Courts shall have and exercise in addition to the jurisdiction now conferred or to be conferred by law on said Courts, concurrent jurisdiction coextensive with the limits of Bexar County, Texas, in all actions, proceedings, matters, and causes, both civil and criminal, of which District Courts of general

jurisdiction are given jurisdiction by the Constitution and laws of the State of Texas.

Sec. 4. The present Judges of the 37th, 45th, 57th, 73rd, 131st Judicial Districts, the Criminal Judicial District of Bexar County and the Criminal Judicial District No. 2 of Bexar County, Texas, shall continue as Judges of said Courts as constituted and defined by this Act and the tenure of office of said Judges shall remain the same as is now provided by law.

Sec. 5. There shall be two (2) terms of the 37th, 45th, 57th, 73rd, 131st and 150th District Courts in Bexar County in each year, and the first term shall begin on the first Monday in January each year and shall continue until and including Sunday next before the first Monday in July of each year; and the second term shall begin on the first Monday in July of each year and shall continue until and including the Sunday next before the first Monday in the following January.

Sec. 6. The Criminal District Court and Criminal District Court No. 2 of Bexar County, Texas, shall hold six (6) terms of court each year for the trial of causes and the disposition of business coming before such Courts, one (1) term beginning the first Monday in January; one (1) the first Monday in March; one (1) the first Monday in May; one (1) the first Monday in July; one (1) the first Monday in September; one (1) the first Monday in November; each term to last for two (2) months. Each term shall continue until the business is disposed of.

Sec. 7. The practice and procedure in said Courts shall be the same as now prescribed by law and, in civil actions, as also provided by the Texas Rules of Civil Procedure applicable to District Courts having successive terms.

Sec. 8. All indictments shall be returned to the Criminal District Court of Bexar County, Texas, and the Criminal District Court No. 2 of Bexar County, Texas. The district clerk of Bexar County shall docket successively on the dockets of the District Courts of the 37th, 45th, 57th, 73rd, 131st, and 150th Judicial Districts in Bexar County all civil cases, actions, causes, petitions, applications, or other proceedings so that the first case or proceeding filed on or after the effective date of this Act and every sixth case or proceeding thereafter filed shall be docketed in the 37th Judicial District; and the second case or proceeding filed and every sixth case or proceeding thereafter filed shall be docketed in the 45th Judicial District; and the third case or proceeding filed and every sixth case or proceeding thereafter filed shall be docketed in the 57th Judicial District; and the fourth case or proceeding and every sixth case or proceeding thereafter filed shall be docketed in the 73rd Judicial District; and the fifth case or proceeding and every sixth case or proceeding thereafter filed shall be docketed in the 131st Judicial District; and the sixth case or proceeding and every sixth case or proceeding thereafter filed shall be docketed in the 150th Judicial

District; and so on seriatim; and in this manner all cases or proceedings filed to be docketed in and divided equally among the 37th, 45th, 57th, 73rd, 131st, and 150th Judicial District Courts, one sixth ($\frac{1}{6}$) in each Court.

Sec. 9. The District Judges of Bexar County, Texas, shall on or before the first day of January and the first day of July of each year elect one (1) of the said District Judges as Presiding Judge of the Bexar County District Judges. The Presiding Judge of the Bexar County District Judges shall, when this Act becomes effective and from time to time as occasion may require in order to adjust the business and dockets of said Courts, transfer, or cause to be transferred, upon the approval of the Judges of said Courts, causes for any of said Courts to any other of said Courts in order that the business of said Courts shall be continually equalized and distributed among them to the end that each Judge shall be at all times provided with cases or proceedings to try or otherwise consider and that the trial of no cause shall be delayed because of the disqualification of the Judge in whose Court it is pending. When a case is transferred, proper order shall be entered on the minutes of the Court as evidence thereof. The clerk shall properly docket all cases transferred. It is the intention of this Act that the Criminal District Court and the Criminal District Court No. 2 of Bexar County, Texas, give preference to criminal matters while the other District Courts shall give preference to civil cases, matters or proceedings. The Judges of the said District Courts shall sign the minutes of each term of said Court in Bexar County, Texas, within thirty (30) days after the end of the term, and also shall sign the minutes at the end of each volume of the minutes, and each Judge sitting in said Courts shall sign the minutes of such proceedings as were had before him.

Sec. 10. In the absence, except as otherwise provided herein, sickness, or disqualification of a Judge of any of the District Courts of Bexar County, Texas, any of the other Judges of the said District Courts may act, and preside; or any regularly practicing lawyer of the Bar of Bexar County, who has all the qualifications of a District Judge, may be elected to act and preside over any of the said Courts during such absence, sickness, or inability of any of the regular Judges to act and preside therein; such Special Judge to be elected according to Title 40 of the Revised Civil Statutes of the State of Texas, 1925, as amended.

Sec. 11. All bail bonds, recognizances or other obligations, taken for the appearance of the defendants, parties and witnesses in any of the said District Courts or the Criminal District Courts of Bexar County, Texas, or any inferior court of Bexar County, Texas, shall be binding on all such defendants, parties and witnesses and their sureties for appearance in any of said Courts in which said cause may be pending or to which same may be transferred. In all cases transferred from one (1) of said Courts

to another all process, bonds, recognizances and obligations extant at the time of such transfer shall be returned to and filed in the court to which the cause is transferred and shall be valid and binding as though originally issued out of the court to which it is transferred.

Sec. 12. Each Judge of the said District Courts and the said Criminal District Courts of Bexar County may take a vacation between the first day of July and the first day of October in each year, during which time the terms of court of which he is Judge shall remain open and the Judge of any other District or Criminal District Court may hold such court during the vacation of a Judge thereof. During the period of such vacation, it shall not be lawful for a Special Judge of such Court to be elected by the practicing lawyers of such Court because of the absence of the Judge on his vacation, unless no Judge of the said District Courts is in the County. The Judges of said District and Criminal District Courts shall by agreement among themselves take their vacations alternately so that there shall be at all times at least four (4) of the said Judges in the County during such vacation period.

Sec. 13. The Judge of each of the several District Courts and the Criminal District Courts shall appoint an official court reporter for his Court as provided by General Law to be compensated as provided by law.

Sec. 14. The sheriff of Bexar County, either in person or by deputy, shall attend the several Courts as required by law or when required by the Judges thereof, and the sheriff and constables of the several counties of this State, when executing process out of said Courts, shall receive fees as provided by General Law for executing process issued out of District Courts.

Sec. 15. The clerk of the District Courts of Bexar County shall be the clerk of the 37th, 45th, 57th, 73rd, 131st and 150th District Courts, and the Criminal District Courts of Bexar County, and shall be compensated as provided by law.

Sec. 16. Repealed by Acts 1963, 58th Leg., p. 1312, ch. 501, § 15, eff. Aug. 23, 1963.

Sec. 17. Each of the said District Courts shall have an official seal as provided by law for District Courts and Criminal District Courts.

Sec. 18. The District Judges of the Criminal District Courts shall alternatively appoint grand jury commissioners and impanel grand juries; and further, they may appoint grand jury bailiffs, not to exceed seven (7). Each such Judge may appoint three (3) of such bailiffs, and, if needed, may jointly appoint the seventh such bailiff. Bailiffs thus appointed are subject to removal at the will of the Judge or Judges so appointing them.

Sec. 19. The procedure for drawing jurors for said Courts shall be the same as is now or may hereafter be provided by law.

Sec. 20. The compensation of each Judge shall be the same as the compensation paid the Judges of other District Courts including the expenses as provided by the laws of this State, and the compensation shall be paid in the manner in which other District Judges of the State are paid.

[Acts 1957, 55th Leg., p. 1478, ch. 507. Amended by Acts 1963, 58th Leg., p. 1312, ch. 501, § 15, eff. Aug. 23, 1963.]

151.—Harris. See 11th District

152.—Harris. See 11th District

153.—Tarrant

Sec. 1. There is hereby created in and for Tarrant County, Texas, effective September 1, 1955, an additional District Court to be known as the District Court of the 153rd Judicial District of Texas composed of the County of Tarrant.

Sec. 2. The District Court for the 153rd Judicial District shall have and exercise concurrent jurisdiction with the 17th, 48th, 67th and 96th District Courts within the limits of Tarrant County in all civil cases or proceedings and matters over which District Courts are given jurisdiction by the Constitution and laws of this State.

Sec. 3. The terms of the District Court of the 153rd Judicial District shall be as follows:

On the first Monday in February, May, August and November and may continue in session until the Saturday immediately preceding the Monday for the convening of the next regular term of such Court. Any term of the Court may be divided into as many sessions as the Judge thereof may deem expedient for the disposition of business.

Sec. 4. Immediately on the effective date of this Act, the Governor shall appoint a suitable person having the qualifications provided by the Constitution and laws of this State as Judge of the District Court for the 153rd Judicial District who shall hold office until the next general election and until his successor shall be duly elected and qualified as provided by the Constitution and laws of this State, and he shall receive such compensation as allowed other District Judges under the laws of this State.

Sec. 5. The Judge of the 153rd District Court is authorized to appoint an official shorthand reporter of such Court who shall have the qualifications now required by law of official shorthand reporters. Such reporter shall perform such duties as are required by law and such duties as may be assigned to him by the Judge of the 153rd District Court and shall receive as compensation for his services the compensation now allowed other official shorthand reporters under the laws of this State.

Sec. 6. The District Clerk of Tarrant County shall also act as District Clerk for the 153rd Judicial District in Tarrant County.

Sec. 7. The Judge of any of the District Courts in Tarrant County may in his discretion try and dispose of any causes, matters or proceedings for

any other Judge of said Courts. Either of the Judges of said District Courts of Tarrant County may at his discretion at term-time or in vacation transfer a case or cases to said other District Court with the consent of the Judge of said other District Court by order entered in the minutes of his Court. When such transfer is ordered, the District Clerk of Tarrant County shall certify all orders made in said case and such certified copies of such orders together with the original papers shall be filed among the papers of the case thus transferred and the fees thereof shall be taxed as part of the cost of said suit and the Clerk of said Court shall docket any such case in the Court to which it shall have been transferred, and when so entered, the Court to which the same shall have been thus transferred shall have like jurisdiction therein as in cases originally filed in said Court. All process and writs issued out of the District Court from which any such transfer is made shall be returnable to the Court to which said transfer is made, according to the terms of the District Court or the respective Courts as fixed by this Act.

Sec. 8. The Sheriff of Tarrant County shall attend either in person or by deputy the Court as required by law in Tarrant County or when required by the Judge thereof, and the Sheriffs and Constables of the several counties of this State when executing process out of said Court shall receive fees provided by General Law for executing process out of District Courts.

Sec. 9. All process, writs, bonds, recognizances or other obligations issued out of the District Courts of Tarrant County are hereby made returnable to the terms of the District Courts of Tarrant County as said terms are fixed by law and by this Act, and all bonds executed and recognizances entered in said Court shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of such Court as fixed by law and by this Act; and all process heretofore returned, as well as all bonds and recognizances heretofore taken in the District Courts of Tarrant County, shall be valid.

[Acts 1955, 54th Leg., p. 636, ch. 217.]

154.—Lamb

Sec. 1. There is created the 154th Judicial District of Texas to be composed of the County of Lamb.

Sec. 8. The terms of the 154th Judicial District Court shall begin on the first Mondays in January and July of each year designated as the January and July Terms, respectively.

Sec. 9. Each term of Court shall continue until the convening of the next regular term of Court therein. The Judge of the 154th District Court may, in his discretion, hold as many sessions of Court in any term of Court as may be determined by him to be proper and expedient for the disposition of the Court's business and the jurors therefor

may be summoned to appear before such District Court at such time as may be designated by the Judge thereof.

Sec. 11. The 154th Judicial District shall have a seal in like design as is provided by law for seals of such Court.

[Acts 1957, 55th Leg., p. 1476, ch. 506. Amended by Acts 1981, 67th Leg., p. 58, ch. 25, § 17, eff. April 8, 1981.]

Section 19 of the 1981 amendatory act provides:

"The office of district attorney of the 154th Judicial District is abolished. The county attorney of Lamb County shall represent the state in all matters pending before the district court in Lamb County and perform all the duties of the district attorney.

155.—Austin, Fayette and Waller

Sec. 1. Beginning September 1, 1967, the 155th Judicial District is composed of Austin, Fayette, and Waller counties, and its jurisdiction is coextensive with the boundaries of those counties. Its court is the 155th District Court, which has concurrent jurisdiction with the 22nd District Court in Austin and Fayette counties and with the 9th District Court in Waller County.

Sec. 2. The governor shall appoint a qualified person to the office of Judge of the 155th District Court. The person appointed holds office until the next general election and until his successor is elected and has qualified. The Judge of the 155th District Court is entitled to the compensation prescribed by law.

Sec. 3. (a) The terms of the court are two each year as follows: In Austin County, beginning on the first Mondays in April and November; in Fayette County, beginning on the first Mondays in February and September; and in Waller County, beginning on the first Mondays in January and June. Each term of court shall continue until the convening of the next regular term of court therein. The Judge of the 155th Judicial District may, at his discretion, hold as many sessions of court in any term of court as may be deemed by him proper and expedient for the disposition of the court's business.

Sec. 4. The Judge of the 22nd District Court or the Judge of the 155th District Court may hear and dispose of any suit or proceeding on the docket of either court in Austin or Fayette county. The Judge of the 9th District Court or the Judge of the 155th District Court may hear and dispose of any suit or proceeding on the docket of either court in Waller County. This may be done in any case without the necessity of transferring the action or proceeding from one court to the other, and the Judges may transfer cases from one court to the other by an order entered on the docket of the court from which the case is transferred. Provided, however, that no case shall be transferred without the consent of the Judge of the court to which transferred. Every judgment and order shall be entered in the minutes of the District Court of the county in which the proceedings are pending, and the Clerk of the District Court in said county shall keep the

minutes of the court in which shall be recorded all the judgments and orders of the respective courts.

Sec. 5. (a) The District Attorney of the 155th Judicial District composed of Austin, Fayette, and Waller counties shall be appointed by the Governor. The person appointed shall hold office until the next general election and until his successor is elected and has qualified. The District Attorney of the 155th Judicial District shall be entitled to the compensation prescribed by law.

(b) The district clerk of each of the respective counties included in the 155th Judicial District shall be the clerk of the District Court of the 155th Judicial District in each respective county and each clerk shall keep a docket for the 155th District Court.

Sec. 6. In Austin and Fayette Counties, jurors shall be selected as prescribed by law for service in both the 22nd and 155th District Courts. In Waller County, jurors shall be selected as prescribed by law for service in both the 9th and 155th District Courts. In each county, jurors may be summoned and used for the trial of cases interchangeable in either of the district courts.

Sec. 7. The Sheriff of each county of the 155th Judicial District shall attend either in person or by deputy the court as required by law in said county, or when required by the Judge thereof and the sheriffs and constables of the several counties of this state when executing process out of said court shall receive fees provided by general law for executing process out of district courts.

[Acts 1957, 55th Leg., p. 1485, ch. 509. Amended by Acts 1963, 58th Leg., p. 946, ch. 374, § 1, eff. Aug. 23, 1963; Acts 1967, 60th Leg., p. 308, ch. 150, § 1, eff. May 9, 1967.]

156.—Aransas, Bee, Live Oak, McMullen, San Patricio

Sec. 1. The 156th Judicial District is composed of the counties of Aransas, Bee, Live Oak, McMullen, and San Patricio.

Sec. 2. The 156th District Court shall hold two terms in each county within its jurisdiction beginning on the first Mondays in January and July of each year. Each term of court in each county continues until the next succeeding term begins.

Sec. 3. The judges of the district courts in the counties of Aransas, Bee, Live Oak, McMullen, and San Patricio may hear and dispose of any suit or other proceeding on the docket of any of the district courts of the county in which the action or proceeding is instituted without the necessity of transferring the suit or proceeding from one court to the other court. The judges may transfer cases from one court to another court by an order entered on the docket of the court from which the case is transferred, except that a case may not be transferred without the consent of the judge of the court to which it is transferred. Each judgment and order shall be entered in the minutes of the district court

in which the proceeding is pending. The clerk of the district court in each county shall keep minutes for each district court and record all judgments and orders of the court in the minutes.

Sec. 4. Each of the judges of the district courts in the counties of Aransas, Bee, Live Oak, McMullen, and San Patricio shall sign the minutes of each term of his court in each of the counties not later than the 30th day after the end of the term and shall also sign the minutes of the other courts covering the proceedings that were held before him.

[Acts 1957, 55th Leg., p. 699, ch. 295. Amended by Acts 1983, 68th Leg., p. 4966, ch. 889, § 13, eff. Sept. 1, 1983.]

157.—Harris. See 11th District

158.—Denton. See Article 199a, Sec. 3.004

159.—Angelina. See Article 199a, Sec. 3.005

160.—Dallas

Sec. 1. There is created hereby in and for Dallas County, Texas, one (1) additional district court, the limits of which district shall be coextensive with the limits of Dallas County; said court shall be known as the 160th District Court, Judicial District of Texas.

Sec. 2. The 160th District Court shall have and exercise the powers conferred by the Constitution and Laws of the State of Texas on the judges of the District Courts of Dallas County, Texas. The jurisdiction shall be concurrent with that of the existing district courts of Dallas County, Texas.

Sec. 3. The term of the 160th District Court shall begin on the first Monday in January and July of each year respectively, and each term of said court shall continue until the convening of the next succeeding term.

Sec. 4. The Governor shall appoint a suitable person as Judge of said court herein created, who shall hold office until the next General Election and until his successor has been duly elected and qualified. At the first General Election after the creation of the one (1) district court numbered herein, the Judge of the said court shall be elected for a term of two (2) years and at the next General Election after the expiration of the first two (2) year term of the said judge of the numbered court herein, the Judge of the numbered court herein shall thereafter be elected for a four (4) year term. Such person so appointed and elected shall have the qualifications provided by the Constitution and the Laws of this State for District Judges. The Judge of the court created by this Act shall draw the same compensation that is provided by the Laws of the State of Texas for District Judges of Dallas County.

Sec. 5. The Judge of the 160th District Court is authorized to appoint an official court reporter for his court and said court reporter shall have the qualifications now required by law for official shorthand reporters. Such reporter shall perform the duties as required by law and such duties as may be

assigned to the court reporter by the judge of the court to which the reporter is appointed and shall receive as compensation for his services the compensation now allowed or hereinafter allowed for the official shorthand reporters for the district courts of Dallas County under the Laws of this State.

Sec. 6. The letters, A, B, C, D, E, F, G, H, shall be placed on the docket and the court papers of the respective district courts of Dallas County to distinguish them, the letter A being used in connection with the 14th District Court, B being used in connection with the 44th District Court, C being used in connection with the 68th District Court, D being used in connection with the 95th District Court, E being used in connection with the 101st District Court, F being used in connection with the 116th District Court, G being used in connection with the 134th District Court, H being used in connection with the 160th District Court. As soon as possible after this Act takes effect the District Clerk of Dallas County, shall, under the direction of the presiding Judge of the District Judges of Dallas County, cause the civil dockets to be equalized in the number of cases pending in each of the district courts handling civil matters by transferring pending cases in such numbers as will be necessary to equalize the dockets of each of the existing courts; and thereafter civil cases shall be docketed by the District Clerk in rotation from A through H as such cases are filed, or in any other manner as directed by the presiding Judge of the District Judges of Dallas County.

Sec. 7. The Judge of any of the District Courts in Dallas County may in his discretion try and dispose of any causes, matters or proceedings for any other Judge of said courts. Either of the Judges of said District Courts of Dallas County may at his discretion at term-time or in vacation transfer a case or cases to said other District Court with the consent of the Judge of said other District Court by order entered in the minutes of his court. When such transfer is ordered, the District Clerk of Dallas County shall certify all orders made in said case and such certified copies of such orders together with the original papers shall be filed among the papers of the case thus transferred and the fees thereof shall be taxed as part of the cost of said suit and the Clerk of said Court shall docket any such case in the Court to which it shall have been transferred, and when so entered, the Court to which the same shall have been thus transferred shall have like jurisdiction therein as in cases originally filed in said court. All process and writs issued out of the District Court from which any such transfer is made shall be returnable to the Court to which said transfer is made, according to the terms of the District Court or the respective Court as fixed by this Act.

Sec. 8. The District Clerk of Dallas County shall also act as District Clerk for the 160th District Court of Dallas County.

Sec. 9. The Sheriff of Dallas County shall attend either in person or by Deputy of the 160th District Court, as required by law in Dallas County or when required by the Judge thereof, and the Sheriffs and Constables of the several counties of this State when executing process out of said courts shall receive fees provided by General Law for executing process out of District Courts.

Sec. 10. All process, writs, bonds, recognizances or other obligations issued out of the District Courts of Dallas County are hereby made returnable to the terms of the District Courts of Dallas County as said terms are fixed by law and by this Act, and all bonds executed and recognizances entered by and in said Court shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of such Court as fixed by law and by this Act; and all process heretofore returned, as well as all bonds and recognizances heretofore taken in the District Courts of Dallas County shall be valid.

[Acts 1957, 55th Leg., p. 1487, ch. 510.]

161.—Ector

Sec. 1. There is created hereby in and for Ector County, Texas, one (1) additional District Court, the limits of which district shall be coextensive with the limits of Ector County; said Court shall be known as the District Court of the 161st Judicial District of Texas.

Sec. 2. The 161st District Court shall have and exercise the powers conferred by the Constitution and Laws of the State of Texas on the Judges of the District Courts of Ector County, Texas. The jurisdiction shall be concurrent with that of the existing District Court of Ector County, Texas.

Sec. 3. The terms of the 161st District Court shall begin on the first Monday in March and September of each year respectively, and each term of said Court shall continue until the convening of the next succeeding term.

Sec. 4. Upon the effective date of this Act, the Governor shall appoint a suitable person as Judge of said Court herein created, who shall hold office until the next General Election and until his successor has been duly elected and qualified. At the next General Election after the creation of the one (1) District Court numbered herein, a Judge of the said Court shall be elected for a term of four (4) years and until his successor shall have been duly elected and qualified. Such person so appointed and elected shall have the qualifications provided by the Constitution and the Laws of this State for District Judges. The Judge of the Court created by this Act shall draw the same compensation that is provided by the Laws of the State of Texas for the District Judge of Ector County.

Sec. 5. The Judge of the 161st District Court is authorized to appoint an official Court Reporter for his Court and said Court Reporter shall have the qualifications now required by law for official short-

hand reporters. Such Reporters shall perform the duties as required by law and such duties as may be assigned to the Court Reporter by the Judge of the Court to which the Reporter is appointed and shall receive as compensation for his services the compensation now allowed or hereinafter allowed for the official shorthand reporters for the District Court of Ector County under the Laws of this State.

Sec. 6. The letters "A" and "B" shall be placed on the docket and the court papers of the respective district courts of Ector County to distinguish them, the letter "A" being used in connection with the 70th District Court, and the letter "B" being used in connection with the 161st District Court. All criminal cases shall be filed and docketed by the district clerk of Ector County in rotation from "A" through "B" as such cases are filed or in any other manner as directed by the district judges of Ector County. Civil cases shall not be filed and docketed on a rotation basis. Civil cases shall be filed and docketed by the district clerk in the court designated by the pleadings of the party filing the case, and in the event the pleadings do not specify that the case is to be filed in either the 161st District Court or the 70th District Court, the district clerk may file such case in either of said Courts, at the clerk's discretion.

Sec. 7. The Judge of any of the District Courts in Ector County may in his discretion try and dispose of any causes, matters or proceedings for the other Judge of said Courts. Either of the Judges of said District Courts of Ector County may at his discretion at termtime or in vacation transfer a case or cases to said other District Court with the consent of the Judge of said other District Court by order entered in the minutes of his Court. When such transfer is ordered, the District Clerk of Ector County shall certify all orders made in said case and such certified copies of such orders together with the original papers shall be filed among the papers of the case thus transferred and the fees thereof shall be taxed as part of the cost of said suit and the Clerk of said Court shall docket any such case in the Court to which it shall have been transferred, and when so entered, the Court to which the same shall have been thus transferred shall have like jurisdiction therein as in cases originally filed in said Court. All process and writs issued out of the District Court from which any such transfer is made shall be returnable to the Court to which said transfer is made, according to the terms of the District Court or the respective Court as fixed by this Act.

Sec. 8. The District Clerk of Ector County shall also act as District Clerk for the 161st District Court of Ector County.

Sec. 9. The District Attorney in and for the 70th Judicial District shall act also as the District Attorney for the District Court created herein.

Sec. 10. The Sheriff of Ector County shall attend either in person or by Deputy the 161st District Court, as required by law in Ector County or

when required by the Judge thereof, and the Sheriffs and Constables of the several counties of this State when executing process out of said Courts shall receive fees provided by General Law for executing process out of District Courts.

Sec. 11. All process, writs, bonds, recognizances or other obligations issued out of the District Courts of Ector County are hereby made returnable to the terms of the District Courts of Ector County as said terms are fixed by law and by this Act, and all bonds executed and recognizances entered by and in said Court shall bind the parties for their appearance or to fulfill the obligations of such bonds and recognizances heretofore taken in the District Court of Ector County shall be valid.

Sec. 12. All grand and petit juries drawn and selected under existing laws in Ector County shall be considered lawfully drawn and selected for either the 161st District Court or the 70th District Court, and may be used interchangeably in connection with said Courts.

[Acts 1959, 56th Leg., p. 528, ch. 233, eff. Sept. 1, 1959. Amended by Acts 1963, 58th Leg., p. 128, ch. 75, § 1, eff. Aug. 23, 1963.]

162.—Dallas

(A) There is hereby created effective October 1, 1963, in and for Dallas County, Texas, one additional Judicial District Court to be known as the District Court for the 162nd Judicial District of Dallas County, Texas. The limits of said District shall be coextensive with the limits of Dallas County, Texas.

(B) There is hereby created effective September 1, 1963, in and for Dallas County, Texas, one additional Criminal Judicial District to be known as Criminal Judicial District Number 4 and the Court of said District shall be known as the Criminal District Court Number 4 of Dallas County, Texas. The limits of said District shall be coextensive with the limits of Dallas County, Texas.

(C) The District Court for the 162nd Judicial District shall have and exercise the powers conferred by the Constitution and laws of the State of Texas on the judges of the District Courts of Dallas County, Texas. The jurisdiction of said Court shall be concurrent with that of the existing District Courts of Dallas County, Texas. The Criminal District Court Number 4 shall have and exercise the powers conferred by the Constitution and laws of the State of Texas on the judges of the existing Criminal District Courts of Dallas County, Texas, and the jurisdiction of said Court shall be concurrent with that of the existing Criminal District Courts of Dallas County, Texas. All of said Courts hereby created shall have and exercise, in addition to the jurisdiction now conferred by law on said Courts, concurrent jurisdiction coextensive with the limits of Dallas County in all actions, proceedings, matters and causes both civil and criminal of which District Courts of general jurisdiction are given jurisdiction by the Constitution and laws of the State of Texas.

(D) The term of the 162nd Judicial District Court shall begin on the first Monday of January and July of each year, respectively, and the term of said Court shall continue until the convening of the next succeeding term.

The Criminal Judicial District Court Number 4 shall hold four terms each year for the trial of causes and the disposition of business coming before it, one term beginning the first Monday of January, one term beginning the first Monday of April, one term beginning the first Monday of July, and one term beginning the first Monday of October.

(E) The judge of each of the Courts hereby created is authorized to appoint an official court reporter for his court and said court reporter shall have the qualifications now required by law for official shorthand reporters. Each such reporter shall perform the duties as required by law and such duties as may be assigned to the court reporter by the judge of the court to which the reporter is appointed and shall receive as compensation for his services the compensation now allowed or hereinafter allowed for the official shorthand reporters for the District Courts of Dallas County, Texas, under the laws of this State.

(F) The letter "I" shall be placed on the docket and court papers of the 162nd District Court. As soon as possible after this Act takes effect the District Clerk of Dallas County, Texas, shall, under the direction of the presiding judge of the District Judges of Dallas County, cause the civil dockets to be equalized in each of the District Courts handling civil matters in Dallas County by transferring pending cases from existing District Courts to the District Courts created by this Act as will be necessary to equalize the dockets of each of the District Courts; and thereafter civil cases shall be docketed by the District Clerk in rotation from A through I as such cases are filed or in any other manner as directed by the presiding judge of the District Judges of Dallas County. The District Clerk, similarly, shall equalize the dockets of the Criminal District Courts of Dallas County by transferring cases from the Criminal District Court, the Criminal District Court Number 2 and the Criminal District Court Number 3 to the Criminal District Court Number 4.

(G) The judge of any of the District Courts in Dallas County may in his discretion try and dispose of any causes, matters or proceedings for any other judge of said Courts. Either of the judges of said District Courts of Dallas County may at his discretion at termtime or in vacation transfer a case or cases to said other District Court with the consent of the judge of said other District Court by order entered in the minutes of his court. When such transfer is ordered, the District Clerk of Dallas County shall certify all orders made in said case and such certified copies of such orders together with the original papers shall be filed among the papers

of the case thus transferred and the fees thereof shall be taxed as part of the costs of said suit and the Clerk of said Court shall docket any such case in the Court to which it shall have been transferred, and when so entered, the Court to which same shall have been thus transferred shall have like jurisdiction therein as in cases originally filed in said Court. All process and writs issued out of the District Court from which any such transfer is made shall be returnable to the Court to which said transfer is made.

(H) The District Attorney of Dallas County shall also be the District Attorney for the additional Courts created by this Section.

(I) The District Clerk of Dallas County, Texas, shall also act as District Clerk for the 162nd Judicial District, and the Criminal District Court Number 4.

(J) The Sheriff of Dallas County either in person or by deputy shall attend the Courts created by this Section as required by law or when required by the respective judges thereof and the sheriff and constables of the several counties of this State when executing processes out of said Courts shall receive fees as provided by General Law for executing processes issued out of District Courts.

(K) All processes, writs, bonds, recognizances or other obligations issued out of the District Courts or Criminal District Courts of Dallas County are hereby made returnable to the said District Courts of Dallas County as required by law and all bonds executed and recognizances entered by and in said Courts shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of such Courts as fixed by law and this Section and all processes heretofore returned or hereafter returned to the District Courts of Dallas County shall be valid.

(L) Except as herein otherwise provided, all laws and parts of laws applicable to District Courts and Criminal District Courts of Dallas County shall be applicable to the Courts created by this Section.

[Acts 1963, 58th Leg., p. 1332, ch. 507, § 1, eff. Sept. 1, 1963. Amended by Acts 1965, 59th Leg., p. 351, ch. 167, § 1, eff. May 17, 1965.]

163.—Orange

(A) There is hereby created effective September 1, 1963, an additional Judicial District in and for the County of Orange, State of Texas, the limits of which District shall be coextensive with the limits of said County. Said Judicial District shall be known as the 163rd Judicial District.

(B) The District Court for the 163rd Judicial District shall have and exercise the jurisdiction prescribed by the Constitution and laws of this State for district courts in general. The judge thereof shall have and exercise the powers conferred by the Constitution and laws of this State on the judges of the district courts in general. The jurisdiction of

said Court shall be concurrent with that of the 128th District Court in Orange County.

(C) The terms of the 163rd District Court shall begin on the first Monday in January, May and September of each year, respectively, and each term of said Court shall continue until the convening of the next succeeding term.

(D) The Judge of the Court created by this Section shall draw the same compensation that is provided by the laws of the State of Texas for the Judge of the 128th District Court.

(E) The Judge of the 163rd District Court is authorized to appoint an official court reporter for this Court and said court reporter shall have the qualifications now required by law for official shorthand reporters. Such reporter shall perform the duties as required by law and such duties as may be assigned to the court reporter by the Judge of the Court to which the reporter is appointed and shall receive as compensation for his services the compensation now allowed or hereinafter allowed for the official shorthand reporters for the District Court of Orange County under the laws of this State.

(F) The letters "A" and "B" shall be placed on the docket and the court papers of the respective District Courts of Orange County to distinguish them, the letter "A" being used in connection with the 128th District Court and the letter "B" being used in connection with the 163rd District Court. As soon as possible after this Act takes effect the District Clerk of Orange County shall, under the direction of the District Judges of said Courts, cause the civil and criminal dockets to be equalized in the number of cases pending in each of the existing Courts; and thereafter civil and criminal cases shall be docketed by the District Clerk in rotation from "A" through "B" as such cases are filed, or in any other manner as directed by the said District Judges.

(G) The Judge of either of the District Courts may at his discretion try and dispose of any causes, matters or proceedings for the other Judge of said Courts. Either of the Judges of said District Courts may at his discretion at term time or in vacation transfer a case or cases to said District Court with the consent of the Judge of said other District Court by order entered in the minutes of his Court. When such transfer is ordered, the District Clerk of Orange County shall certify all orders made in said cases and such certified copies of such orders, together with the original papers, shall be filed among the papers of the case thus transferred and the fees thereof shall be taxed as part of the cost of said suit and the Clerk of said Court shall docket any such case in the court to which it shall have been transferred, and when so entered, the court to which the same shall have been transferred shall have like jurisdiction therein as in cases originally filed in said Court. All process and writs issued out of the District Court from which any

such transfer is made shall be returnable to the Court to which said transfer is made, according to the terms of the District Court or the respective court as fixed by this Act.

(H) The District Clerk of Orange County shall also act as District Clerk for the 163rd District Court of Orange County.

(I) The District Attorney in and for the 128th Judicial District Court shall also act as the District Attorney for the 163rd Judicial District Court created herein.

(J) The Sheriff of Orange County shall attend either in person or by deputy the 163rd District Court, as required by law in Orange County or when required by the Judge thereof, and the Sheriff and constables of the several counties of this State when executing process out of said Courts shall receive fees provided by General Law for executing process out of District Courts.

(K) All processes, writs, bonds, recognizances or other obligations issued out of the District Courts of Orange County are hereby made returnable to the terms of the District Courts of Orange County as said terms are fixed by law and by this Act, and all bonds executed and recognizances entered by and in said Court shall bind the parties for their appearance or to fulfill the obligations of such bonds and recognizances heretofore taken in the 128th District Court shall be valid.

(L) All grand and petit juries drawn and selected under existing laws in Orange County shall be considered lawfully drawn and selected for either the 163rd District Court or the 128th District Court, and may be used interchangeably in connection with said Courts.

(M) Except as otherwise provided in this Act, all laws now in effect with respect to the 128th District Court of Orange County shall apply to the 163rd District Court created by this Section.

[Acts 1963, 58th Leg., p. 1332, ch. 507, § 2, eff. Sept. 1, 1963.]

164, 165.—Harris

There are hereby created in and for Harris County, Texas, two (2) additional District Courts, the limits each of which shall be coextensive with the limits of Harris County, Texas. Said Courts shall be known, respectively, as the 164th and 165th District Courts; the 164th District Court shall be effective September 1, 1963, and the 165th District Court shall be effective June 1, 1964.

[Acts 1963, 58th Leg., p. 1332, ch. 507, § 3(A).]

166.—Bexar

There is hereby created effective February 1, 1964, one (1) additional District Court in and for Bexar County, Texas, to be known as the 166th Judicial District Court. The limits of such District

Court shall be coextensive with the limits of Bexar County, Texas.

[Acts 1963, 58th Leg., p. 1332, ch. 507, § 4(A), eff. Sept. 1, 1963.]

167.—Travis

(A) There is hereby created effective June 1, 1964, the 167th Judicial District to be composed of and to have its boundaries coextensive with the boundaries of Travis County, Texas; and there is also hereby created the 167th Judicial District Court of Travis County, Texas.

(B) The 167th Judicial District Court of Travis County, Texas, shall have jurisdiction over all matters, both civil and criminal, of which jurisdiction is given or shall be given by the Constitution and Laws of Texas to district courts.

(C) The terms of the 167th Judicial District Court of Travis County, Texas, shall begin on the first Monday in March and the first Monday in September of each year and each term of said Court shall continue until the convening of the next succeeding term.

(D) The Judge of said District Court shall have the right to select jury commissioners and empanel grand juries and may order both grand and petit juries to be drawn for such terms of his Court as in his judgment is necessary, by an order entered in the minutes of said Court.

(E) The Judge of said District Court is authorized to appoint an official Court Reporter for said Court who shall have the qualifications and receive the same compensation as are now, or may hereafter be, fixed by law for court reporters in district courts.

(F) The Sheriff, District Attorney, County Attorney, and the Clerk of the District Courts of Travis County, as heretofore provided for by law, shall be the Sheriff, District Attorney, County Attorney, and Clerk, respectively, of the 167th Judicial District Court herein created under the same rules and regulations as are now or may hereafter be prescribed by law for sheriffs, district attorneys, county attorneys, and clerks of the district courts of the State; and said Sheriff, District Attorney, County Attorney, and Clerk shall respectively receive such compensation as is now or may hereafter be prescribed by law for such officers in the district courts of this State to be paid in the same manner.

(G) The Judge of said Court may, in his discretion, either on motion of any party or on agreement of the parties or on his own motion transfer any cause, civil or criminal, on his docket to the docket of one of the other District Courts of Travis County, Texas, and any of the Judges of the other District Courts in Travis County, Texas, may, in his discretion, either on motion of any party or on agreement of the parties or on his own motion, transfer any cause, civil or criminal, on his docket, to the docket of said 167th Judicial District Court of Travis Coun-

ty, Texas, and the Judge of any of the District Courts of Travis County, Texas, may, in his discretion, exchange benches with any other District Judge in Travis County, Texas from time to time; and whenever a judge of any of said District Courts is disqualified, he shall transfer the case from his Court to one of the other District Courts in said County and any of the Judges of the District Courts of Travis County may in his own courtroom try and determine any case or proceeding pending in any of the other District Courts of Travis County, without having the case transferred or may sit in any of the other of said Courts and there hear and determine any case there pending and each judgment and order shall be entered in the minutes of the Court in which the case is pending, and two (2) or more judges may try different cases in the same Court at the same time and each may occupy his own courtroom or the room of any other Court. In case of absence, sickness, or disqualification of any of said District Judges of Travis County, any other of said Judges may hold court for him. Any of said Judges may hear any part of any case or proceeding pending in any of said Courts and determine the same or may hear or determine any question in any case and any other of said Judges may complete the hearing and render judgment in the case. Any of said Judges may hear and determine exceptions, motions, petitions for injunction, applications for appointment of receivers, interventions, pleas of privilege, pleas in abatement, and all dilatory pleas, motions for new trial and all preliminary matters, questions, and proceedings, and may enter judgment or order thereon in the Court in which the case is pending, without having the case transferred to the Court of the Judge acting and the Judge in whose Court the case is pending may thereafter proceed to hear, complete, and determine the case or other matter or any part thereof and render final judgment thereon. Any of the Judges of said Courts may issue restraining orders and injunctions returnable to any of the other judges of courts. [Acts 1963, 58th Leg., p. 1332, ch. 507, § 5, eff. Sept. 1, 1963.]

168.—El Paso. See Article 199a, Sec. 3.006

169.—Bell. See Article 199a, Sec. 3.003

170.—McLennan

Sec. 1. [See 19th District].

Sec. 2. The 170th Judicial District and the 170th District Court are established for McLennan County. The judge of the 170th District Court shall receive the same amount of salary and supplemental compensation as the other district judges of McLennan County.

Sec. 3. The sheriff, district clerk, and criminal district attorney of McLennan County shall serve in their respective capacities for the 170th District Court. The criminal district attorney of McLennan County may employ four investigators or assistants in addition to those now provided by law.

Sec. 4. The first judge of the 170th District Court shall be elected in the general election of 1970. This Section takes effect January 1, 1970, and the remainder of this bill takes effect January 1, 1971.

[Acts 1969, 61st Leg., p. 2006, ch. 684, §§ 2 to 4.]

171.—El Paso

A. Creation and Jurisdiction. (a) The 171st Judicial District is created. Its boundaries are coextensive with the boundaries of El Paso County, Texas, and its court is the 171st District Court of El Paso County, Texas.

(b) The 171st District Court has the jurisdiction provided for district courts by the constitution and laws of this state. Its jurisdiction is concurrent with that of the 34th, 41st, 65th, and 120th District Courts.

B. Terms of Court. The terms of the 171st District Court begin on the first Monday in January and the first Monday in July of each year. Each term of the court continues until the next succeeding term convenes.

C. Judge. As soon as practicable after the effective date of this Act, the Governor shall appoint as judge of the 171st District Court a person qualified to serve as a district judge under the constitution and laws of this state. The judge appointed holds office until the next general election and until his successor is duly elected and qualified. A sum of \$16,000 for the fiscal year ending August 31, 1966, and a sum of \$16,000 for the fiscal year ending August 31, 1967, is hereby appropriated from the General Revenue Fund for the salary of the Judge of the District Court of the 171st Judicial District. The salary shall be paid as provided by law.

D. Court Officials. (a) The Judge of the 171st District Court may appoint an official court reporter. The reporter must meet the qualifications prescribed by law for that office and is entitled to the same compensation, fees, and allowances provided by law for other official court reporters.

(b) The District Attorney of the 34th Judicial District and the sheriff and district clerk of El Paso County shall serve as district attorney, sheriff, and clerk, respectively, of the 171st District Court. They shall perform the duties, and are entitled to the compensation and allowances, prescribed by law for their respective offices.

E. Transfer of Causes. (a) The judges of the 34th, 41st, 65th, 120th, and 171st District Courts may freely transfer causes, civil and criminal, to and from the dockets of their respective courts. The judges may also freely exchange benches and courtrooms with each other so that if a judge is ill, disqualified, or otherwise absent, another judge may hold court for him without the necessity of transferring the cause involved.

(b) A judge of one of the district courts of El Paso County may hear all or any part of a cause pending in another district court of that county; and he may rule and enter orders on, continue, determine, or render judgment on all or any part of the cause without the necessity of transferring it to his own docket.

[Acts 1965, 59th Leg., p. 895, ch. 442, § 10b, eff. Sept. 1, 1965.]

172.—Jefferson. See Article 199a, Sec. 3.007

173.—Anderson, Henderson and Houston. See Article 199a, Sec. 3.008

174.—Harris

Sec. 1. The territorial limits of the Criminal Judicial District composed of the counties of Galveston and Harris is hereby changed so as to hereafter include Harris county alone, and there is hereby created and established in the city of Houston, in the county of Harris, a Criminal District Court, which shall have original and exclusive jurisdiction over all criminal cases, both felony and misdemeanor, in the county of Harris, of which district and county courts under the Constitution and laws of this State, have original and exclusive jurisdiction, and shall be known as "The Criminal District Court of Harris County."

Sec. 2. The said court shall have exclusive appellate jurisdiction over all criminal cases tried and determined by justices of the peace, mayors and recorders in said county of Harris, under the same rules and regulations as are provided by law for appeals from justices of the peace, mayors and recorders to the county courts in criminal cases.

Sec. 3. The judge of said court hereinafter provided for shall have power to grant writs of habeas corpus, mandamus and all writs necessary to enforce the jurisdiction of his court, under the same rules and regulations which govern district judges.

Sec. 4. Said court shall have jurisdiction over all bail bonds and recognizances taken in proceedings had before said court, or that may be returned to said court from other courts, and may enter forfeitures thereof, and final judgments, and enforce the collection of the same by proper process in the same manner as is provided by law in district courts.

Sec. 5. Said court shall have jurisdiction over all criminal cases heretofore transferred from other courts to the Criminal District Court of Harris County as heretofore established, and over such criminal cases as may hereafter be transferred to the court created by this Act, as fully in all respects as if said cases had originated in said court.

Sec. 6. The said Criminal District Court of Harris County shall have a seal similar to the seal of the district court, with the words "Criminal District Court of Harris County" engraved thereon, an impression of which seal shall be attached to all writs and other process, except subpoenas issuing from

said court, and shall be used in the authentication of all official acts of the clerk of the said court.

Sec. 7. The practice in said court shall be conducted according to the laws governing the practice in the district court, and the rules of pleading and evidence in the district court shall govern in so far as the same may be applicable.

Sec. 8. All laws regulating the selection, summoning, and impaneling of grand and petit jurors in the district court shall govern and apply in the criminal district court in so far as the same may be applicable; provided, that the clerk of the district court of Harris county shall assist in drawing the names of the jurors for said criminal court as is now provided by law.

Sec. 9. All rules of the criminal procedure governing the district and county courts shall apply to and govern said criminal district court.

Sec. 10. [Not included.]

Sec. 11. Said court shall hold four terms each year for the trial of causes and the disposition of business coming before it, one term beginning the first Monday in May, one term beginning the first Monday in August, one term beginning on the first Monday in November and one term beginning on the first Monday in February of each year. Each term shall continue until the business is disposed of.

Sec. 12. Whenever the Criminal District Court of Harris County shall be engaged in the trial of any cause when the time for the expiration of the term of said court as fixed by law shall arrive, the judge presiding shall have the power and may, if he deems it expedient, continue the term of said court until the conclusion of such pending trial; in such case the extension of such term shall be shown on the minutes of the court before they are signed.

Sec. 13. The sheriff of Harris county and his deputies shall attend upon said court and execute all the process issuing therefrom and perform all duties required by said court or the judge thereof, and shall perform all such services for said court as sheriffs and constables are authorized or required to perform in and for other district courts of this State and he shall receive the same fees for his services as are provided by law for the same services in the district court.

Sec. 14. In all matters over which said criminal district court has jurisdiction, it shall have the same power within said district as is conferred by law upon the district court, and shall be governed by the same rules in the exercise of such power.

Sec. 15. Appeals and writs of error may be prosecuted from the said criminal district court to the court of criminal appeals, in the same manner and form as from district courts in like cases. Superseding article 2228, Rev.Civ.St.1911.

Sec. 16. The county of Harris is hereby created a separate criminal judicial district and at the next general election after this Act shall take effect,

there shall be elected in and for said district a criminal district judge, a criminal district clerk and a district attorney, each of whom shall have and exercise, respectively, the same duties, powers and authority within said county as are now possessed and exercised by the judge of the criminal district court, the clerk of the criminal district court, and the district attorney for the criminal district composed of Galveston and Harris Counties, and such other duties as are prescribed herein.

Sec. 17. From and after the taking effect of this Act, the criminal district now composed of Galveston and Harris counties shall cease to exist so far as it embraces Galveston county, and all cases of felony that are then pending on the docket of the Criminal District Court of Galveston County shall be at once transferred to the district courts in said county of the Tenth and Fifty-sixth Judicial Districts, the felony cases on said docket of even numbers shall be transferred to the district court for the Tenth Judicial District and the felony cases on said docket of odd numbers shall be transferred to the district court for the Fifty-sixth Judicial District, and the said district court for the Tenth Judicial District and the said court for the Fifty-sixth Judicial District are hereby vested with concurrent exclusive jurisdiction of all felony cases arising in the county of Galveston, and the judges of said courts are hereby vested with all powers, privileges, and authority given by the Constitution and laws of this State in criminal matters, to the district courts of this State; and the judge of the district court for the Tenth Judicial District and the judge of the district court for the Fifty-sixth Judicial District shall alternately impanel grand juries in said county of Galveston in the same manner provided therefore by the judges of the district courts of this State; and from and after taking effect of this Act, all cases of misdemeanor pending on the docket of the Criminal District Court of Galveston County shall be transferred to the County Court of Galveston County, Texas, unless there be a county court at law of said county, in which event they shall be transferred to the latter court; and said county court and the judge thereof is hereby vested with all the powers, privileges and authority in criminal cases that are conferred by the laws of this State on the county court; and the clerk of the District Court of Galveston County is hereby vested with the powers, duties and authority in criminal matters in cases of felony that are now conferred by law on clerks of the district court in this State, and shall be the custodian of the records in felony cases transferred from said Criminal District Court and hereafter arising in the county of Galveston; and the clerk of the County Court of Galveston County is hereby vested with the powers, duties and authority in criminal matters in cases of misdemeanor as are now conferred by law on the clerks of the county courts of this State, and such clerk shall be the custodian of the papers and records of misdemeanor cases arising in such county after such transfer, and the clerk of the Criminal District Court of

Galveston County shall at once make the transfer of cases herein provided and turn over the papers and records of his office to the clerk of the district court and the clerk of the County Court of Galveston County as herein provided. The clerk of the district court shall file and docket the even numbered felony cases in the court of the Tenth Judicial District and the odd numbered felony cases in the court of the Fifty-sixth Judicial District, but any case pending in either of said courts may, in the discretion of the judge thereof, be transferred by one of said district courts to the other, and in case of the disqualification of the judge of either of said courts and in any case, such case on his suggestion of disqualification shall stand transferred to the other of said courts and docketed by the clerk accordingly. All writs and process heretofore, or that may hereafter be issued, up to the time this Act shall take effect, which are made returnable to the Criminal District Court of Galveston and Harris Counties, shall be returnable to the court to which the cause has been or may be transferred in like manner as if originally made returnable to said court and all writs and process are hereby validated.

The district clerk of Galveston county shall receive the sum of \$600.00 per annum, to be paid by the county of Galveston for ex officio services, and receive the same fees in criminal cases as fixed by law in felony cases, and the county clerk shall receive the sum of \$600.00 per annum for ex officio services and be entitled to such fees as are provided by law in misdemeanor cases.

The county commissioners court shall have authority to pay for the services of a special deputy district or county clerk, or both, if in their judgment such shall be required; such assistant to be appointed by the clerk of the court in which his services are needed. The county attorney and his assistant shall conduct all prosecutions in said district and county courts and county court at law and said county attorneys and the clerks of said court shall receive such fees as are now or may hereafter be provided for by law.

Sec. 17a. The Criminal District Court of Harris County herein provided for shall, from and after the time when this Act takes effect, be taken and deemed to be, in respect to all matters of jurisdiction, records and procedure a continuation of the Criminal District Court of Galveston and Harris Counties as now organized for Harris county, it being the intention of this Act to reduce the territorial limits of the Criminal Judicial District of Galveston and Harris Counties to Harris county alone.

Sec. 18. The judge of the Criminal District Court of Harris County shall be elected by the qualified voters of said county for a term of four years and shall hold his office until his successor is elected and qualified. He shall possess the same qualifications as are required of the judges of the district court and shall receive the salary and compensation as is now, or may hereafter be provided

for district judges of this State, to be paid in the same manner as the salary and compensation of other district judges is paid. Said judge of said criminal district court shall have and exercise all the powers and duties which are now, or hereafter may be by law vested in and exercised by district judges of this State in criminal cases. The judge of said court may exchange with other district judges, as provided by law, and the said judge shall have all the power within said criminal district which is by the Constitution and laws of this State vested in district judges of their respective judicial districts, except that the jurisdiction and authority of said criminal district judge shall be limited to criminal cases, and to the exercise of such powers and the granting of such writs and process as may be necessary or incidental to the exercise of such criminal jurisdiction.

Sec. 19. There shall be elected by the qualified electors of the criminal district of Harris county, Texas, an attorney for said court who shall be styled "The Criminal District Attorney of Harris County," and who shall hold his office for a period of two years and until his successor is elected and qualified. The said criminal district attorney shall possess all of the qualifications and take the oath and give the bond required by the Constitution and laws of this State, of other district attorneys. It shall be the duty of said criminal district attorney, or of his assistants, as hereinafter provided, to be in attendance upon each term of said Criminal District Court of Harris County and to represent the State in all matters pending before said court. And he shall have exclusive control of all criminal cases wherever pending, or in whatever court in Harris county that now has jurisdiction of criminal cases, as well as any or all courts that may be hereafter created and given jurisdiction of any criminal cases, and he shall collect the fees therefor provided by law. He shall also have control of any and all cases heard on habeas corpus before any civil district court of Harris county, as well as before the criminal court of said county. The criminal district attorney of Harris county shall have and exercise, in addition to the specific powers given and duties imposed upon him by this Act, all such powers, duties and privileges within said criminal district of Harris county as are by law now conferred or which may hereafter be conferred upon district and county attorneys in the various counties and judicial districts of this State. It is further provided that he and his assistants shall have the exclusive right, and it shall be their sole duty to perform the duties provided for in this Act, except in cases of the absence from the county of the criminal district attorney and his assistants, or their inability or refusal to act; and no other person shall have the power to perform the duties provided in this Act, or to represent the State in any case in Harris county, except in case of the absence from Harris county, or the disability or refusal to act, of the criminal district attorney and his assistants.

Sec. 20. The said criminal district attorney of Harris county shall be commissioned by the Governor and shall receive a salary of five hundred dollars per annum, to be paid by the State, and in addition thereto shall receive the following fees in felony cases, to be paid by the State: For each conviction of felonious homicide, where the defendant does not appeal or dies, or escapes after appeal and before final judgment of the Court of Criminal Appeals, or where, upon appeal, the judgment is affirmed, the sum of forty dollars. For all other convictions in felony cases, where the defendant does not appeal, or dies, or escapes, after appeal, and before final judgment of the Court of Criminal Appeals, or where, upon appeal, the judgment is affirmed, the sum of thirty dollars; provided, that in all convictions of felony, in which punishment is fixed by the verdict and judgment by confinement in the House of Correction and Reformatory, his fee shall be fifteen dollars. For representing the State in each case of habeas corpus where the defendant is charged with a felony, the sum of twenty dollars. For representing the State in examining trials, in felony cases, where indictment is returned, in each case, the sum of five dollars. The criminal district attorney shall also receive such fees in misdemeanor cases, to be paid by the defendant and by the county, as is now provided by law for district and county attorneys, and he shall also receive such compensation for other services rendered by him as is now, or may hereafter be, authorized by law to be paid to other district and county attorneys in this State.

Sec. 21. The criminal district attorney of Harris county shall retain out of the fees earned by him in the Criminal District Court of Harris County the sum of twenty-five hundred dollars per annum, and in addition thereto, one-fourth of the gross excess of all fees in excess of twenty-five hundred dollars per annum, the three-fourths of the excess over and above twenty-five hundred dollars per annum, remaining, to be paid by him into the treasury of Harris county. It is provided that in arriving at the amount collected by him, he shall include the fees arising from all classes of criminal cases of which the Criminal District Court of Harris County has original and exclusive jurisdiction, whether felony, misdemeanor, habeas corpus hearings, or commission on fines and forfeitures collected in said court, it being the intention of this Act that the criminal district attorney of Harris county shall include all fees of every kind and class earned by him in said criminal district court in arriving at the amount collected by him; it being further provided that at the end of each year he shall make a full and complete report and accounting to the county judge of Harris county of the amount of such fees collected by him.

Sec. 22. The Criminal District Attorney of Harris County shall appoint two assistant criminal district attorneys, who shall each receive a salary of eighteen hundred dollars per annum, payable

monthly. He shall also appoint a stenographer, who shall receive a salary of not more than twelve hundred dollars per annum, payable monthly. In addition to the assistant criminal district attorneys and stenographer, above provided for, the county judge of Harris County may, with the approval of the commissioners' court, appoint as many additional assistants as may be necessary to properly administer the affairs of the office of Criminal District Attorney and enforce the law, upon the Criminal District Attorney making application under oath, addressed to the County Judge of Harris County, setting out the need therefor, provided, the county judge, with the approval of the commissioners' court may discontinue the service of any one or more of the assistant criminal district attorneys provided for in this Act, when in his judgment and of the judgment of the commissioners' court, they are not necessary; provided that the additional assistants appointed by the county judge as herein provided for shall receive not more than \$1,800.00 per year, payable monthly. The salaries of all assistants shall be paid by Harris County; provided that if the above salaries be insufficient and inadequate for the proper investigation of crime in Harris County and the efficient performance of the duties of said office, then the Criminal District Attorney may contract for and pay such additional compensation as is necessary for the proper and efficient discharge of his duties, out of the excess fees collected by him which would otherwise go to the county, a detailed itemized statement, under oath, of which he shall include in his annual report to the County Judge of Harris County, to be approved by the county auditor, but in no event shall the county be liable for such extra compensation. Provided further that before said Criminal District Attorney shall pay such extra compensation he shall secure the written approval of a majority of the District Judges of Harris County. The assistant criminal district attorneys above provided for, when so appointed, shall take the oath of office and be authorized to represent the State before said Criminal District Court, and in all other courts in Harris County in which the Criminal District Attorney of Harris County, is authorized by this Act to represent the State, such authority to be exercised under the direction of the said Criminal District Attorney, and which assistants shall be subject to removal at the will of the said Criminal District Attorney. Each of said assistant criminal district attorneys shall be authorized to file informations, examine witnesses before the grand jury and generally to perform any duty devolving upon the Criminal District Attorney of Harris County, and to exercise any power conferred by law upon the said Criminal District Attorney when by him so authorized. The Criminal District Attorney of Harris County shall be paid the same fees for services rendered by his assistants as he would be entitled to receive if the services should have been rendered by himself. Provided, further, that the \$2,500 in fees and the one-fourth of the excess fees heretofore provided

for shall in no event exceed the total sum of \$6,000 per year as compensation to said District Attorney, and any amount in excess thereof shall be turned in to the County Treasurer.

Sec. 23. The clerk of the Criminal District Court of Harris County shall be elected by the qualified voters of Harris county, and shall hold his office for a term of two years, and until his successor is elected and qualified. Said clerk shall receive such fees as are now or may hereafter be prescribed by law to be paid to the clerk of the district courts of this State, and to be paid and collected in the same manner; and in addition thereto, he shall receive an annual salary of one thousand dollars, to be paid out of the treasury of Harris county monthly. Said clerk shall have the same power and authority, and shall perform the same duties with respect to said Criminal District Court of Harris County as are by law conferred upon the clerks of other district courts in criminal cases, and shall have authority to appoint one or more deputies as needed, whose salary shall be paid by said clerk. Said deputies shall take the oath of office prescribed by the Constitution of this State, and said deputies are authorized to perform such services as may be authorized by said criminal district clerk, and shall be removable at the will of the clerk.

Sec. 24. The criminal district judge and the criminal district attorney of the criminal judicial district composed of Galveston and Harris counties, who shall be in office at the time when this Act goes into effect, shall continue in office, respectively; as the judge and the district attorney of the Criminal District Court of Harris County until the next general election, or until their successors shall be elected and qualified.

The clerk of the Criminal District Court of Harris County who shall be in office at the time when this Act goes into effect shall continue in office as clerk of the Criminal District Court of Harris County until January 1, A.D. 1912, and until his successor is appointed and qualified.

The Governor shall, on January 1, 1912, or thereafter, appoint a clerk of the Criminal District Court of Harris County, who shall hold his office from January 1, A.D. 1912, until the next general election, or until his successor is elected and qualified. [Acts 1925 C.C.P.]

175.—Bexar. See 144th District

176.—Harris

Sec. 1. There is hereby created and established at the city of Houston a criminal district court to be known as the "Criminal District Court No. 2 of Harris County," which court shall have and exercise concurrent jurisdiction with the criminal district court of Harris County under the Constitution and laws of the State of Texas.

Sec. 2. From and after the time this law shall take effect, the criminal district court of Harris

County and the Criminal District Court No. 2 of Harris County shall have and exercise concurrent jurisdiction with each other in all felony causes, and in all matters and proceedings of which the said criminal district court of Harris County now has jurisdiction; and either of the judges of said criminal district courts may in their discretion transfer any cause or causes that may at any time be pending in his court to the other criminal district court by an order or orders entered upon the minutes of his court; and where such transfer or transfers are made the clerk of such criminal district court shall enter such cause or causes upon the docket to which such transfer or transfers are made, and, when so entered upon the docket, the judge of that court shall try and dispose of said causes in the same manner as if such causes were originally instituted in said court. From and after the taking effect of this Act, all felony cases of even numbers that are then pending on the docket of the criminal district court of Harris County shall be at once transferred to the Criminal District Court No. 2 of Harris County, and from and after the taking effect of this Act, the clerk of the criminal district court shall file and docket the felony cases of even numbers in the Criminal District Court No. 2 of Harris County, and the felony cases of odd numbers in the criminal district court of Harris County.

Sec. 3. The judge of said Criminal District Court No. 2 of Harris County shall be elected by the qualified voters of Harris County for a term of four years, and shall hold his office until his successor shall have been elected and qualified. He shall possess the same qualifications as are required of the judge of a district court, and shall receive the same salary as is now or may hereafter be paid to the district judges, to be paid in like manner. He shall have and exercise all the powers and duties now or hereafter to be vested in and exercised by district judges of the criminal district court of Harris County. The judge of said court may exchange with any district judge, as provided by law in cases of district judges, and, in case of disqualification or absence of a judge, a special judge may be selected, elected or appointed as provided by law in cases of district judges; provided, that the Governor, under the authority now provided by law, upon this Act becoming effective, shall appoint a judge of said court, who shall hold the office until the next general election, after the passage of this Law, and until his successor shall have been elected and qualified. Either of the judges of said criminal district courts may, in his discretion, in the absence of the judge of the other criminal district court from his court room or from the County of Harris, Texas, try and dispose of any cause or causes that may be pending in such criminal district court as fully as could such absent judge were he personally present and presiding. And either of said judges may receive in open court from the foreman of the grand jury any bill or bills of indictment in the court to which such bill or bills of indictment may be returnable, entering the presentment of such bill or bills of indictment in the

minutes of the proceedings of such court, and may hear and receive from any empaneled petit jury any report, information or verdict, and make and cause to be entered any order or orders in reference thereto, or with reference to the continuation of the deliberation of such petit jury or their final discharge, as fully and completely as such absent district judge could do if personally present and presiding over such court; and may make any other order or orders in such courts respecting the causes therein pending or the procedure pertaining thereto as the regular judge of said criminal district court could make if personally present and presiding.

Sec. 4. Said court shall have a seal of like design as the seal now provided by law for district courts, except that the words "Criminal District Court No. 2 of Harris County" shall be engraved around the margin thereof, which seal shall be used for all the purposes for which the seals of the district courts are required to be used; and certified copies of the orders, proceedings, judgments and other official acts of said court, under the hand of the clerk and attested by the seal of said court, shall be admissible in evidence in all the courts of this State in like manner as similar certified copies from courts of record are now or may hereafter be admissible.

Sec. 5. The sheriff, district attorney and the clerk of the criminal district court of Harris County, as heretofore provided for by law, shall be the sheriff, district attorney and clerk, respectively, of said Criminal District Court No. 2 of Harris County under the same rules and regulations as are now or may hereafter be prescribed by law for the government of sheriffs, district attorneys and clerks of the district courts of the State; and said sheriff, district attorney and clerk shall respectively receive such fees as are now or may hereafter be prescribed by law for such officers in the district courts of the State, to be paid in the same manner.

The county commissioners' court shall have authority to pay out of the general funds of the county for the services of such special deputy district clerks as in their judgment shall be required, such special deputy or deputies to be appointed by the clerk of the criminal district court, and to be removable at the will of the clerk, and to be paid a salary not to exceed the compensation allowed by law to other deputy district clerks, said salary shall be payable monthly. The criminal district attorney may appoint an assistant district attorney, in addition to those now provided by law, to attend said court. Said assistant shall have the authority and shall qualify as provided by law for assistant district attorneys, and shall be removable at the will of the district attorney, and shall receive a salary not to exceed the maximum salary allowed assistant district attorneys; said salary to be payable monthly by said county by warrant drawn from the general funds thereof.

Sec. 6. Said court shall hold four terms each year for the trial of causes and the disposition of

business coming before it, one term beginning the first Monday in May, one term beginning on the first Monday in August, one term beginning on the first Monday in November, and one term beginning on the first Monday in February of each year. Each term shall continue until the business is disposed of. The trials and proceedings in said court shall be conducted according to the law governing the pleadings, practice and proceedings in criminal cases in the district courts. The district judges of the criminal district courts of Harris County shall alternately appoint grand jury commissioners and empanel grand juries; and they shall meet together and determine approximately the number of petit jurors that are reasonably necessary for jury service in the criminal district courts of the county for each week during the time said courts may hold during the year, and shall thereupon order the drawing of such number of jurors from the jury wheel of the county for each of said weeks, said jury to be known as the panel of jurors for service in the criminal district courts for the respective weeks for which they are designated to serve. The judges of the said criminal district courts shall agree upon which one shall be authorized to act in carrying out the provisions of this Act as relating to the calling and qualifying of the jury panel; they may increase or diminish the number of jurors to be selected for any week, and shall order said jurors drawn for as many weeks in advance of service as they deem proper. From time to time they shall designate the criminal district judge to whom the panel of jurors shall report for duty, and said judge, for such time as he is chosen to so act, shall organize said juries and have immediate supervision and control of them. The said jurors, after being regularly drawn from the wheel, shall be served by the sheriff to appear and report for jury service before said judge so designated, who shall hear excuses of said jury and swear them in for service for the week that they are to serve to try all cases that may be submitted to them in any of said criminal district courts, and they may be used interchangeably in the criminal district courts. In the event of a deficiency of said jurors, the judge having control of said panel of jurors shall order such additional jurors to be drawn from the wheel as may be sufficient to meet such emergency, but such jurors shall act only as special jurors and shall be discharged as soon as their services are no further needed. The provisions of the articles commonly known as the "jury wheel law" shall remain in full force and effect, except as modified by this Act and other laws now in effect.

[Acts 1927, 40th Leg., p. 33, ch. 24.]

177.—Harris

Sec. 1. There is hereby created and established at the city of Houston a criminal district court to be known as the "Criminal District Court No. 3 of Harris County," which court shall have and exercise concurrent jurisdiction with the criminal district court of Harris County and the Criminal District

Court No. 2 of Harris County under the Constitution and laws of the State of Texas.

Sec. 2. From and after the time this law shall take effect, the Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County and the Criminal District Court No. 3 of Harris County shall have and exercise concurrent jurisdiction with each other in all felony causes, and in all matters and proceedings of which the said Criminal District Court of Harris County and the Criminal District Court No. 2 of Harris County now have jurisdiction; and the judge of any one (1) of said criminal district courts may in his discretion transfer any cause or causes that may at any time be pending in his court to one (1) of the other criminal district courts by an order or orders entered upon the minutes of his court; and where such transfer or transfers are made the clerk of such criminal district court shall enter such cause or causes upon the docket to which such transfer or transfers are made, and, when so entered upon the docket, the judge of that court shall try and dispose of said causes in the same manner as if such causes were originally instituted in said court, provided no case shall be transferred without the consent of the judge of the court to which transferred. When this Act becomes effective, all felony cases having numbers ending with 3, 6, or 9 pending on the dockets of the Criminal District Court of Harris County and the Criminal District Court No. 2 of Harris County shall be at once transferred to and docketed in the Criminal District Court No. 3 of Harris County, and after the effective date of this Act, the clerk of the criminal district courts shall file and docket felony cases in the Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County and the Criminal District Court No. 3 of Harris County in rotation in the order filed so that the first case or proceeding filed after the effective date of this Act and every third case or proceeding thereafter filed shall be docketed in the Criminal District Court of Harris County, and the second case or proceeding filed and every third case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 2 of Harris County, and the third case or proceeding filed and every third case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 3 of Harris County and so on in rotation.

Sec. 3. The judge of said Criminal District Court No. 3 of Harris County shall be elected by the qualified voters of Harris County for a term of four (4) years, and shall hold his office until his successor shall have been elected and qualified. He shall possess the same qualifications as are required of the judge of a district court, and shall receive the same salary and additional compensation as is now or may hereafter be paid to the district judges, to be paid in like manner. He shall have and exercise all the powers and duties now or hereafter to be vested in and exercised by district judges of the Criminal District Court of Harris County and the Criminal

District Court No. 2 of Harris County. The judge of said court may exchange with any district judge, as provided by law in cases of district judges, and, in case of disqualification or absence of the judge, a special judge may be selected, elected or appointed as provided by law in cases of district judges; provided that the Governor, under the authority now provided by law, upon this Act becoming effective, shall appoint a judge of said court, who shall hold the office until the next general election, after the passage of this Act, and until his successor shall have been elected and qualified. The judge of any one of said criminal district courts may, in his discretion, in the absence of the judge of one of the other criminal district courts from his courtroom or from the County of Harris, Texas, try and dispose of any cause or causes that may be pending in such criminal district court as fully as could such absent judge were he personally present and presiding. And any one of said judges may receive in open court from the foreman of the grand jury any bill or bills of indictment in the court to which such bill or bills of indictment may be returnable, entering the presentment of such bill or bills of indictment in the minutes of the proceedings of such court, and may hear and receive from any empaneled petit jury any report, information or verdict, and make and cause to be entered any order or orders in reference thereto, or with reference to the continuation of the deliberation of such petit jury or their final discharge, as fully and completely as such absent district judge could do if personally present and presiding over such court; and may make any other order or orders in such courts respecting the causes therein pending or the procedure pertaining thereto as the regular judge of said criminal court could make if personally present and presiding.

Sec. 4. Said court shall have a seal of like design as the seal now provided by law for district courts, except that the words "Criminal District Court No. 3 of Harris County" shall be engraved around the margin thereof, which seal shall be used for all the purposes for which the seals of the district courts are required to be used; and certified copies of the orders, proceedings, judgments and other official acts of said court, under the hand of the clerk and attested by the seal of said court, shall be admissible in evidence in all the courts of this State in like manner as similar certified copies from courts of record are now or may hereafter be admissible.

Sec. 5. The sheriff, criminal district attorney and the clerk of the Criminal District Court of Harris County, as heretofore provided for by law, shall be the sheriff, criminal district attorney and clerk, respectively, of said Criminal District Court No. 3 of Harris County under the same rules and regulations as are now or may hereafter be prescribed by law for the government of sheriffs, criminal district attorneys and clerks of the district courts of the State; and said sheriff, criminal district attorney and clerk shall respectively receive such fees as are now or may hereafter be pre-

scribed by law for such officers in the district courts of the State, to be paid in the same manner. The County Commissioners Court shall have authority to pay out of the Officers' Salary Fund or other general funds of the county for the services of such special deputy district clerks as in their judgment shall be required, such special deputy or deputies to be appointed by the clerk of the criminal district court, and to be removable at the will of the clerk, and to be paid a salary not to exceed the compensation allowed by law to other deputy district clerks, said salary shall be payable monthly. The criminal district attorney may appoint an assistant criminal district attorney, in addition to those now provided by law, to attend said court. Said assistant shall have the authority and shall qualify as provided by law for assistant district attorneys, and shall be removable at the will of the criminal district attorney, and shall receive a salary not to exceed the maximum salary allowed assistant district attorneys; said salary to be payable monthly by said county by warrant drawn from the Officers' Salary Fund or other general funds thereof. The judge of the Criminal District Court No. 3 of Harris County shall appoint an official court reporter for said court as provided by law.

Sec. 6. Said court shall hold four (4) terms each year for the trial of causes and the disposition of business coming before it, one (1) term beginning the first Monday in May, one (1) term beginning on the first Monday in August, one (1) term beginning on the first Monday in November, and one (1) term beginning on the first Monday in February of each year. Each term shall continue until the business is disposed of. The trials and proceedings in said court shall be conducted according to the law governing the pleadings, practice and proceedings in criminal cases in district courts. The district judges of the criminal district courts of Harris County shall successively appoint grand jury commissioners and empanel grand juries; and they shall meet together and determine approximately the number of petit jurors that are reasonably necessary for jury service in the criminal district courts of the county for each week during the time said courts may hold court during the year, and shall thereupon order the drawing of such number of jurors from the jury wheel of the county for each of said weeks, said jury to be known as the panel of jurors for service in the criminal district courts for the respective weeks for which they are designated to serve. The judges of the said criminal district courts shall agree upon which one shall be authorized to act in carrying out the provisions of this Act as relating to the calling and qualifying of the jury panel; they may increase or diminish the number of jurors to be selected for any week, and shall order said jurors drawn for as many weeks in advance of service as they deem proper. From time to time they shall designate the criminal district judge to whom the panel of jurors shall report for duty, and said judge, for such time as he is chosen to so act, shall organize said juries and have immediate supervision

and control of them. The said jurors, after being regularly drawn from the wheel, shall be served by the sheriff to appear and report for jury service before said judge so designated, who shall hear excuses of said jurors and swear them in for service for the week that they are to serve to try all cases that may be submitted to them in any of said criminal district courts, and they may be used interchangeably in the criminal district courts. In the event of a deficiency of said jurors, the judge having control of said panel of jurors shall order such additional jurors to be drawn from the wheel as may be sufficient to meet such emergency, but such jurors shall act only as special jurors and shall be discharged as soon as their services are no further needed. The provisions of the Statutes commonly known as the "jury wheel law" shall remain in full force and effect, except as modified by this Act. [Acts 1951, 52nd Leg., p. 500, ch. 307.]

178, 179.—Harris

Sec. 1. There is hereby created and established at the City of Houston, two (2) Criminal District Courts to be known as the "Criminal District Court No. 4 of Harris County," and "Criminal District Court No. 5 of Harris County," which Courts shall have and exercise concurrent jurisdiction with the Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County, and the Criminal District Court No. 3 of Harris County, under the Constitution and laws of the State of Texas.

Sec. 2. From and after the time this law shall take effect, the Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County, the Criminal District Court No. 3 of Harris County, the Criminal District Court No. 4 of Harris County and the Criminal District Court No. 5 of Harris County, shall have and exercise concurrent jurisdiction with each other in all felony causes, and in all matters and proceedings of which the said Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County and the Criminal District Court No. 3 of Harris County now have jurisdiction; and the Judge of any one of said Criminal District Courts may in his discretion transfer any cause or causes that may at any time be pending in his Court to one of the other Criminal District Courts by an order or orders entered upon the minutes of his Court; and where such transfer or transfers are made the Clerk of such Criminal District Court shall enter such cause or causes upon the docket to which such transfer or transfers are made, and, when so entered upon the docket, the Judge of that Court shall try and dispose of said causes in the same manner as if such causes were originally instituted in said Court, provided no case shall be transferred without the consent of the Judge of the Court to which transferred. When this Act becomes effective, all felony cases having numbers ending with 4 or 9 pending on the dockets of the Criminal District Court of Harris County and

the Criminal District Court No. 2 of Harris County and the Criminal District Court No. 3 of Harris County shall be at once transferred to and docketed in the Criminal District Court No. 4 of Harris County, and all felony cases having numbers ending with 5 or 0 pending on the dockets of the Criminal District Court of Harris County and the Criminal District Court No. 2 of Harris County and the Criminal District Court No. 3 of Harris County shall be at once transferred to and docketed in the Criminal District Court No. 5 of Harris County, and after the effective date of this Act, the Clerk of the Criminal District Courts shall file and docket felony cases in the Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County, the Criminal District Court No. 3 of Harris County, the Criminal District Court No. 4 of Harris County, and the Criminal District Court No. 5 of Harris County in rotation in the order filed so that the first case or proceeding filed after the effective date of this Act and every fifth case or proceeding thereafter filed shall be docketed in the Criminal District Court of Harris County, and the second case or proceeding filed and every fifth case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 2 of Harris County, and the third case or proceeding filed and every fifth case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 3 of Harris County, and the fourth case or proceeding filed and every fifth case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 4 of Harris County, Texas, and the fifth case or proceeding filed and every fifth case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 5 of Harris County, Texas, and so on in rotation.

Sec. 3. The Judges of said Criminal District Court No. 4 of Harris County, and the Criminal District Court No. 5 of Harris County, shall be elected by the qualified voters of Harris County for a term of four (4) years, and shall hold his office until his successor shall have been elected and qualified. They shall each possess the same qualifications as are required of the Judge of the District Court, and shall receive the same salary and additional compensation as is now or may hereafter be paid to the District Judges, to be paid in like manner. They shall each have and exercise all the powers and duties now or hereafter to be vested in and exercised by District Judges of the Criminal District Court of Harris County and the Criminal District Court No. 2 of Harris County and the Criminal District Court No. 3 of Harris County. The Judge of each of said Courts may exchange with any District Judge, as provided by law in cases of District Judges, and, in case of disqualification or absence of the Judge, a Special Judge may be selected, elected or appointed as provided by law in cases of District Judges; provided that the Governor, under the authority now provided by law, upon this Act becoming effective, shall appoint a Judge of each of said Courts, who shall hold the office

until the next general election, after the passage of this Act, and until his successor shall have been elected and qualified, the Judge of any one of said Criminal District Courts may, in his discretion, in the absence of the Judge of one of the other Criminal District Courts from his courtroom or from the County of Harris, Texas, try and dispose of any cause or causes that may be pending in such Criminal District Courts as fully as could such absent Judge were he personally present and presiding. And any one of said Judges may receive in open Court from the foreman of the Grand Jury any bill or bills of indictment in the Court to which such bill or bills of indictment may be returnable, entering the presentment of such bill or bills of indictment in the minutes of the proceedings of such Court, and may hear and receive from any empaneled petit jury any report, information or verdict, and make and cause to be entered any order or orders in reference thereto, or with reference to the continuation of the deliberation of such petit jury or their final discharge, as fully and completely as such absent District Judge could do if personally present and presiding over such Court; and may make any other order or orders in such Courts respecting the causes therein pending or the procedure pertaining thereto as the regular Judge of said Criminal Court could make if personally present and presiding.

Sec. 4. Said Court shall each have a seal of like design as the seal now provided by law for District Courts, except that the words "Criminal District Court No. 4 of Harris County" shall be engraved around the margin of one and "Criminal District Court No. 5 of Harris County" of the other thereof, which seals shall be used for all the purposes for which the seals of the District Courts are required to be used; and certified copies of the orders, proceedings, judgments and other official acts of said Court, under the hand of the Clerk and attested by the seal of either said Courts, shall be admissible in evidence in all the Courts of this State in like manner as similar certified copies from Courts of record are now or may hereafter be admissible.

Sec. 5. The Sheriff, District Attorney and the Clerk of the Criminal District Court of Harris County, as heretofore provided for by law, shall be the Sheriff, District Attorney and Clerk, respectively, of said Criminal District Court No. 4 of Harris County and Criminal District Court No. 5 of Harris County under the same rules and regulations as are now or may hereafter be prescribed by law for the government of Sheriffs, District Attorneys and Clerks of the District Courts of the State; and said Sheriff, District Attorney and Clerk shall respectively receive such fees as are now or may hereafter be prescribed by law for such officers in the District Courts of the State, to be paid in the same manner. The County Commissioners Court shall have authority to pay out of the Officers' Salary Fund or other general funds of the county for the services of such

special deputy district Clerks as in their judgment shall be required, such special deputy or deputies to be appointed by the Clerk of the Criminal District Court, and to be removable at the will of the Clerk, and to be paid a salary not to exceed the compensation allowed by law to other deputy district Clerks, said salary shall be payable monthly. The District Attorney may appoint an assistant District Attorney in addition to those now provided by law to attend said Court. Said assistant shall have the authority and shall qualify as provided by law for assistant District Attorneys, and shall be removable at the will of the District Attorney, and shall receive a salary not to exceed the maximum salary allowed assistant District Attorneys; said salary to be payable monthly by said County by warrant drawn from the Officers' Salary Fund or other general funds thereof. The Judges of the Criminal District Court No. 4 of Harris County, and the Criminal District Court No. 5 of Harris County shall appoint an official court reporter for said Court as provided by law.

Sec. 6. Said Courts shall hold four (4) terms each year for the trial of causes and the disposition of business coming before it, one term beginning the first Monday in May, one term beginning on the first Monday of August, one term beginning on the first Monday in November, and one term beginning on the first Monday of February of each year. Each term shall continue until the business is disposed of. The trials and proceedings in said Court shall be conducted according to the law governing the pleadings, practice and proceedings in criminal cases in District Courts. The District Judges of the Criminal Districts Courts of Harris County shall successively appoint Grand Jury commissioners and empanel Grand Juries; and they shall meet together and determine approximately the number of petit jurors that are reasonably necessary for jury service in the criminal District Courts of the County for each week during the said time said Courts may hold court during the year, and shall thereupon order the drawing of such number of jurors from the jury wheel of the county for each of said weeks, said jury to be known as the panel of jurors for service in the Criminal District Courts for the respective weeks for which they are designated to serve. The Judges of the said Criminal District Courts shall agree upon which one shall be authorized to act in carrying out the provisions of this Act as relating to the calling and qualifying of the jury panel; they may increase or diminish the number of jurors to be selected for any week, and shall order said jurors drawn for as many weeks in advance of service as they deem proper. From time to time they shall designate the Criminal District Judge to whom the panel of jurors shall report for duty, and said Judge, for such time as he is chosen to so act, shall organize said juries and have immediate supervision and control of them. The said jurors, after

being regularly drawn from the wheel, shall be served by the Sheriff to appear and report for jury service before said Judge so designated, who shall hear excuses of said jurors and swear them in for service for the week that they are to serve to try all cases that may be submitted to them in any of said Criminal District Courts, and they may be used interchangeably in the Criminal District Courts. In the event of a deficiency of said jurors the Judge having control of said panel of jurors shall order such additional jurors to be drawn from the wheel as may be sufficient to meet such emergency, but such jurors shall act only as special jurors and shall be discharged as soon as their services are no further needed. The provisions of the Statutes commonly known as the "jury wheel law" shall remain in full force and effect, except as modified by this Act.

[Acts 1959, 56th Leg., p. 555, ch. 249.]

180.—Harris

A. There is hereby created and established at the City of Houston, a new Criminal District Court to be known as the "Criminal District Court No. 6 of Harris County," which Court shall have and exercise concurrent jurisdiction with the Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County, the Criminal District Court No. 3 of Harris County, the Criminal District Court No. 4 of Harris County, and the Criminal District Court No. 5 of Harris County, under the Constitution and the laws of the State of Texas.

B. From and after the time this law shall take effect, the Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County, the Criminal District Court No. 3 of Harris County, the Criminal District Court No. 4 of Harris County, the Criminal District Court No. 5 of Harris County, and the Criminal District Court No. 6 of Harris County, shall have and exercise concurrent jurisdiction with each other in all felony causes, and in all matters and proceedings of which the said Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County, the Criminal District Court No. 3 of Harris County, the Criminal District Court No. 4 of Harris County, and the Criminal District Court No. 5 of Harris County now have jurisdiction; and the Judge of any one of said Criminal District Courts may in his discretion transfer any cause or causes that may at any time be pending in his court to one of the other Criminal District Courts by an order or orders entered upon the minutes of his court; and where such transfer or transfers are made the clerk of such Criminal District Court shall enter such cause or causes upon the docket to which such transfer or transfers are made, and, when so entered upon the docket, the

judge of that court shall try and dispose of said causes in the same manner as if such causes were originally instituted in said court, provided no case shall be transferred without the consent of the judge of the court to which transferred. When this Act becomes effective, all felony cases having numbers ending with 1 or 6 pending on the dockets of the other Criminal District Courts of Harris County shall be at once transferred to and docketed in the Criminal District Court No. 6 of Harris County, and after the effective date of this Act, the Clerk of the Criminal District Courts shall file and docket felony cases in the Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County, the Criminal District Court No. 3 of Harris County, the Criminal District Court No. 4 of Harris County, the Criminal District Court No. 5 of Harris County, and the Criminal District Court No. 6 of Harris County in rotation in the order filed so that the first case or proceeding filed after the effective date of this Act and every sixth case or proceeding thereafter filed shall be docketed in the Criminal District Court of Harris County, and the second case or proceeding filed and every sixth case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 2 of Harris County, and the third case or proceeding filed and every sixth case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 3 of Harris County, and the fourth case or proceeding filed and every sixth case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 4 of Harris County, Texas, and the fifth case or proceeding filed and every sixth case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 5 of Harris County, Texas, and the sixth case or proceeding filed and every sixth case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 6 of Harris County, Texas, and so on in rotation.

C. The Judges of said Criminal District Court No. 6 of Harris County, shall be elected by the qualified voters of Harris County for a term of four (4) years, and shall hold his office until his successor shall have been elected and qualified. They shall each possess the same qualifications as are required of the Judge of the District Court, and shall receive the same salary and additional compensation as is now or may hereafter be paid to the District Judges, to be paid in like manner. They shall each have and exercise all the powers and duties now or hereafter to be vested in and exercised by District Judges of the Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County, the Criminal District Court No. 3 of Harris County, the Criminal District Court No. 4 of Harris County, and the Criminal District Court No. 5 of Harris County. The judge of each of said courts may exchange with any District Judge, as provided by law in cases of District Judges, and,

in case of disqualification or absence of the Judge, a Special Judge may be selected, elected or appointed as provided by law in cases of District Judges; provided that the Governor, under the authority now provided by law, upon this Act becoming effective, shall appoint a judge of each of said courts, who shall hold the office until the next general election, after the passage of this Act, and until his successor shall have been elected and qualified, the Judge of any one of said Criminal District Courts may, in his discretion, in the absence of the Judge of one of the other Criminal District Courts from his courtroom or from the County of Harris, Texas, try and dispose of any cause or causes that may be pending in such Criminal District Courts as fully as could such absent judge were he personally present and presiding. And any one of said judges may receive in open court from the foreman of the grand jury any bill or bills of indictment in the court to which such bill or bills of indictment may be returnable, entering the presentment of such bill or bills of indictment in the minutes of the proceedings of such court, and may hear and receive from any empaneled petit jury any report, information or verdict, and make and cause to be entered any order or orders in reference thereto, or with reference to the continuation of the deliberation of such petit jury or their final discharge, as fully and completely as such absent District Judge could do if personally present and presiding over such court; and may make any other order or orders in such courts respecting the causes therein pending or the procedure pertaining thereto as the regular Judge of said Criminal Court could make if personally present and presiding.

D. Appropriation. A sum of \$16,000.00 for the fiscal year ending August 31, 1966, and a sum of \$16,000.00 for the fiscal year ending August 31, 1967, is hereby appropriated from the General Revenue Fund for the salary of the Judge of the Criminal District Court No. 6 of Harris County. The salary shall be paid as provided by law.

E. Said court shall have a seal of like design as the seal now provided by law for District Courts, except that the words "Criminal District Court No. 6 of Harris County" shall be engraved around the margin which seal shall be used for all the purposes for which the seals of the District Courts are required to be used; and certified copies of the orders, proceedings, judgments and other official acts of said court, under the hand of the clerk and attested by the seal of either said courts, shall be admissible in evidence in all the courts of this state in like manner as similar certified copies from courts of record are now or may hereafter be admissible.

F. The Sheriff, District Attorney and the Clerk of the Criminal District Court of Harris County, as heretofore provided for by law, shall be the Sheriff,

District Attorney and Clerk, respectively, of said Criminal District Court No. 6 of Harris County under the same rules and regulations as are now or may hereafter be prescribed by law for the government of Sheriffs, District Attorneys and Clerks of the District Courts of the state; and said Sheriff, District Attorney and Clerk shall respectively receive such fees as are now or may hereafter be prescribed by law for such officers in the District Courts of the state, to be paid in the same manner. The County Commissioners Court shall have authority to pay out of the officers' Salary Fund or other general funds of the county for the services of such special deputy district clerks as in their judgment shall be required, such special deputy or deputies to be appointed by the Clerk of the Criminal District Court, and to be removable at the will of the clerk, and to be paid a salary not to exceed the compensation allowed by law to other deputy district clerks, said salary shall be payable monthly. The District Attorney may appoint an assistant District Attorney in addition to those now provided by law to attend said court. Said assistant shall have the authority and shall qualify as provided by law for assistant District Attorneys, and shall be removable at the will of the District Attorney, and shall receive a salary not to exceed the maximum salary allowed assistant District Attorneys; said salary to be payable monthly by said county by warrant drawn from the Officers' Salary Fund or other general funds thereof. The Judge of the Criminal District Court No. 6 of Harris County shall appoint an official court reporter for said court as provided by law.

G. Said court shall hold for four (4) terms each year for the trial of causes and the disposition of business coming before it, one term beginning the first Monday in May, one term beginning on the first Monday of August, one term beginning on the first Monday in November, and one term beginning on the first Monday of February of each year. Each term shall continue until the business is disposed of. The trials and proceedings in said court shall be conducted according to the law governing the pleadings, practice and proceedings in criminal cases in District Courts. The District Judges of the Criminal District Courts of Harris County shall successively appoint grand jury commissioners and empanel grand juries; and they shall meet together and determine approximately the number of petit jurors that are reasonably necessary for jury service in the Criminal District Courts of the County for each week during the said time said courts may hold court during the year, and shall thereupon order the drawing of such number of jurors from the jury wheel of the county for each of said weeks, said jury to be known as the panel of jurors for service in the Criminal District Courts for the respective weeks for which they are designated to serve. The Judges of the said Criminal District Courts shall agree upon which one shall be authoriz-

ed to act in carrying out the provisions of this Act as relating to the calling and qualifying of the jury panel; they may increase or diminish the number of jurors to be selected for any week, and shall order said jurors drawn for as many weeks in advance of service as they deem proper. From time to time they shall designate the Criminal District Judge to whom the panel of jurors shall report for duty, and said Judge, for such time as he is chosen to so act, shall organize said juries and have immediate supervision and control of them. The said jurors, after being regularly drawn from the wheel, shall be served by the Sheriff to appear and report for jury service before said Judge so designated, who shall hear excuses of said jurors and swear them in for service for the week that they are to serve to try all cases that may be submitted to them in any of said Criminal District Courts, and they may be used interchangeably in the Criminal District Courts. In the event of a deficiency of said jurors the Judge having control of said panel of jurors shall order such additional jurors to be drawn from the wheel as may be sufficient to meet such emergency, but such jurors shall act only as special jurors and shall be discharged as soon as their services are no further needed. The provisions of the Statutes commonly known as the "jury wheel law" shall remain in full force and effect, except as modified by this Act.

[Acts 1965, 59th Leg., p. 895, ch. 442, § 10c, eff. Sept. 1, 1965.]

181.—Potter and Randall. See Article 199a, Sec. 3.009

182.—Harris. See Article 199a, Sec. 3.010

183.—Harris. See Article 199a, Sec. 3.011

184.—Harris. See Article 199a, Sec. 3.012

185.—Harris. See Article 199a, Sec. 3.013

186.—Bexar

Sec. 1. The 186th Judicial District, coextensive with the limits of Bexar County, is created effective, October 1, 1969. The court of the district is the 186th District Court of Bexar County.

Sec. 2. (a) The governor shall appoint as judge of the 186th District Court a person qualified to serve as district judge under the Constitution and laws of this state. The judge appointed holds office until the next general election and until his successor is duly elected and has qualified.

(b) The judge appointed and his successors are entitled to the same compensation and allowances, paid by the state and county, as the other district judges in Bexar County.

[Acts 1969, 61st Leg., 2nd C.S., p. 107, ch. 6, eff. Oct. 1, 1969.]

187.—Bexar. See Article 199a, Sec. 3.014

188.—Gregg. See Article 199a, Sec. 3.015

189.—Harris. See Article 199a, Sec. 3.016

190.—Harris. See Article 199a, Sec. 3.017

191.—Dallas. See Article 199a, Sec. 3.018

192.—Dallas. See Article 199a, Sec. 3.019

193.—Dallas. See Article 199a, Sec. 3.020

194.—Dallas. See Article 199a, Sec. 3.021

195.—Dallas. See Article 199a, Sec. 3.022

196.—Hunt. See Article 199a, Sec. 3.023

197.—Cameron and Willacy. See Article 199a, Sec. 3.024

198.—Kerr, Menard, Concho, Kimble and McCulloch. See Article 199a, Sec. 3.026

199.—Collin. See Article 199a, Sec. 3.028

200, 201.—Travis. See Article 199a, Sec. 3.029

202.—Bowie. See Article 199a, Sec. 3.033

203.—Dallas. See Article 199a, Sec. 3.030

204.—Dallas. See Article 199a, Sec. 3.031

205.—El Paso, Hudspeth and Culberson. See Article 199a, Sec. 3.032

206.—Hidalgo. See Article 199a, Sec. 3.034

207.—Comal, Hays and Caldwell. See Article 199a, Sec. 3.035

208.—Harris. See Article 199a, Sec. 3.036

209.—Harris. See Article 199a, Sec. 3.037

210.—El Paso, Hudspeth and Culberson. See Article 199a, Sec. 3.038

211.—Denton. See Article 199a, Sec. 3.039

212.—Galveston. See Article 199a, Sec. 3.040

213.—Tarrant. See Article 199a, Sec. 3.041

214.—Nueces. See Article 199a, Sec. 3.042

215.—Harris. See Article 199a, Sec. 3.043

216.—Kerr, Bandera, Kendall, and Gillespie

The name of the Second Thirty-eighth Judicial District of Texas is changed to the 216th Judicial District of Texas.

The 216th Judicial District shall be composed of the Counties of Kerr, Bandera, Kendall, and Gillespie, and the terms of the district court shall be held therein as follows:

In Kerr County, beginning on the first Monday in January and June.

In Bandera County, beginning on the first Monday in February and September.

In Kendall County, beginning on the fourth Monday in February and September.

In Gillespie County, beginning on the second Monday in April and November.

Each term of court in each of such counties shall continue until the date herein fixed for the beginning of the next succeeding term. The judge of the district may hold as many sessions of court during each term as is deemed proper and expedient for the dispatch of business.

[Acts 1973, 63rd Leg., p. 732, ch. 316, § 2, eff. Sept. 1, 1973. Amended by Acts 1979, 66th Leg., p. 1163, ch. 563, § 2, eff. Sept. 1, 1979.]

Section 4 of the 1979 amendatory act provided:

"This Act takes effect only if the 66th Legislature, Regular Session, does not create two or more new judicial districts in the same Act. If no bill creating two or more new judicial districts by the 66th Legislature, Regular Session, becomes law, this Act takes effect September 1, 1979."

No such bill became law.

217.—Angelina. See Article 199a, Sec. 3.044

218.—Atascosa, Frio, Karnes, LaSalle and Wilson.
See Article 199a, Sec. 3.045

219.—Collin. See Article 199a, Sec. 3.046

220.—Hamilton, Comanche and Bosque. See Article 199a, Sec. 3.047

221.—Montgomery. See Article 199a, Sec. 3.048

222.—Deaf Smith and Oldham. See Article 199a,
Sec. 3.049

223.—Gray. See Article 199a, Sec. 3.050

224.—Bexar. See Article 199a, Sec. 3.051

225.—Bexar. See Article 199a, Sec. 3.052

226.—Bexar. See Article 199a, Sec. 3.053

227.—Bexar. See Article 199a, Sec. 3.054

228.—Harris. See Article 199a, Sec. 3.055

229.—Duval, Jim Hogg and Starr

Sec. 1. The 229th Judicial District shall be composed of the counties of Duval, Starr, and Jim Hogg.

Sec. 2. The 229th District Court shall have and exercise all jurisdiction now or hereafter prescribed by the Constitution and laws of this state for district courts.

Sec. 3. The terms of the 229th District Court shall be:

(a) In the County of Duval, beginning on the first Monday in February and the first Monday in August of each year, and each term of the court shall continue until the beginning of the next term.

(b) In the County of Starr, beginning on the first Monday in April and the First Monday in October of each year, and each term of the court shall continue until the beginning of the next term.

(c) In the County of Jim Hogg, beginning on the first Monday in June and the first Monday in December of each year, and each term of the court shall continue until the beginning of the next term.

The judge of the 229th District Court, in his discretion, may hold as many sessions of court in any term of the court in any county as is deemed by him proper and expedient for the dispatch of business.

Sec. 4. The District Clerk and Sheriff of Duval, Starr, and Jim Hogg counties shall serve the 229th District Court. The judge of the 229th District Court shall appoint an official shorthand reporter for the court. The reporter shall be a sworn officer of the court and shall be compensated as provided by law.

Sec. 5. Upon the effective date of this Act, the Governor shall appoint a judge of the 229th District

Court who shall have qualifications required of judges of district courts in this state and who shall hold office until the next general election and until his successor is sworn. The judge of the 229th District Court shall receive the compensation provided by law for district judges.

[Acts 1969, 61st Leg., p. 697, ch. 239, § 3, eff. Sept. 1, 1969.]

230.—Harris. See Article 199a, Sec. 3.056

231.—Tarrant. See Article 199a, Sec. 3.057

232.—Harris. See Article 199a, Sec. 3.058

233.—Tarrant. See Article 199a, Sec. 3.059

234.—Harris. See Article 199a, Sec. 3.060

235.—Cooke. See Article 199a, Sec. 3.028

236.—Tarrant. See Article 199a, Sec. 3.061

237.—Lubbock. See Article 199a, Sec. 3.062

238.—Midland. See Article 199a, Sec. 3.063

239.—Brazoria. See Article 199a, Sec. 3.064

240.—Fort Bend. See Article 199a, Sec. 3.065

241.—Smith. See Article 199a, Sec. 3.066

242.—Hale, Swisher and Castro. See Article 199a,
Sec. 3.067

243.—El Paso. See Article 199a, Sec. 3.068

244.—Ector. See Article 199a, Sec. 3.069

245.—Harris. See Article 199a, Sec. 3.070

246.—Harris. See Article 199a, Sec. 3.071

247.—Harris. See Article 199a, Sec. 3.072

248.—Harris. See Article 199a, Sec. 3.073

249.—Johnson and Somervell. See Article 199a,
Sec. 3.074

250.—Travis. See Article 199a, Sec. 3.076

251.—Potter and Randall. See Article 199a, Sec.
3.077

252.—Jefferson. See Article 199a, Sec. 3.078

253.—Chambers and Liberty. See Article 199a,
Sec. 3.079

254.—Dallas. See Article 199a, Sec. 3.080

255.—Dallas. See Article 199a, Sec. 3.081

256.—Dallas. See Article 199a, Sec. 3.082

257.—Harris. See Article 199a, Sec. 3.083

258.—Polk, San Jacinto and Trinity. See Article
199a, Sec. 3.084

259.—Jones and Shackelford. See Article 199a,
Sec. 3.085

260.—Orange. See Article 199a, Sec. 3.086

261.—Travis. See Article 199a, Sec. 3.087

262.—Harris. See Article 199a, Sec. 3.088

263.—Harris. See Article 199a, Sec. 3.089

264.—Bell. See Article 199a, Sec. 3.090

265.—Dallas. See Article 199a, Sec. 3.091

- 266.—Erath and Hood. See Article 199a, Sec. 3.092
- 267.—Calhoun, DeWitt, Goliad, Jackson, Refugio and Victoria. See Article 199a, Sec. 3.093
- 268.—Fort Bend. See Article 199a, Sec. 3.094
- 269.—Harris. See Article 199a, Sec. 3.095
- 270.—Harris. See Article 199a, Sec. 3.096
- 271.—Wise and Jack. See Article 199a, Sec. 3.097
- 272.—Brazos. See Article 199a, Sec. 3.098
- 273.—Shelby, Sabine, and San Augustine. See Article 199a, Sec. 3.099
- 274.—Comal, Hays, Guadalupe and Caldwell. See Article 199a, Sec. 3.100
- 275.—Hidalgo. See Article 199a, Sec. 3.101
- 276.—Camp, Marion, Morris and Titus. See Article 199a, Sec. 3.102
- 277.—Williamson. See Article 199a, Sec. 3.103
- 278.—Grimes, Madison, Walker and Leon. See Article 199a, Sec. 3.104
- 279.—Jefferson. See Article 199a, Sec. 3.105
- 280.—Harris. See Article 199a, Sec. 3.106
- 281.—Harris. See Article 199a, Sec. 3.107
- 282.—Dallas. See Article 199a, Sec. 3.108
- 283.—Dallas. See Article 199a, Sec. 3.109
- 284.—Montgomery. See Article 199a, Sec. 3.110
- 285.—Bexar. See Article 199a, Sec. 3.111
- 286.—Cochran and Hockley. See Article 199a, Sec. 3.112
- 287.—Bailey and Parmer. See Article 199a, Sec. 3.113
- 288.—Bexar. See Article 199a, Sec. 3.114
- 289.—Bexar. See Article 199a, Sec. 3.115
- 290.—Bexar. See Article 199a, Sec. 3.116
- 291.—Dallas. See Article 199a, Sec. 3.117
- 292.—Dallas. See Article 199a, Sec. 3.118
- 293.—Dimmit, Maverick, and Zavala. See Article 199a, Sec. 3.119
- 294.—Wood and Van Zandt. See Article 199a, Sec. 3.120
- 295.—Harris. See Article 199a, Sec. 3.121
- 296.—Collin. See Article 199a, Sec. 3.122
- 297.—Tarrant. See Article 199a, Sec. 3.123
- 298.—Dallas. See Article 199a, Sec. 3.124
- 299.—Travis. See Article 199a, Sec. 3.125
- 300.—Brazoria. See Article 1926a, Sec. 2.01
- 301 to 305.—Dallas. See Article 1926a, Secs. 2.02 to 2.06
- 306.—Galveston. See Article 1926a, Sec. 2.07
- 307.—Gregg. See Article 1926a, Sec. 2.08
- 308 to 315.—Harris. See Article 1926a, Secs. 2.09 to 2.16
- 316.—Hutchinson. See Article 1926a, Sec. 2.17
- 317.—Jefferson. See Article 1926a, Sec. 2.18
- 318.—Midland. See Article 1926a, Sec. 2.19
- 319.—Nueces. See Article 1926a, Sec. 2.20
- 320.—Potter. See Article 1926a, Sec. 2.21
- 321.—Smith. See Article 1926a, Sec. 2.22
- 322 to 325.—Tarrant. See Article 1926a, Secs. 2.23 to 2.26
- 326.—Taylor. See Article 1926a, Sec. 2.27
- 327.—El Paso. See Article 1926a, Sec. 2.28
- 328.—Fort Bend. See Article 1926a, Sec. 2.29
- 329.—Wharton. See Article 1926a, Sec. 2.30
- 330.—Dallas. See Article 1926a, Sec. 2.31
- 331.—Travis. See Article 199a, Sec. 3.126
- 332.—Hidalgo. See Article 199a, Sec. 3.127
- 333.—Harris. See Article 199a, Sec. 3.128
- 334.—Harris. See Article 199a, Sec. 3.129
- 335.—Washington, Lee, Bastrop, and Burleson. See Article 199a, Sec. 3.130
- 336.—Grayson and Fannin. See Article 199a, Sec. 3.131
- 337 to 339.—Harris. See Article 199a, Secs. 3.132 to 3.134
- 340.—Tom Green. See Article 199a, Sec. 3.135
- 341.—Webb. See Article 199a, Sec. 3.136
- 342.—Tarrant. See Article 199a, Sec. 3.137
- 343.—Aransas, Bee, Live Oak, McMullen, and San Patricio. See Article 199a, Sec. 3.138
- 344.—Chambers. See Article 199a, Sec. 3.139
- 345.—Travis. See Article 199a, Sec. 3.140
- 346.—El Paso. See Article 199a, Sec. 3.141
- 347.—Nueces. See Article 199a, Sec. 3.142
- 348.—Tarrant. See Article 199a, Sec. 3.143
- 349.—Anderson and Houston. See Article 199a, Sec. 3.144
- 350.—Taylor. See Article 199a, Sec. 3.145
- 351.—Harris. See Article 199a, Sec. 3.146
- 352.—Tarrant. See Article 199a, Sec. 3.147
- 353.—Travis. See Article 199a, Sec. 3.148
- 354.—Hunt and Rains. See Article 199a, Sec. 3.149
- 355.—Hood. See Article 199a, Sec. 3.150
- 356.—Hardin. See Article 199a, Sec. 3.151
- 357.—Cameron and Willacy. See Article 199a, Sec. 3.152

358.—Ector. See Article 199a, Sec. 3.153

359.—Montgomery. See Article 199a, Sec. 3.154

Art. 199a. Judicial Districts Act of 1969

Acts 1969, 61st Leg., 2nd C.S., p. 150, ch. 23, consisting of §§ 1.001 to 7.003 which appear under art. 199a, creates and modifies various judicial districts affecting the provisions of art. 199.

SUBCHAPTER A. ORGANIZATION AND PURPOSE

Short Title

Sec. 1.001. This Act may be cited as the Judicial Districts Act of 1969.

Scope of Act

Sec. 1.002. Except as otherwise indicated by the context, this Act applies only to judicial districts created by this Act or by amendments of this Act.

Subchapters

Sec. 1.003. (a) The provisions of Subchapter B of this Act are general and apply to all district courts created by this Act and those later created by amendment of Subchapter C of this Act except expressly provided by this Act or an amendatory Act.

(b) The provisions of Subchapter C of this Act create specific judicial districts and define their territorial composition, and may contain specific provisions applicable to each court.

(c) The provisions of Subchapter D of this Act are concerned with specific judicial districts and the office of district attorney for those districts.

(d) The provisions of Subchapter E of this Act amend prior law to conform legislation to the new pattern of judicial districts drawn by this Act.

(e) The provisions of Subchapter F of this Act are transitional provisions applicable to each court created by this Act or by amendment of this Act except as expressly provided by this Act or an amendatory Act.

Amendments

Sec. 1.004. This Act is so designed that the Legislature may later add districts or change the composition of a district or the jurisdiction of a court by adding or amending sections of Subchapter C without repeating the provisions of Subchapter B or Subchapter F.

SUBCHAPTER B. GENERAL PROVISIONS

Terms of Court

Sec. 2.001. Each district court holds in each county within its jurisdiction continuous terms which commence on the first Monday in January and on the first Monday in July of each year. Each term of court continues until the next succeeding term begins.

Transfer of Cases; Exchange of Benches

Sec. 2.002. (a) In any county in which there are two or more district courts, the judges of such

courts may, in their discretion, either in termtime or in vacation, on motion of any party or on agreement of the parties, or on their own motion, transfer any case or proceeding, civil or criminal, on their dockets to the docket of one of the other said district courts; and the judges of the courts may, in their discretion, exchange benches or districts from time to time.

(b) Whenever a judge of one of the courts is disqualified, he shall transfer the case or proceeding from his court to one of the other courts, and any of the judges may in his own courtroom try and determine any case or proceeding pending in either of the other courts without having the case transferred, or may sit in any of the other courts and there hear and determine any case or proceeding there pending. Each judgment and order shall be entered in the minutes of the court in which the case is pending, and two or more judges may try different cases in the same court at the same time and each may occupy his own courtroom or the room of any other court.

(c) In case of absence, sickness, or disqualification of any of the judges, any other of the judges may hold court for him. Any of the judges may hear any part of any case or proceeding pending in any of the courts and determine the same or may hear or determine any question in any case or proceeding and any other of the judges may complete the hearing and render judgment in the same. Any of the judges may hear and determine motions, petitions for injunction, applications for appointment of receivers, interventions, pleas of privilege, pleas in abatement, and all dilatory pleas, motions for new trials, and all preliminary matters, questions and proceedings, and may enter judgment or order thereon in the court in which the case or proceeding is pending without having the same transferred to the court of the judge acting; and the judge in whose court the same is pending may thereafter proceed to hear, complete, and determine the same or other matter or any part thereof and render final judgment thereon. Any of the judges of the courts may issue restraining orders and injunctions returnable to any of the other courts.

(d) The specific matters mentioned in this section shall not be construed as any limitation on the powers of such judges when acting for any other judge by exchange of benches or otherwise.

Filing and Docketing Cases

Sec. 2.003. In a county in which there are two or more district courts, the judges of the courts may make such rules governing the filing and numbering of cases, the assignment thereof for trial, and the distribution of the work of such courts as in their discretion is deemed necessary or desirable for the orderly dispatch of the business of the courts.

Process, Writs, Etc.

Sec. 2.004. (a) When a case is transferred from one court to another, all process and writs issued from the transferring court are returnable to the

court to which the case is transferred as if originally issued by that court.

(b) The obligees in all bonds and recognizances taken in and for a court from which a case is transferred, and all witnesses summoned to appear in a district court from which a case is transferred, are required to appear before the district court to which the case is transferred as if originally issued by that court.

Governor to Appoint District Judges

Sec. 2.005. The district judge of each new district created by this Act shall be appointed by the governor in the manner prescribed by the constitution and laws of the State of Texas and shall serve in such capacity until the next succeeding general election and until his successor has been duly elected and has qualified.

Juvenile Boards and Supplemental Compensation

Sec. 2.006. The district judge of any new district created by this Act shall sit as a member of the juvenile board in any county within his district in which a juvenile board exists. The judge shall receive the same amount as supplemental compensation for his services on the board as is received by other judges on the board. Unless otherwise provided by this Act, the judge shall receive the same amount in other supplemental compensation from the county as is received by other district judges in that county.

Court Officers

Sec. 2.007. The district attorney (or county attorney or criminal district attorney), the sheriff, the district clerk, the bailiffs, and other officers serving the other district court or courts of the county shall serve in their respective capacities for the court created by this Act.

Court Reporter

Sec. 2.008. The district judge shall appoint an official shorthand reporter for the court who shall have the qualifications and receive the compensation prescribed by law. If other district courts have jurisdiction in the county, the official shorthand reporter is entitled to the compensation prescribed by law for the official shorthand reporters of the other district courts.

Jurisdiction

Sec. 2.009. Each court created in Subchapter C, has the jurisdiction provided by the constitution and the general laws of this state for district courts.

Special District Courts

Sec. 2.010. Each court created in Subchapter C which is directed to give preference to specific matters or types of cases shall participate in all matters relating to juries, grand juries, indictments, and docketing of cases in the same manner as the existing district court or courts which are similarly directed within that county.

SUBCHAPTER C. CREATION OF DISTRICTS

148.—Nueces

Sec. 3.001. (a) The 148th Judicial District, composed of the County of Nueces, is hereby created.

(b) The 148th District Court shall give first preference to family law matters and second preference to criminal cases.

141.—Tarrant

Sec. 3.002. The 141st Judicial District, composed of the County of Tarrant, is hereby created.

169.—Bell

Sec. 3.003. (a) The 169th Judicial District, composed of the County of Bell, is hereby created.

(b) The terms of the 169th District Court shall be on the first Mondays in January, April, July, and October of each year, and each term of court continues until the next succeeding term begins.

158.—Denton

Sec. 3.004. The 158th Judicial District, composed of the County of Denton, is hereby created.

159.—Angelina

Sec. 3.005. (a) The 159th Judicial District, composed of the County of Angelina, is hereby created.

(b) The judges of the 2nd and 145th District Courts in office on the effective date of this Act shall continue in office for the terms for which they were elected.

168.—El Paso

Sec. 3.006. The 168th Judicial District, composed of the County of El Paso, is hereby created.

172.—Jefferson

Sec. 3.007. The 172nd Judicial District, composed of the County of Jefferson, is hereby created.

173.—Henderson

Sec. 3.008. The 173rd Judicial District, composed of the County of Henderson, is hereby created.

181.—Potter and Randall

Sec. 3.009. (a) The 181st Judicial District, composed of the Counties of Potter and Randall, is hereby created.

(b) The 181st District Court may hear and determine, in whichever county in that district is convenient for the court, all preliminary or interlocutory matters in which a jury may not be demanded, in any case pending in any county in said district, regardless of whether the cases were filed in the county in which the hearing is held. The 181st District Court may, unless there is some objection filed by a party to the suit, hear, in any county in said district which is convenient for said court, any

nonjury case (including but not limited to divorces, adoptions, default judgments and matters where there has been citation by publication) pending in any county in said district, regardless of whether the cases were filed in the county in which the hearing is held.

182.—Harris

Sec. 3.010. (a) The 182nd Judicial District, composed of the County of Harris, is hereby created.

(b) The 182nd District Court shall give preference to criminal cases.

(c) The term of court of the 182nd District Court beginning on the first Monday in January, 1973, shall continue until the first Monday in August, 1973. Beginning on the first Monday in August, 1973, the court shall hold four terms each year for the trial of causes and the disposition of business coming before it, one term beginning on the first Monday in August, one term beginning on the first Monday in November, one term beginning on the first Monday in February, and one term beginning on the first Monday in May of each year. Each term shall continue until the business is disposed of.

183.—Harris

Sec. 3.011. (a) The 183rd Judicial District, composed of the County of Harris, is hereby created.

(b) The 183rd District Court shall give preference to criminal cases.

(c) The term of court of the 183rd District Court beginning on the first Monday in January, 1973, shall continue until the first Monday in August, 1973. Beginning on the first Monday in August, 1973, the court shall hold four terms each year for the trial of causes and the disposition of business coming before it, one term beginning on the first Monday in August, one term beginning on the first Monday in November, one term beginning on the first Monday in February, and one term beginning on the first Monday in May of each year. Each term shall continue until the business is disposed of.

184.—Harris

Sec. 3.012. (a) The 184th Judicial District, composed of the County of Harris, is hereby created.

(b) The 184th District Court shall give preference to criminal cases.

(c) The term of court of the 184th District Court beginning on the first Monday in January, 1973, shall continue until the first Monday in August, 1973. Beginning on the first Monday in August, 1973, the court shall hold four terms each year for the trial of causes and the disposition of business coming before it, one term beginning on the first Monday in August, one term beginning on the first Monday in November, one term beginning on the first Monday in February, and one term beginning on the first Monday in May of each year. Each term shall continue until the business is disposed of.

185.—Harris

Sec. 3.013. (a) The 185th Judicial District, composed of the County of Harris, is hereby created.

(b) The 185th District Court shall give preference to criminal cases.

(c) The term of court of the 185th District Court beginning on the first Monday in January, 1973, shall continue until the first Monday in August, 1973. Beginning on the first Monday in August, 1973, the court shall hold four terms each year for the trial of causes and the disposition of business coming before it, one term beginning on the first Monday in August, one term beginning on the first Monday in November, one term beginning on the first Monday in February, and one term beginning on the first Monday in May of each year. Each term shall continue until the business is disposed of.

187.—Bexar

Sec. 3.014. (a) The 187th Judicial District, composed of the County of Bexar, is hereby created.

(b) The 187th District Court shall give preference to criminal cases.

(c) The term of court of the 187th District Court beginning on the first Monday in July, 1975, shall continue until the first Monday in September, 1975. Beginning on the first Monday in September, 1975, the court shall hold six terms each year for the trial of causes and the disposition of business coming before it, one term beginning on the first Monday in September, one term beginning on the first Monday in November, one term beginning on the first Monday in January, one term beginning on the first Monday in March, one term beginning on the first Monday in May, and one term beginning on the first Monday in July of each year. Each term shall continue until the business is disposed of.

188.—Gregg

Sec. 3.015. (a) The 188th Judicial District, composed of the County of Gregg, is hereby created.

(b) All cases and proceedings pending on the effective date of this Act in the 71st District Court in Gregg County shall be transferred in equal numbers to the 124th and 188th District Courts. All process and writs issued from the 71st District Court sitting in Gregg County and made returnable to the 71st District Court sitting in Gregg County are hereby made returnable to the 124th or 188th District Court, as the case may be. The obligees in all bonds and recognizance taken in and for the 71st District Court sitting in Gregg County, and all witnesses summoned to appear before the 71st District Court in Gregg County, are required to appear before the 124th or 188th District Court as directed by the 124th or 188th District Court but not at a time earlier than originally required.

(c) The judge of the 71st District Court is continued in office until the expiration of the term to

which he was elected and until his successor is elected and has qualified.

189.—Harris

Sec. 3.016. The 189th Judicial District, composed of the County of Harris, is hereby created.

190.—Harris

Sec. 3.017. The 190th Judicial composed of the County of Harris is hereby created.

191.—Dallas

Sec. 3.018. The 191st Judicial District, composed of the County of Dallas, is hereby created.

192.—Dallas

Sec. 3.019. The 192nd Judicial District, composed of the County of Dallas, is hereby created.

193.—Dallas

Sec. 3.020. The 193rd Judicial District, composed of the County of Dallas, is hereby created.

194.—Dallas

Sec. 3.021. (a) The 194th Judicial District, composed of the County of Dallas, is hereby created.

(b) The 194th District Court shall give preference to criminal cases.

195.—Dallas

Sec. 3.022. (a) The 195th Judicial District, composed of the County of Dallas, is hereby created.

(b) The 195th District Court shall give preference to criminal cases.

196.—Hunt

Sec. 3.023. The 196th Judicial District, composed of the County of Hunt, is hereby created.

197.—Cameron and Willacy

Sec. 3.024. (a) The 197th Judicial District, composed of the Counties of Cameron and Willacy, is hereby created.

(b) The 197th District Court shall give preference to criminal cases.

Tarrant; Criminal Judicial District No. 4

Sec. 3.025. [See Article 1926-45 for text].

198.—Kerr, Menard, Concho, Kimble, and McCulloch

Sec. 3.026. (a) The 198th Judicial District, composed of the Counties of Kerr, Menard, Concho, Kimble, and McCulloch, is created.

(b) The judge of the 198th District Court shall have the right to select jury commissioners and empanel grand juries in each county. The judge of the 198th District Court may alternate the drawing of grand juries with the judge of any other district

court in each county within his district and may order grand and petit juries to be drawn for any term of his court as in his judgment is necessary, by an order entered in the minutes of the court. Indictments within each county may be returned to either court within that county.

149.—Brazoria

Sec. 3.027. (a) The 149th Judicial District, composed of the County of Brazoria, is hereby created.

(b) The Commissioners Court of Brazoria County may supplement the salary of the judge of the 149th Judicial District in an amount sufficient to equal the total supplemented salary of any other judge of a judicial district which includes Brazoria County.

235.—Cooke

Text of § 3.028 as added by Acts 1971, 62nd Leg., p. 1807, ch. 535, § 2

Sec. 3.028. The 235th Judicial District, composed of the County of Cooke, is hereby created.

199.—Collin

Text of § 3.028 as added by Acts 1971, 62nd Leg., p. 2017, ch. 621, § 1.

Sec. 3.028. (a) The 199th Judicial District, composed of the County of Collin, is hereby created.

(b) to (e) Repealed by Acts 1975, 64th Leg., p. 375, ch. 166, § 9, eff. Jan. 1, 1976.

200, 201.—Travis

Sec. 3.029. (a) The 200th and 201st Judicial Districts, each composed of the County of Travis, are hereby created.

(b) The 200th Judicial District is created effective September 1, 1971.

(c) The 201st Judicial District is created effective January 1, 1973.

203.—Dallas

Sec. 3.030. (a) The 203rd Judicial District, composed of the County of Dallas, is hereby created.

(b) The 203rd District Court shall give preference to criminal cases.

204.—Dallas

Sec. 3.031. (a) The 204th Judicial District, composed of the County of Dallas, is hereby created.

(b) The 204th District Court shall give preference to criminal cases.

205.—El Paso, Hudspeth and Culberson

Sec. 3.032. (a) The 205th Judicial District, composed of the Counties of El Paso, Hudspeth, and Culberson is created.

(b) The 205th District Court shall give preference to criminal cases.

202.—Bowie

Sec. 3.033. (a) The 202nd Judicial District, composed of the County of Bowie, is hereby created.

(b) The 202nd District Court shall give preference to criminal cases.

(c) The jurisdiction of the 202nd District Court, insofar as Bowie County is concerned, is concurrent and coextensive with the 5th and 102nd Judicial District Courts, and the terms of the 202nd District Court shall commence on the first Monday in January, April, July, and October, and each such term shall continue until the beginning of the next succeeding term, and the judge of said court may hold as many sessions in any term of the court as is deemed by him proper and expedient for the dispatch of business. During each term of court in Bowie County, Texas, the court may sit in Texarkana, Texas, to try, hear, and determine any civil non-jury case, and may hear and determine motions, agreements and other non-jury civil matters as may come before the court, and may hear and determine any criminal non-jury matters, including, but not limited to pleas of guilty, both felony and misdemeanor, when a jury has been waived, but nothing herein shall be construed as limiting said court's power to hear such matters in Boston, Texas.

(d) The clerk of the district court of Bowie County shall be the clerk of the 202nd District Court and shall perform all duties pertaining to the clerkship of the court; provided that the district clerk of Bowie County, or his deputy, shall wait on the court when sitting at Texarkana, Texas, and shall be permitted to transfer all necessary books, minutes and records to Texarkana, Texas, while the court is in session there, and likewise, to transfer all necessary books, minutes, records, and papers from Texarkana, Texas, to Boston, Texas, at the end of each session in Texarkana, Texas.

(e) The judge of the 202nd District Court shall appoint a shorthand reporter and fix her salary the same as that which is received by the shorthand reporters of the 5th and 102nd District Courts, which salary shall be fixed immediately upon the passage of this Act, and shall be paid by the County of Bowie out of the general fund, officers salary fund, jury fund, or any other fund available for the purpose, and thereafter shall be governed in accordance with all applicable laws.

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

206.—Hidalgo

Sec. 3.034. The 206th Judicial District, composed of the County of Hidalgo, is hereby created.

207.—Comal, Hays and Caldwell

Sec. 3.035. (a) The 207th Judicial District, composed of the Counties of Comal, Hays, and Caldwell, is hereby created.

(b) The 207th District Court shall have the same jurisdiction in Comal County as the 22nd District Court has in Comal County and shall give preference to criminal cases in Caldwell, Comal, and Hays Counties. In addition to the jurisdiction prescribed by the constitution and laws of this state for district courts, the 207th District Court shall also have and exercise concurrent jurisdiction with the County Court of Caldwell County over all matters of original and appellate criminal jurisdiction in causes over which under the constitution and laws of this state the County Court of Caldwell County has jurisdiction.

(c) The courts shall hold four terms each year beginning on the first Mondays in February, May, August, and November in Hays County, beginning on the first Mondays in March, June, September, and December in Caldwell County, and beginning on the first Mondays in April, July, October, and January in Comal County. Each term of court continues in each county until the next succeeding term begins.

208.—Harris

Sec. 3.036. (a) The 208th Judicial District, composed of the County of Harris, is hereby created.

(b) The 208th District Court shall give preference to criminal cases.

(c) The term of court of the 208th District Court beginning on the first Monday in January, 1975, shall continue until the first Monday in August, 1975. Beginning on the first Monday in August, 1975, the court shall hold four terms each year for the trial of causes and the disposition of business coming before it, one term beginning on the first Monday in August, one term beginning on the first Monday in November, one term beginning on the first Monday in February, and one term beginning on the first Monday in May of each year. Each term shall continue until the business is disposed of.

209.—Harris

Sec. 3.037. (a) The 209th Judicial District, composed of the County of Harris, is hereby created.

(b) The 209th District Court shall give preference to criminal cases.

(c) The term of court of the 209th District Court beginning on the first Monday in January, 1975, shall continue until the first Monday in August, 1975. Beginning on the first Monday in August, 1975, the court shall hold four terms each year for the trial of causes and the disposition of business coming before it, one term beginning on the first Monday in August, one term beginning on the first Monday in November, one term beginning on the first Monday in February, and one term beginning

on the first Monday in May of each year. Each term shall continue until the business is disposed of.

210.—El Paso, Hudspeth and Culberson

Sec. 3.038. The 210th Judicial District, composed of the Counties of El Paso, Hudspeth, and Culberson, is created.

211.—Denton

Sec. 3.039. The 211th Judicial District, composed of the County of Denton, is hereby created.

212.—Galveston

Sec. 3.040. The 212th Judicial District, composed of the County of Galveston, is hereby created.

213.—Tarrant

Sec. 3.041. (a) The 213th Judicial District, composed of the County of Tarrant, is hereby created.

(b) The terms of court of the 213th District Court begin on the first Monday in April, the first Monday in July, the first Monday in October, and the first Monday in January of each year. Each term of court continues until the next succeeding term convenes.

214.—Nueces

Sec. 3.042. (a) The 214th Judicial District, composed of the County of Nueces, is hereby created.

(b) The 214th District Court shall give preference to criminal cases.

215.—Harris

Sec. 3.043. (a) The 215th Judicial District, composed of Harris County, is created.

(b) The 215th District Court shall give preference to civil matters.

217.—Angelina

Sec. 3.044. The 217th Judicial District, composed of the County of Angelina, is hereby created.

218.—Atascosa, Frio, Karnes, LaSalle and Wilson

Sec. 3.045. (a) The 218th Judicial District, composed of the Counties of Atascosa, Frio, Karnes, LaSalle, and Wilson, is hereby created.

(b) The judge of the 218th District Court may select grand jury commissioners and impanel grand juries in each county in the district but is not required to impanel a grand jury in any county except when he deems it necessary. The judge may alternate the impaneling of grand juries with the judge of any other district court in each county, or the judges may by agreement determine which one of the courts will impanel the grand juries. Indictments within each county may be returned to either court within that county. All grand and petit juries drawn for one district court in each county are interchangeable with any other district court in that

county the same as if the jury had been drawn for the court in which it is used.

219.—Collin

Sec. 3.046. The 219th Judicial District, composed of the County of Collin, is hereby created.

220.—Hamilton, Comanche and Bosque

Sec. 3.047. The 220th Judicial District, composed of the Counties of Hamilton, Comanche, and Bosque, is hereby created.

221.—Montgomery

Sec. 3.048. The 221st Judicial District, composed of the County of Montgomery, is hereby created.

222.—Deaf Smith and Oldham

Sec. 3.049. (a) The 222nd Judicial District, composed of the Counties of Deaf Smith and Oldham, is hereby created.

(b) The commissioners court of Deaf Smith County and Oldham County by agreement or separately may supplement the district judge's state compensation.

(c) The salary of the official shorthand reporter shall be set by the district judge of this judicial district at a sum of not less than \$15,000 per annum. In addition to a salary, the reporter shall receive allowances for his actual and necessary travel and hotel expenses, if any, while actually engaged in the discharge of his duties, not to exceed the amount allowed by the federal government while traveling by private conveyance and going to and returning from the place where such duties are discharged, traveling the nearest practical route. The expenses shall be paid by the respective counties of the judicial district for which they are incurred, each county paying the expense incidental to its own regular or special term of court. The expenses shall be paid to the official shorthand reporter by the commissioners court of the county out of the general fund of the county upon the sworn statement of the reporter, approved by the judge.

(d) The adult probation officer shall receive a salary of not less than \$15,000 per annum. In addition to a salary, the adult probation officer shall receive allowances for his actual and necessary travel and hotel expenses while actually engaged in the discharge of his duties, such travel allowances not to exceed the amount allowed by the federal government while traveling by private conveyance in going to and returning from the place where such duties are discharged, traveling the nearest practical route. The expenses shall be paid by the respective counties of the judicial district for which they are incurred out of the general fund of the county upon the sworn statement of the adult probation officer, approved by the judge. In lieu of travel allowances the commissioners court of each county

by agreement may provide transportation under the same terms and conditions as provided for sheriffs.

223.—Gray

Sec. 3.050. The 223rd Judicial District, composed of the County of Gray, is hereby created.

224.—Bexar

Sec. 3.051. (a) The 224th Judicial District, composed of the County of Bexar, is hereby created.

(b) The 224th District Court shall give preference to civil cases.

225.—Bexar

Sec. 3.052. (a) The 225th Judicial District, composed of the County of Bexar, is hereby created.

(b) The 225th District Court shall give preference to civil cases.

226.—Bexar

Sec. 3.053. (a) The 226th Judicial District, composed of the County of Bexar, is hereby created.

(b) The 226th District Court shall give preference to criminal cases.

(c) The 226th District Court shall hold six terms each year for the trial of causes and the disposition of business coming before it, one term beginning the first Monday in January, one the first Monday in March, one the first Monday in May, one the first Monday in July, one the first Monday in September, and one the first Monday in November of each year. Each term shall continue until the business is disposed of.

227.—Bexar

Sec. 3.054. (a) The 227th Judicial District, composed of the County of Bexar, is hereby created.

(b) The 227th District Court shall give preference to criminal cases.

(c) The 227th District Court shall hold six terms each year for the trial of causes and the disposition of business coming before it, one term beginning the first Monday in January, one the first Monday in March, one the first Monday in May, one the first Monday in July, one of the first Monday in September, and one the first Monday in November of each year. Each term shall continue until the business is disposed of.

228.—Harris

Sec. 3.055. (a) The 228th Judicial District, composed of the County of Harris, is hereby created.

(b) The 228th District Court shall give preference to criminal cases.

(c) The 228th District Court shall hold four terms each year for the trial of causes and the disposition of business coming before it, one term beginning on the first Monday in August, one term beginning on the first Monday in November, one term beginning

on the first Monday in February, and one term beginning on the first Monday in May of each year. Each term shall continue until the business is disposed of.

230.—Harris

Sec. 3.056. (a) The 230th Judicial District, composed of the County of Harris, is hereby created.

(b) The 230th District Court shall give preference to criminal cases.

(c) The 230th District Court shall hold four terms each year for the trial of causes and the disposition of business coming before it, one term beginning on the first Monday in August, one term beginning on the first Monday in November, one term beginning on the first Monday in February, and one term beginning on the first Monday in May of each year. Each term shall continue until the business is disposed of.

231.—Tarrant

Sec. 3.057. (a) The 231st Judicial District, composed of the County of Tarrant, is hereby created.

(b) The 231st District Court shall give preference to family law matters.

232.—Harris

Sec. 3.058. (a) The 232nd Judicial District, composed of the County of Harris, is hereby created.

(b) The 232nd District Court shall give preference to criminal cases.

(c) The 232nd District Court shall hold four terms each year for the trial of causes and the disposition of business coming before it, one term beginning on the first Monday in August, one term beginning on the first Monday in November, one term beginning on the first Monday in February, and one term beginning on the first Monday in May of each year. Each term shall continue until the business is disposed of.

233.—Tarrant

Sec. 3.059. (a) The 233rd Judicial District, composed of the County of Tarrant, is hereby created.

(b) The 233rd District Court shall give preference to family law matters.

234.—Harris

Sec. 3.060. The 234th Judicial District, composed of the County of Harris, is hereby created.

236.—Tarrant

Sec. 3.061. The 236th Judicial District, composed of the County of Tarrant, is hereby created.

237.—Lubbock

Sec. 3.062. The 237th Judicial District, composed of the County of Lubbock, is hereby created.

238.—Midland

Sec. 3.063. The 238th Judicial District, composed of the County of Midland, is hereby created.

239.—Brazoria

Sec. 3.064. The 239th Judicial District, composed of the County of Brazoria, is hereby created.

240.—Fort Bend

Sec. 3.065. The 240th Judicial District, composed of the County of Fort Bend, is hereby created.

241.—Smith

Sec. 3.066. The 241st Judicial District, composed of the County of Smith, is hereby created.

242.—Hale, Swisher and Castro

Sec. 3.067. The 242nd Judicial District, composed of the Counties of Hale, Swisher, and Castro, is hereby created.

243.—El Paso

Sec. 3.068. The 243rd Judicial District, composed of the County of El Paso, is hereby created.

244.—Ector

Sec. 3.069. The 244th Judicial District, composed of the County of Ector, is hereby created.

245.—Harris

Sec. 3.070. (a) The 245th Judicial District, composed of the County of Harris, is hereby created.

(b) The 245th District Court shall give preference to family law matters.

246.—Harris

Sec. 3.071. (a) The 246th Judicial District, composed of the County of Harris, is hereby created.

(b) The 246th District Court shall give preference to family law matters.

247.—Harris

Sec. 3.072. (a) The 247th Judicial District, composed of the County of Harris, is hereby created.

(b) The 247th District Court shall give preference to family law matters.

248.—Harris

Sec. 3.073. (a) The 248th Judicial District, composed of the County of Harris, is hereby created.

(b) The 248th District Court shall give preference to criminal cases.

(c) The 248th District Court shall hold four terms each year for the trial of causes and the disposition of business coming before it, one term beginning on the first Monday in August, one term beginning on the first Monday in November, one term beginning on the first Monday in February, and one term beginning on the first Monday in May of each year.

Each term shall continue until the business is disposed of.

249.—Johnson and Somervell

Sec. 3.074. The 249th Judicial District, composed of the counties of Johnson and Somervell, is hereby created.

1A.—Jasper, Newton and Tyler

Sec. 3.075. (a) There is hereby created a judicial district, composed of the counties of Jasper, Newton, and Tyler, to be known as Judicial District 1A.

(b) The jurisdiction of the court created in this section is concurrent with the jurisdiction of the other district courts in the counties of Jasper, Newton, and Tyler, which courts shall retain and continue to exercise the jurisdiction that is now or may be hereafter conferred by law on district courts.

250.—Travis

Sec. 3.076. The 250th Judicial District, composed of the County of Travis, is hereby created.

251.—Potter and Randall

Sec. 3.077. (a) The 251st Judicial District, composed of the counties of Potter and Randall, is hereby created.

(b) The 251st District Court may hear and determine, in whichever county in that district is convenient for the court, all preliminary or interlocutory matters in which a jury may not be demanded in any case pending in any county in the district, regardless of whether the cases were filed in the county in which the hearing is held. The 251st District Court may, unless there is some objection filed by a party to the suit, hear, in any county in the district which is convenient for the court, any nonjury case, including but not limited to divorces, adoptions, default judgments, and matters where there has been citation by publication, pending in any county in the district, regardless of whether the cases were filed in the county in which the hearing is held.

252.—Jefferson

Sec. 3.078. (a) The 252nd Judicial District, composed of the County of Jefferson, is hereby created.

(b) The 252nd District Court shall give preference to criminal cases.

(c) The 252nd District Court shall hold four terms each year for the trial of causes and the disposition of business coming before it, one term beginning the first Monday of April, one term beginning the first Monday of July, one term beginning the first Monday of October, one term beginning the first Monday of January. Each term shall continue until the term ends by operation of law or the business is disposed of.

253.—Chambers and Liberty

Sec. 3.079. (a) The 253rd Judicial District, composed of the counties of Chambers and Liberty, is hereby created.

(b) The 253rd District Court shall hold two terms of court each year beginning in Liberty County on the first Mondays in April and October of each year and beginning in Chambers County on the first Mondays in June and December of each year. Each term shall continue in each county until the beginning of the next succeeding term.

254.—Dallas

Sec. 3.080. (a) The 254th Judicial District, composed of the County of Dallas, is hereby created.

(b) The 254th District Court shall give preference to family law matters.

255.—Dallas

Sec. 3.081. (a) The 255th Judicial District, composed of the County of Dallas, is hereby created.

(b) The 255th District Court shall give preference to family law matters.

256.—Dallas

Sec. 3.082. (a) The 256th Judicial District, composed of the County of Dallas, is hereby created.

(b) The 256th District Court shall give preference to family law matters.

(c) The 256th Judicial District exists on the date of the general election in 1978 for purposes of the election of the judge, and at the general election in 1978 there shall be elected by the qualified voters of the 256th Judicial District, a judge of the 256th District Court for a four-year term beginning on January 1, 1979.

257.—Harris

Sec. 3.083. (a) The 257th Judicial District, composed of the County of Harris, is hereby created.

(b) The 257th District Court shall give preference to family law matters.

258.—Polk, San Jacinto and Trinity

Sec. 3.084. (a) The 258th Judicial District, composed of the counties of Polk, San Jacinto, and Trinity is hereby created.

(b) The 258th District Court has and shall exercise concurrent jurisdiction in Polk County with the county court over all misdemeanor cases over which the county court has jurisdiction under the constitution and laws of this state. Cases in the concurrent misdemeanor jurisdiction of the 258th District Court and the Polk County Court may be filed in either court, and all cases of misdemeanor concurrent jurisdiction may be transferred between the 258th District Court and the county court. A case may not be transferred from one court to another without the consent of the judge of the court to which it is

transferred, and a case may not be transferred unless it is within the jurisdiction of the court to which it is transferred.

259.—Jones and Shackelford

Sec. 3.085. (a) The 259th Judicial District, composed of the counties of Jones and Shackelford, is hereby created.

(b) In addition to the jurisdiction prescribed by the constitution and general laws of the state for district courts, the 259th District Court in both of the counties of Jones and Shackelford shall have all original and appellate civil and criminal jurisdiction normally exercised by county courts under the constitution and general laws of this state.

260.—Orange

Sec. 3.086. The 260th Judicial District, composed of the County of Orange, is hereby created.

261.—Travis

Sec. 3.087. The 261st Judicial District, composed of the County of Travis, is hereby created.

262.—Harris

Sec. 3.088. (a) The 262nd Judicial District, composed of the County of Harris, is hereby created.

(b) The 262nd District Court shall give preference to criminal cases.

(c) The 262nd District Court shall hold four terms each year for the trial of causes and the disposition of business coming before it, one term beginning on the first Monday in August, one term beginning on the first Monday in November, one term beginning on the first Monday in February, and one term beginning on the first Monday in May of each year. Each term shall continue until the business is disposed of.

263.—Harris

Sec. 3.089. (a) The 263rd Judicial District, composed of the County of Harris, is hereby created.

(b) The 263rd District Court shall give preference to criminal cases.

(c) The 263rd District Court shall hold four terms each year for the trial of causes and the disposition of business coming before it, one term beginning on the first Monday in August, one term beginning on the first Monday in November, one term beginning on the first Monday in February, and one term beginning on the first Monday in May of each year. Each term shall continue until the business is disposed of.

264.—Bell

Sec. 3.090. (a) The 264th Judicial District, composed of the County of Bell, is hereby created.

(b) The 264th Judicial District exists on the date of the general election in 1978 for purposes of the

election of the judge, and at the general election in 1978 there shall be elected by the qualified voters of the 264th Judicial District, a judge of the 264th District Court for a four-year term beginning on January 1, 1979.

265.—Dallas

Sec. 3.091. (a) The 265th Judicial District, composed of the County of Dallas, is hereby created.

(b) The 265th District Court shall give preference to criminal cases.

(c) The 265th Judicial District exists on the date of the general election in 1978 for purposes of the election of the judge, and at the general election in 1978 there shall be elected by the qualified voters of the 265th Judicial District, a judge of the 265th District Court for a four-year term beginning on January 1, 1979.

266.—Erath and Hood

Text of section effective until January 1, 1985

Sec. 3.092. The 266th Judicial District, composed of the Counties of Erath and Hood, is hereby created.

266.—Erath

Text of section effective January 1, 1985

Sec. 3.092. The 266th Judicial District, composed of the County of Erath, is hereby created.

267.—Calhoun, DeWitt, Goliad, Jackson, Refugio and Victoria

Sec. 3.093. The 267th Judicial District, composed of the Counties of Calhoun, DeWitt, Goliad, Jackson, Refugio, and Victoria, is hereby created.

268.—Fort Bend

Sec. 3.094. The 268th Judicial District, composed of the County of Fort Bend, is hereby created.

269.—Harris

Sec. 3.095. The 269th Judicial District, composed of the County of Harris, is hereby created.

270.—Harris

Sec. 3.096. The 270th Judicial District, composed of the County of Harris, is hereby created.

271.—Wise and Jack

Sec. 3.097. The 271st Judicial District, composed of the Counties of Wise and Jack, is hereby created.

272.—Brazos

Sec. 3.098. (a) The 272nd Judicial District, composed of the County of Brazos, is hereby created.

(b) The terms of the 272nd District Court shall begin on the first Mondays in April and October of each year, and each term of court continues until the next succeeding term begins.

273.—Shelby, Sabine, and San Augustine

Sec. 3.099. (a) The 273rd Judicial District, composed of the Counties of Shelby, Sabine and San Augustine, is hereby created.

(b) The jurisdiction of the court created in this section is concurrent with the jurisdiction of the other district courts in the Counties of Shelby, Sabine, and San Augustine, which courts shall retain and continue to exercise the jurisdiction that is now or may be hereafter conferred by law on district courts.

274.—Comal, Hays, Guadalupe and Caldwell

Sec. 3.100. (a) The 274th Judicial District, composed of the Counties of Comal, Hays, Guadalupe, and Caldwell, is hereby created.

(b) The terms of the 274th Judicial District shall begin on the second Tuesdays in February and August in Caldwell County; and begin on the second Tuesdays in May and November in Guadalupe County; and begin on the second Tuesdays in August and February in Comal County; and the second Tuesdays in December and June in Hays County. Each term of court continues in each county until the next succeeding term of the court begins.

(c) The jurisdiction of the 274th District Court is concurrent with the jurisdiction of the 22nd and the 207th District Courts in Comal, Hays, and Caldwell Counties and with the 25th and Second 25th in Guadalupe County.

275.—Hidalgo

Sec. 3.101. The 275th Judicial District, composed of the County of Hidalgo, is hereby created.

276.—Camp, Marion, Morris, and Titus

Sec. 3.102. (a) The 276th Judicial District, composed of the Counties of Camp, Marion, Morris, and Titus, is hereby created.

(b) The terms of the 276th Judicial District shall begin on the first Mondays in January, May, and July in Marion County; and begin on the first Mondays in February, March, and September in Morris County; and begin on the first Mondays in April, June, and November in Titus County; and begin on the first Mondays in October and December in Camp County. Each term of court continues in each county until the next succeeding term of the court begins.

(c) The jurisdiction of the 276th District Court is concurrent with the jurisdiction of the 115th District Court in Marion County and with the 76th District Court in Camp, Morris, and Titus Counties. The judges of the 276th and 76th District Courts in Camp, Morris, and Titus Counties may transfer on their dockets any case to be tried in Camp, Morris, and Titus Counties with the consent of the court to which transferred, and each may sit in the other court to hear cases without transferring the case.

(d) The 276th District Court in each of the Counties of Camp, Morris, and Marion shall have and exercise concurrent jurisdiction with the county court over all matters of criminal jurisdiction, original and appellate, in cases over which under the constitution and laws of this state the county court has jurisdiction. In each of the counties, matters and proceedings in the concurrent jurisdiction may be transferred between the 276th District Court and the county court.

277.—Williamson

Sec. 3.103. (a) The 277th Judicial District, composed of the County of Williamson, is hereby created.

(b) The 277th District Court shall hold six terms of court each year beginning on the first Mondays in January, March, May, July, September, and November. Each term shall continue until the beginning of the next succeeding term.

(c) The judge of the 277th District Court shall organize and impanel grand juries for Williamson County at the March, July, and November terms of the court and may, when deemed necessary, organize and impanel grand juries at any other term of the court by entering an order therefor.

278.—Grimes, Madison, Walker and Leon

Sec. 3.104. The 278th Judicial District, composed of the Counties of Grimes, Madison, Walker, and Leon, is hereby created.

279.—Jefferson

Sec. 3.105. (a) The 279th Judicial District, composed of the County of Jefferson, is hereby created.

(b) The 279th District Court shall give preference to family law matters.

280.—Harris

Sec. 3.106. The 280th Judicial District, composed of the County of Harris, is hereby created.

281.—Harris

Sec. 3.107. The 281st Judicial District, composed of the County of Harris, is hereby created.

282.—Dallas

Sec. 3.108. (a) The 282nd Judicial District, composed of the County of Dallas, is hereby created.

(b) The 282nd District Court shall give preference to criminal cases.

283.—Dallas

Sec. 3.109. (a) The 283rd Judicial District, composed of the County of Dallas, is hereby created.

(b) The 283rd District Court shall give preference to criminal cases.

284.—Montgomery

Sec. 3.110. The 284th Judicial District, composed of the County of Montgomery, is hereby created.

285.—Bexar

Sec. 3.111. (a) The 285th Judicial District, composed of the County of Bexar, is hereby created.

(b) The 285th District Court shall give preference to civil cases.

286.—Cochran and Hockley

Sec. 3.112. The 286th Judicial District, composed of the Counties of Cochran and Hockley, is hereby created.

287.—Bailey and Parmer

Sec. 3.113. (a) The 287th Judicial District, composed of the Counties of Bailey and Parmer, is hereby created.

(b) The 287th District Court shall hold two terms of court for each county beginning in Bailey County on the first Mondays in February and August of each year and beginning in Parmer County on the first Mondays in March and September of each year. Each term shall continue in each county until the beginning of the next succeeding term.

288.—Bexar

Sec. 3.114. (a) The 288th Judicial District, composed of the County of Bexar, is hereby created.

(b) The 288th District Court shall give preference to civil cases.

289.—Bexar

Sec. 3.115. (a) The 289th Judicial District, composed of the County of Bexar, is hereby created.

(b) The 289th District Court shall give preference to criminal cases.

(c) The 289th District Court shall hold six terms each year for the trial of causes and the disposition of business coming before it, one term beginning the first Monday in January, one the first Monday in March, one the first Monday in May, one the first Monday in July, one the first Monday in September, and one the first Monday in November of each year. Each term shall continue until the business is disposed of.

290.—Bexar

Sec. 3.116. (a) The 290th Judicial District, composed of the County of Bexar, is hereby created.

(b) The 290th District Court shall give preference to criminal cases.

(c) The 290th District Court shall hold six terms each year for the trial of causes and the disposition of business coming before it, one term beginning the first Monday in January, one the first Monday in March, one the first Monday in May, one the first Monday in July, one the first Monday in September,

and one the first Monday in November of each year. Each term shall continue until the business is disposed of.

291.—Dallas

Sec. 3.117. (a) The 291st Judicial District, composed of the County of Dallas, is hereby created.

(b) The 291st District Court shall give preference to criminal cases.

292.—Dallas

Sec. 3.118. (a) The 292nd Judicial District, composed of the County of Dallas, is hereby created.

(b) The 292nd District Court shall give preference to criminal cases.

293.—Dimmit, Maverick, and Zavala

Sec. 3.119. The 293rd Judicial District, composed of the Counties of Dimmit, Maverick, and Zavala, is hereby created.

294.—Wood and Van Zandt

Sec. 3.120. (a) The 294th Judicial District, composed of the Counties of Wood and Van Zandt, is hereby created.

(b) The 294th District Court, in each of the Counties of Wood and Van Zandt, shall have and exercise concurrent jurisdiction with the county court over all matters of civil and criminal jurisdiction, original and appellate, in causes over which under the constitution and laws of this state the county court has jurisdiction. In each of the counties, matters and proceedings in the concurrent jurisdiction of the 294th District Court and the county court may be filed in either court and all cases of concurrent jurisdiction may be transferred between the 294th District Court and the county court. However, no case may be transferred from one court to another without the consent of the judge of the court to which it is transferred, and no case may be transferred unless it is within the jurisdiction of the court to which it is transferred.

295.—Harris

Sec. 3.121. (a) The 295th Judicial District, composed of the County of Harris, is hereby created.

(b) The 295th Judicial District shall give preference to civil matters.

296.—Collin

Sec. 3.122. The 296th Judicial District, composed of the County of Collin, is hereby created.

297.—Tarrant

Sec. 3.123. (a) The 297th Judicial District, composed of the County of Tarrant, is hereby created.

(b) The 297th District Court shall give preference to criminal cases.

(c) The terms of court of the 297th District Court begin on the first Monday in April, the first Monday in July, the first Monday in October, and the first Monday in January of each year. Each term of court continues until the next succeeding term convenes.

298.—Dallas

Sec. 3.124. (a) The 298th Judicial District, composed of the County of Dallas, is hereby created.

(b) The 298th District Court shall give preference to civil matters.

299.—Travis

Sec. 3.125. The 299th Judicial District, composed of the County of Travis, is hereby created.

331.—Travis

Sec. 3.126. The 331st Judicial District, composed of the County of Travis, is hereby created.

332.—Hidalgo

Sec. 3.127. The 332nd Judicial District, composed of the County of Hidalgo, is hereby created.

333.—Harris

Sec. 3.128. (a) The 333rd Judicial District, composed of the County of Harris, is hereby created.

(b) The 333rd District Court shall give preference to civil matters.

334.—Harris

Sec. 3.129. (a) The 334th Judicial District, composed of the County of Harris, is hereby created.

(b) The 334th District Court shall give preference to civil matters.

335.—Washington, Lee, Bastrop, and Burleson

Sec. 3.130. The 335th Judicial District, composed of the counties of Washington, Lee, Bastrop, and Burleson, is hereby created.

336.—Grayson and Fannin

Sec. 3.131. The 336th Judicial District, composed of the counties of Grayson and Fannin, is created.

337.—Harris

Sec. 3.132. (a) The 337th Judicial District, composed of the County of Harris, is created.

(b) The 337th District Court shall give preference to criminal cases.

(c) The terms of the 337th District Court shall begin on the first Mondays in February, May, August, and November of each year, and each term of court continues until the next succeeding term begins.

338.—Harris

Sec. 3.133. (a) The 338th Judicial District, composed of the County of Harris, is created.

(b) The 338th District Court shall give preference to criminal cases.

(c) The terms of the 338th District Court shall begin on the first Mondays in February, May, August, and November of each year, and each term of court continues until the next succeeding term begins.

339.—Harris

Sec. 3.134. (a) The 339th Judicial District, composed of the County of Harris, is created.

(b) The 339th District Court shall give preference to criminal cases.

(c) The terms of the 339th District Court shall begin on the first Mondays in February, May, August, and November of each year, and each term of court continues until the next succeeding term begins.

340.—Tom Green

Sec. 3.135. (a) The 340th Judicial District, composed of the County of Tom Green, is created.

(b) The terms of the 340th District Court begin on the first Mondays in March and September of each year. Each term of court continues until the next succeeding term begins.

(c) Indictments within Tom Green County issued by any district court in the county may be returned to the 340th District Court.

341.—Webb

Sec. 3.136. (a) The 341st Judicial District, composed of the County of Webb, is created.

(b) The judge of the 341st District Court may select jury commissioners and impanel grand juries in Webb County. The judge of the 341st District Court may alternate the drawing of grand juries with the judge of any other district court in the county. By order entered on the minutes, for any term that the judge considers it necessary, the judge may order grand and petit juries to be drawn. Indictments returned in Webb County may also be returned to the 49th District Court or the 111th District Court. The 341st District Court has concurrent jurisdiction with the 49th District Court in all tax suits and cases.

(c) The terms of the 341st District Court begin on the first Mondays in January, March, May, July, September, and November of each year. Each term continues until the court disposes of its business.

342.—Tarrant

Sec. 3.137. (a) The 342nd Judicial District, composed of the County of Tarrant, is created.

(b) The 342nd District Court shall give preference to civil matters.

343.—Aransas, Bee, Live Oak, McMullen, and San Patricio

Sec. 3.138. The 343rd Judicial District, composed of the counties of Aransas, Bee, Live Oak, McMullen, and San Patricio, is created.

344.—Chambers

Sec. 3.139. The 344th Judicial District, composed of the County of Chambers, is created.

345.—Travis

Sec. 3.140. (a) The 345th Judicial District, composed of the County of Travis, is created.

(b) The 345th District Court shall give preference to civil matters.

346.—El Paso

Sec. 3.141. The 346th Judicial District, composed of the County of El Paso, is created.

347.—Nueces

Sec. 3.142. The 347th Judicial District, composed of the County of Nueces, is created.

348.—Tarrant

Sec. 3.143. (a) The 348th Judicial District, composed of the County of Tarrant, is created.

(b) The 348th District Court shall give preference to civil matters.

349.—Anderson and Houston

Sec. 3.144. The 349th Judicial District, composed of the counties of Anderson and Houston, is created.

350.—Taylor

Sec. 3.145. The 350th Judicial District, composed of the County of Taylor, is created.

351.—Harris

Sec. 3.146. (a) The 351st Judicial District, composed of the County of Harris, is created.

(b) The 351st District Court shall give preference to criminal cases.

(c) The terms of the 351st District Court shall begin on the first Mondays in February, May, August, and November of each year, and each term of court continues until the next succeeding term begins.

352.—Tarrant

Sec. 3.147. (a) The 352nd Judicial District, composed of the County of Tarrant, is created.

(b) The 352nd District Court shall give preference to civil matters.

353.—Travis

Sec. 3.148. The 353rd Judicial District, composed of the County of Travis, is created.

354.—Hunt and Rains

Text of section added effective January 1, 1985

Sec. 3.149. (a) The 354th Judicial District, composed of the counties of Hunt and Rains, is created.

(b) The 354th Judicial District exists for purposes of the primary and general elections in 1984. The qualified voters of the district shall elect the judge at the general election in 1984 for a four-year term beginning January 1, 1985.

355.—Hood

Text of section added effective January 1, 1985

Sec. 3.150. The 355th Judicial District, composed of the County of Hood, is created.

356.—Hardin

Text of section added effective January 1, 1985

Sec. 3.151. (a) The 356th Judicial District, composed of the County of Hardin, is created.

(b) The 356th District Court has and shall exercise concurrent jurisdiction with the county court over all matters of civil and criminal jurisdiction, original and appellate, in cases over which the county court has jurisdiction under the constitution and laws of this state. Matters and proceedings in the concurrent jurisdiction of the 356th District Court and the county court may be filed in either court, and all cases of concurrent jurisdiction may be transferred between the 356th District Court and the county court. A case may not be transferred from one court to another without the consent of the judge of the court to which it is transferred, and a case may not be transferred unless it is within the jurisdiction of the court to which it is transferred.

(c) The 356th Judicial District exists for purposes of the primary and general elections in 1984. The qualified voters of the district shall elect the judge at the general election in 1984 for a four-year term beginning January 1, 1985.

357.—Cameron and Willacy

Text of section added effective January 1, 1985

Sec. 3.152. The 357th Judicial District, composed of the counties of Cameron and Willacy, is created.

358.—Ector

Text of section added effective September 1, 1985

Sec. 3.153. The 358th Judicial District, composed of the County of Ector, is created.

359.—Montgomery

Text of section added effective September 1, 1985

Sec. 3.154. The 359th Judicial District, composed of the County of Montgomery, is created.

SUBCHAPTER D. DISTRICT ATTORNEYS**196th Judicial District**

Sec. 4.001. (a) The office of district attorney for the 196th Judicial District is created.

(b) The district attorney with the approval of the Commissioners Court of Hunt County may appoint such assistants, investigators, and secretarial help as are necessary to carry out the duties of his office. Each assistant, investigator, and secretary shall receive a salary fixed by the district attorney, subject to the approval of the commissioners court.

(c) The district attorney may receive additional compensation from Hunt County in an amount to be set by the commissioners court so that his total salary including his compensation from the state does not exceed \$11,000 per year.

198th Judicial District

Sec. 4.002. (a) The office of the district attorney for the 198th Judicial District is created.

(b) The district attorney shall represent the state in all matters pending before the 198th District Court. The district attorney of the 198th Judicial District and the district attorneys of the other judicial districts within his district shall assist each other in the conduct of their duties.

2nd Judicial District

Sec. 4.003. The district attorney for the 2nd Judicial District in office on the effective date of this Act shall continue in office for the term for which he was elected.

159th Judicial District

Sec. 4.004. (a) The office of district attorney for the 159th Judicial District is created.

(b) The district attorney shall perform within the 159th Judicial District all the duties imposed and have all the authority conferred on district attorneys by the general laws of this state.

(c) The district attorney shall receive from the state as salary an amount as provided in the General Appropriations Act. The commissioners court may supplement any salary paid by the state. The salary paid by the county shall be paid from the officers salary fund of the county in 12 equal monthly installments.

(d)(1) The district attorney of the 159th Judicial District for the purpose of conducting the affairs of that office may appoint assistant district attorneys to be paid an annual salary approved by the commissioners court. In order to conduct the affairs of his office, the district attorney may appoint investigators, court reporters, stenographers, secretaries, and other employees he deems adequate and necessary subject to the approval of the commissioners

court. All persons appointed under this section are entitled to be paid out of county funds the salaries, other compensation, and reimbursements approved by the district attorney and the commissioners court of Angelina County.

(2) The assistant district attorney of the 159th Judicial District and investigators, when appointed, shall take the constitutional oath of office, and the assistant district attorney shall exercise the powers and perform the duties conferred and imposed by law upon the district attorney, under the supervision and direction of the district attorney of the 159th Judicial District.

220th Judicial District

Sec. 4.005. (a) The office of district attorney for the 220th Judicial District is created.

(b) The district attorney shall perform within the 220th Judicial District all the duties imposed and have all the authority conferred on district attorneys by the general laws of this state.

(c) The district attorney shall receive from the state as salary the amount appropriated by the legislature for district attorneys.

259th Judicial District

Sec. 4.006. (a) The office of the district attorney for the 259th Judicial District is created.

(b) The district attorney shall represent the state in all felony cases before the 259th District Court in Jones and Shackelford counties and shall perform all the duties imposed and have all the authority conferred on district attorneys by the general laws of this state.

258th Judicial District

Sec. 4.007. (a) The office of district attorney for the 258th Judicial District is created.

(b) The district attorney shall represent the state in all felony cases before the 258th District Court in Polk, San Jacinto, and Trinity counties and shall perform all the duties imposed and have all the authority conferred on district attorneys by the general laws of this state.

266th Judicial District

Sec. 4.008. (a) The office of district attorney for the 266th Judicial District is created.

(b) The district attorney shall represent the state in all cases before the 266th District Court and shall perform the duties imposed and have the authority conferred on district attorneys by the general laws of this state.

286th Judicial District

Sec. 4.009. (a) The office of district attorney for the 286th Judicial District is created.

(b) The district attorney shall represent the state in all cases before the 286th District Court and shall

perform the duties imposed and have the authority conferred on district attorneys by the general laws of this state.

287th Judicial District

Sec. 4.010. (a) The office of district attorney for the 287th Judicial District is created.

(b) The district attorney shall represent the state in all cases before the 287th District Court and shall perform the duties imposed and have the authority conferred on district attorneys by the general laws of this state.

271st Judicial District

Sec. 4.011. (a) The office of district attorney for the 271st Judicial District is created.

(b) The district attorney shall represent the state in all cases before the 271st District Court and shall perform the duties imposed and have all the authority conferred on district attorneys by the general law of the state.

293rd Judicial District

Sec. 4.012. (a) The office of district attorney for the 293rd Judicial District is created.

(b) The district attorney shall represent the state in all cases before the 293rd District Court and shall perform the duties imposed and have all the authority conferred on district attorneys by the general laws of the state.

(c) The district attorney of the 293rd Judicial District may receive a supplemental salary from any or all of the counties comprising the district in addition to the state salary. The commissioners court of each county shall set the amount of supplemental compensation, but the total supplemental compensation authorized by this subsection may not exceed \$20,000 a year.

253rd Judicial District

Sec. 4.013. (a) The office of district attorney for the 253rd Judicial District is created.

(b) The district attorney shall represent the state in all cases before the 253rd District Court and shall perform the duties imposed and have all the authority conferred on district attorneys by the general laws of the state.

(c) The district attorney may receive a supplemental salary from any or all of the counties in the district. The supplement is in addition to the state salary and may not exceed \$5,000 a year. The Commissioners Court of Chambers County shall pay 40 percent of any supplemental salary, and the Commissioners Court of Liberty County shall pay the remaining 60 percent. The supplemental salary shall be paid from the county officers' salary fund. If that fund is inadequate, the commissioners court may transfer the necessary amount from the county general fund.

349th Judicial District

Sec. 4.014. (a) The office of district attorney for the 349th Judicial District is created.

(b) The district attorney shall represent the state in all cases before the 349th District Court in Houston County and shall perform the duties imposed and have the authority conferred on district attorneys by the general laws of this state. The district attorney shall be elected only from Houston County. The district attorney may not perform any duties and has no authority conferred on district attorneys in Anderson County.

(c) The district attorney shall receive from the state as salary the amount appropriated by the legislature for district attorneys.

(d) The district attorney may not actively engage in the private practice of law while serving as district attorney.

(e) With the approval of the Commissioners Court of Houston County, the district attorney may appoint the necessary assistants, investigators, and personnel for his office and set the salary of those persons. The salary of a person appointed by the district attorney under this subsection and the operating expenses of the district attorney's office shall be paid by the commissioners court out of the general fund of the county.

(f) An assistant district attorney and an investigator shall take the constitutional oath of office.

(g) Under the supervision of the district attorney, an assistant district attorney shall exercise the powers and perform the duties conferred and imposed by law on the district attorney.

SUBCHAPTER E. CONFORMING AMENDMENTS AND REPEALS

Sec. 5.001. Subdivision 71, Article 199, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows: [See Article 199, 71st District, for text].

Sec. 5.002. Sections 17 and 19, Chapter 23, Acts of the 42nd Legislature, 1st Called Session, 1931, as amended (Subdivision 124, Article 199, Vernon's Texas Civil Statutes), are amended to read as follows: [See Article 199, 124th District, for text].

Sec. 5.003. Section 5, Chapter 367, Acts of the 42nd Legislature, Regular Session, 1931, as last amended by Section 2, Chapter 319, Acts of the 48th Legislature, 1943 (Subdivision 119, Article 199, Vernon's Texas Civil Statutes), is amended to read as follows: [See Article 199, 119th District, for text].

Sec. 5.004. Chapter 649, Acts of the 59th Legislature, Regular Session, 1965 (Article 326e-1¹ Vernon's Texas Civil Statutes), is amended to read as follows: [See Article 326 l-1 for text].

¹ Should read "326l-1."

Sec. 5.005. Subdivision 2, Article 199, Revised Civil Statutes of Texas, 1925, as last amended by

Section 1, Chapter 69, Acts of the 48th Legislature, 1943, is amended to read as follows: [See Article 199, 2nd District, for text].

Sec. 5.006. Sections 1, 3, 5, 8, and 9, Chapter 492, Acts of the 54th Legislature, 1955 (Subdivision 145, Article 199, Vernon's Texas Civil Statutes), are amended to read as follows: [See Article 199, 145th District, for text].

Sec. 5.007. Subdivision 47, Article 199, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows: [See Article 199, 47th District, for text].

Sec. 5.008. Article 199, Revised Civil Statutes of Texas, 1925, is amended by adding Subdivision 108 to read as follows: [see Article 199, 108th District, for text].

Sec. 5.009. Subdivision 8, Article 199, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 4, page 154, General Laws, Acts of the 46th Legislature, Regular Session, 1939, is amended to read as follows: [See Article 199, 8th District, for text].

Sec. 5.010. Subdivision 62, Article 199, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows: [See Article 199, 62nd District, for text].

Repealers

Sec. 5.011. The following laws are repealed: Chapter 7, Acts of the 40th Legislature, Regular Session, 1927¹; Chapter 248, Acts of the 43rd Legislature, Regular Session, 1933²; Chapter 464, Acts of the 47th Legislature, Regular Session, 1941²; Chapter 42, Acts of the 43rd Legislature, 2nd Called Session, 1934³; Chapter 211, Acts of the 48th Legislature, 1943³; and Chapter 744, Acts of the 61st Legislature, Regular Session, 1969.

¹ Article 199, subs. 47 and 108.

² Article 199, subd. 47.

³ Article 199, subd. 108.

Court Reporter of 229th Judicial District

Sec. 5.012. The official shorthand reporter of the 229th Judicial District of Texas shall receive a salary of not more than \$11,500 a year, in addition to the compensation for transcription fees as provided by law. The salary shall be paid monthly upon approval of the judge of the 229th Judicial District Court, and shall be paid by the commissioners court of each of the counties comprising the 229th Judicial District of Texas. The salary shall be payable out of the general fund, officers salary fund, the jury fund, or any fund available for that purpose.

SUBCHAPTER F. TRANSITIONAL PROVISIONS**Appointment of Initial Officials**

Sec. 6.001. When a judicial district is created by this Act or by amendment to this Act, the Governor shall appoint a qualified person to the office of district judge, who shall serve until the next suc-

ceeding general election and until his successor is elected and has qualified; and if the office of district attorney for a judicial district is created by this Act or by amendment to this Act, the Governor shall appoint a qualified person to the office of district attorney, who shall serve until the next succeeding general election in a presidential election year and until his successor is elected and has qualified.

Grand and Petit Jurors

Sec. 6.002. All grand and petit jurors selected in a county before the creation of a district court under this Act are considered to be lawfully selected for the district court created for the county by this Act.

Cases Transferred

Sec. 6.003. Except as otherwise provided by this Act, when this Act is effective to transfer a county from one judicial district to another, or to create a new judicial district within a county and remove the county from one or more existing judicial districts, all cases and proceedings pending in the district courts of that county are transferred by operation of law to the new judicial district or the judicial district to which the county is transferred. The judges of the district courts affected shall sign the proper orders in connection with the transfer.

Process and Writs Remain Valid

Sec. 6.004. (a) When this Act is effective to transfer any county to a different judicial district, or to create a new judicial district within a county and remove the county from one or more existing judicial districts, or to prescribe a different time or place for the court to hold terms of court, all process and writs issued from that court before the effective date of this Act and made returnable to the court as constituted at the time of issuance are returnable to the district court for that county as the court is constituted under this Act at such times as that court directs but not at a time earlier than originally returnable. The writs and process are as legal and valid as if they had been made returnable to the court as constituted under this Act.

(b) All grand and petit jurors lawfully selected in a county before the effective date of this Act are lawfully selected for the district court for that county as constituted under this Act.

(c) The obligees in all appearance bonds and recognizances taken in and for a district court of a county before the effective date of this Act, as well as all witnesses summoned to appear before that district court under laws existing before the effective date of this Act, are required to appear at the district court for that county as constituted under this Act at such time at that court directs but not at a time earlier than originally required.

SUBCHAPTER G. MISCELLANEOUS PROVISIONS

Severability

Sec. 7.001. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other

provisions or applications of the Act, which can be given effect without the invalid provision of application, and to this end the provisions of this Act are declared to be severable.

Sec. 7.002. All laws and parts of laws in conflict herewith are hereby modified or repealed to the extent of such conflict; and in any or all cases of such conflict, the provisions of this Act shall prevail.

Appropriation

Sec. 7.003. There is hereby appropriated from the General Revenue Fund, for the fiscal biennium ending August 31, 1971, for the payment of salaries and travel expenses of judges and district attorneys whose offices are created by this Act, the sum of \$1,222,000, or so much thereof as is necessary for these purposes.

[Acts 1969, 61st Leg., 2nd C.S., p. 107, ch. 6, eff. Oct. 1, 1969. Amended by Acts 1971, 62nd Leg., p. 1113, ch. 244, § 1, eff. May 17, 1971; Acts 1971, 62nd Leg., p. 1973, ch. 611, § 1, eff. Aug. 30, 1971; Acts 1971, 62nd Leg., p. 1113, ch. 244, § 2, eff. May 17, 1971; Acts 1971, 62nd Leg., p. 1807, ch. 535, § 2, eff. Sept. 1, 1971; Acts 1971, 62nd Leg., p. 2017, ch. 621, § 1, eff. Aug. 30, 1971; Acts 1971, 62nd Leg., p. 1786, ch. 525, § 1, eff. Aug. 30, 1971; Acts 1971, 62nd Leg., p. 1807, ch. 535, § 2, eff. Sept. 1, 1971; Acts 1971, 62nd Leg., p. 2017, ch. 621, § 1, eff. Aug. 30, 1971; Acts 1971, 62nd Leg., p. 2899, ch. 959, § 1, eff. Aug. 30, 1971; Acts 1973, 63rd Leg., pp. 530, 531, ch. 228, §§ 1 to 3, eff. June 11, 1973; Acts 1973, 63rd Leg., p. 715, ch. 309, § 1, eff. June 11, 1973; Acts 1973, 63rd Leg., p. 731, ch. 316, §§ 1, 2, eff. Sept. 1, 1973; Acts 1973, 63rd Leg., p. 731, ch. 316, § 3, eff. Jan. 1, 1974; Acts 1973, 63rd Leg., p. 731, ch. 316, § 4, eff. Jan. 1, 1975; Acts 1973, 63rd Leg., p. 731, ch. 316, § 5, eff. Jan. 20, 1975; Acts 1973, 63rd Leg., p. 1285, ch. 476, § 3, eff. June 14, 1973; Acts 1973, 63rd Leg., p. 1357, ch. 514, § 1, eff. June 14, 1973; Acts 1973, 63rd Leg., p. 1361, ch. 517, §§ 1, 2, eff. June 14, 1973; Acts 1975, 64th Leg., p. 224, ch. 83, § 3, eff. April 30, 1975; Acts 1975, 64th Leg., p. 342, ch. 144, §§ 1 and 2, eff. Sept. 1, 1975; Acts 1975, 64th Leg., p. 375, ch. 166, § 9, eff. Jan. 1, 1975; Acts 1975, 64th Leg., p. 465, ch. 199, § 1, eff. May 15, 1975; Acts 1977, 65th Leg., p. 6, ch. 5, § 1, eff. April 1, 1977; Acts 1977, 65th Leg., p. 66, ch. 33, § 1, eff. March 29, 1977; Acts 1977, 65th Leg., p. 1314, ch. 519, § 1, eff. June 15, 1977; Acts 1977, 65th Leg., p. 2155, ch. 860, §§ 1 to 5, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 52, ch. 32, § 1, eff. April 6, 1979; Acts 1979, 66th Leg., p. 263, ch. 137, § 2, eff. Aug. 27, 1979; Acts 1979, 66th Leg., p. 800, ch. 359, § 1, eff. June 6, 1979; Acts 1979, 66th Leg., p. 1112, ch. 528, § 1, eff. Aug. 27, 1979; Acts 1979, 66th Leg., p. 1164, ch. 563, § 3, eff. Sept. 1, 1979; Acts 1981, 67th Leg., p. 51, ch. 25, §§ 1, 2, eff. April 8, 1981; Acts 1981, 67th Leg., p. 1841, ch. 429, §§ 1, 6, 8, eff. Sept. 1, 1981, § 2, eff. Jan. 1, 1982, § 3, eff. April 1, 1982, § 4, eff. Sept. 1, 1982, § 5, eff. Jan. 1, 1983; Acts 1981, 67th Leg., p. 2266, ch. 547, § 2, eff. Aug. 31, 1981; Acts 1981, 67th Leg., p. 2515, ch. 664, § 1, eff. June 15, 1981; Acts 1983, 68th Leg., p. 97, ch. 16, § 1, eff. April 13, 1983; Acts 1983, 68th Leg., p. 4955, ch. 889, § 1, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 4957, ch. 889, § 2, eff. Jan. 1, 1984; Acts 1983, 68th Leg., p. 4958, ch. 889, § 3, eff. Sept. 1, 1984; Acts 1983, 68th Leg., p. 4958, ch. 889, § 4, eff. Jan. 1, 1985; Acts 1983, 68th Leg., p. 4959, ch. 889, § 5, eff. Sept. 1, 1985; Acts 1983, 68th Leg., p. 4959, ch. 889, § 6, eff. Jan. 1, 1984; Acts 1983, 68th Leg., p. 4959, ch. 889, § 7, eff. Jan. 1, 1985; Acts 1983, 68th Leg., p. 4960, ch. 889, § 8, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 4960, ch. 889, § 9, eff. Jan. 1, 1984; Acts 1983, 68th Leg., p. 5081, ch. 921, § 3, eff. Aug. 29, 1983; Acts 1983, 68th Leg., p. 5430, ch. 1012, § 1, eff. Sept. 1, 1983.]

Acts 1977, 65th Leg., p. 6, ch. 5, which by §§ 1 to 4 added §§ 3.044 to 3.066 of this article and amended subsds. 15, 52 and 69 of art. 199, provided in §§ 5 and 6:

"Sec. 5. There is hereby appropriated to the Judiciary Section, Comptroller's Department from the General Revenue Fund for the fiscal year ending August 31, 1977, the sum of \$400,000, or as much of that amount as is necessary, to pay the salaries and expenses of the judges of the district courts created by this Act. The salaries and expenses shall be paid at the same rate as is provided for district judges in Chapter 743, Acts of the 64th Legislature, Regular Session, 1975.

"Sec. 6. The provisions of this Act take effect on April 1, 1977."

Acts 1977, 65th Leg., p. 66, ch. 33, which by § 1 added § 4.005 to this article, provided in §§ 2 and 3:

"Sec. 2. The person serving as district attorney of the 52nd Judicial District on February 24, 1977, shall continue to serve as district attorney of the 52nd Judicial District for the term to which he was elected.

"Sec. 3. There is appropriated out of the general revenue fund the sum of \$10,334 for the period beginning April 1, 1977, and ending August 31, 1977, for the salary of the district attorney as provided in Section 1 of this Act."

Acts 1977, 65th Leg., ch. 860, which by §§ 1 to 9 added §§ 3.067 to 3.091, 4.006, 4.007 to this article, and amended subsds. 130, § 1a; 90; 104, §§ 1 and 2 of art. 199, and subsecs. (b) and (f) of art. 326k-62, provides in §§ 10 and 11:

"Sec. 10. (a) The County Court of Jones County and the County Court of Shackelford County shall each retain and exercise the general jurisdiction of a probate court and shall retain the power to issue all writs necessary to enforce its jurisdiction and to punish contempts. The County Court of Jones County and the County Court of Shackelford County shall have no civil or criminal jurisdiction except as to final judgments rendered prior to the effective date of this Act.

"(b) The County Attorney of Jones County and the County Attorney of Shackelford County shall each represent the state in all misdemeanor cases before the district court in each of the respective counties.

"(c) All pending civil and criminal cases in the county courts in Jones and Shackelford counties are transferred to the district court with jurisdiction in each of those counties. All writs and process issued by or out of the county courts in civil or criminal cases are returnable to the next term of the district court in each of those counties. The county court in each of those counties retains jurisdiction over judgments in civil or criminal cases rendered prior to the effective date of this Act for enforcement by execution, order of sale, or other appropriate process. If, in a civil or criminal case on appeal from the county court in either of those counties, a judgment is entered by the court of civil appeals, the supreme court, or the court of criminal appeals, remanding the case for a new trial or for further proceedings, it shall be remanded to the district court.

"(d) Within 20 days after the effective date of this section, the clerk of the county court in each of the counties of Jones and Shackelford shall file with the clerk of the district court in each of those counties all original papers in cases transferred to the district court and all judges' dockets and certified copies of interlocutory judgments or other orders entered in the minutes of the county court in cases so transferred. The district clerk in each county shall immediately docket the cases on the docket of the district court in each county. All the transferred cases shall stand on the docket of the court to which they are transferred in the same manner and place as each stands on the docket of the county court. It is not necessary that the district clerk refile any papers previously filed by the county clerk. The county clerk shall accompany the papers with a certified bill of cost and shall charge accrued fees due him against all cost deposits, with the remainder of the deposit paid to the district court as a deposit in the particular case for which it was deposited. Credit shall be given the litigants for all jury fees paid in the county court."

"Sec. 11. The provisions of Sections 1, 5, 6, 7, 8, 9, and 10 of this Act take effect on September 1, 1977. The provisions of Section 2 of this Act take effect on January 1, 1978. The provisions of Section 3 of this Act take effect on September 1, 1978. Except as provided in Subsection (b) of Section 3.090, Subsection (c)

of Section 3.091, and Subsection (c) of Section 3.082 the provisions of Section 4 of this Act take effect on January 1, 1979. The remaining sections of the Act take effect according to the provisions of the Act."

Acts 1979, 66th Leg., p. 1163, ch. 563, which by § 3 amended § 3.026(a) of this article, provided in § 4:

"This Act takes effect only if the 66th Legislature, Regular Session, does not create two or more new judicial districts in the same Act. If no bill creating two or more new judicial districts by the 66th Legislature, Regular Session, becomes law, this Act takes effect September 1, 1979."

No such bill became law.

Sections 27 and 32(d) of Acts 1983, 68th Leg., p. 4975, ch. 889, provides:

"Sec. 27. The district courts in Harris County may not sit in more than one location. The courts may not establish an annex or branch court."

"Sec. 32. (d) Except as provided by Sections 3.149(b) and 3.151(c), Judicial Districts Act of 1969 (Article 199a, Vernon's Texas Civil Statutes), as added by Section 4 of this Act, Sections 4, 7, and 20 of this Act take effect January 1, 1985."

Art. 200. Amendments Affecting Judicial Districts

Wherever the law declaring what counties shall compose a judicial district, or the law prescribing the time or places for holding the terms of the district court of any judicial district shall have been or may hereafter be amended, in every such case all process and writs theretofore issued from any such district court and made returnable to a term of such court as fixed by law at the time of such issuance, shall be returnable to the next ensuing term of such court as prescribed by such amended law; and all such writs and process shall be as legal and valid as if the same had been made returnable to the term of such court as fixed by such amendment. All grand and petit jurors selected and drawn under theretofore existing laws in any county of any such judicial district shall be considered lawfully drawn and selected for the next term of the district court of such county as fixed by the amended law; and the obligees in all appearance bonds and recognizances taken in and for any such district court, as well as all witnesses summoned to appear before such district court under pre-existing law, shall be required to appear at the next term of such court as fixed by the amended law.

[Acts 1925, S.B. 84.]

ADMINISTRATIVE JUDICIAL DISTRICTS

Art. 200a. Administrative Judicial Districts

Composition

Sec. 1. (a) The State of Texas is divided into nine (9) Administrative Judicial Districts.

(b) The First Administrative Judicial District is composed of the counties of Bowie, Red River, Lamar, Fannin, Grayson, Collin, Hunt, Delta, Hopkins, Franklin, Titus, Morris, Camp, Cass, Marion, Harrison, Gregg, Upshur, Wood, Rains, Kaufman, Van Zandt, Dallas, Ellis, Henderson, Anderson, Houston, Cherokee, Nacogdoches, Rockwall, Pano-la, Shelby, Smith, and Rusk.

(c) The Second Administrative Judicial District is composed of the counties of San Augustine, Sabine, Jasper, Newton, Orange, Jefferson, Tyler, Hardin, Liberty, Chambers, Galveston, Harris, Brazoria, Matagorda, Wharton, Fort Bend, Waller, Montgomery, San Jacinto, Polk, Walker, Trinity, Grimes, Madison, Leon, Brazos, Freestone, Limestone, Burleson, Washington, Bastrop, Robertson, Lee, and Angelina.

(d) The Third Administrative Judicial District is composed of the counties of Johnson, Somervell, Bosque, Hill, Navarro, McLennan, Falls, Milam, Williamson, Travis, Austin, Fayette, Caldwell, Comal, Hays, Colorado, Lavaca, Gonzales, Guadalupe, Blanco, Burnet, San Saba, Llano, Mason, Bell, Lampasas, Coryell, Hamilton, and Comanche.

(e) The Fourth Administrative Judicial District is composed of the counties of Jackson, Calhoun, Aransas, Refugio, San Patricio, Bee, Live Oak, McMullen, Goliad, Victoria, De Witt, Karnes, Wilson, Atascosa, Frio, LaSalle, Dimmit, Webb, Zapata, Zavala, Maverick and Bexar.

(f) The Fifth Administrative Judicial District is composed of the counties of Nueces, Kleberg, Kenedy, Jim Wells, Duval, Brooks, Starr, Hidalgo, Willacy, Cameron, and Jim Hogg.

(g) The Sixth Administrative Judicial District is composed of the counties of Kinney, Edwards, Val Verde, Terrell, Kerr, Kendall, Bandera, Gillespie, Kimble, Real, Medina, Uvalde, Sutton, Crockett, Pecos, Brewster, Jeff Davis, Presidio, Culberson, Hudspeth, El Paso, Upton, and Reagan.

(h) The Seventh Administrative Judicial District is composed of the counties of Lynn, Garza, Gaines, Dawson, Andrews, Martin, Loving, Winkler, Ector, Midland, Glasscock, Reeves, Ward, Crane, Sterling, Coke, Irion, Tom Green, Schleicher, Borden, Scurry, Howard, Mitchell, Nolan, Taylor, Callahan, Throckmorton, Haskell, Jones, Fisher, Stonewall, Kent, Rannels, Coleman, Brown, McCulloch, Concho, Shackelford, Mills, and Menard.

(i) The Eighth Administrative Judicial District is composed of the counties of Cooke, Denton, Montague, Clay, Wichita, Archer, Jack, Wise, Young, Stephens, Eastland, Erath, Hood, Palo Pinto, Parker, and Tarrant.

(j) The Ninth Administrative Judicial District is composed of the counties of Wilbarger, Baylor, Knox, King, Dickens, Motley, Cottle, Crosby, Lubbock, Hockley, Cochran, Bailey, Lamb, Hale, Floyd, Castro, Swisher, Briscoe, Parmer, Deaf Smith, Oldham, Hartley, Dallam, Sherman, Moore, Potter, Randall, Armstrong, Hansford, Ochiltree, Lipscomb, Hutchinson, Roberts, Hemphill, Carson, Gray, Wheeler, Donley, Collingsworth, Hall, Childress, Hardeman, Foard, Yoakum, and Terry.

Presiding Judge

Sec. 2. (a) It shall be the duty of the Governor, with the advice and consent of the Senate, to designate one of the regularly elected district judges, or a retired district judge, or an active or retired appellate judge with judicial experience on a district court, who, if retired, voluntarily retired from office, who resides within the district, and who has certified his willingness to serve, in each of said districts as Presiding Judge of the Administrative Judicial District. Adequate quarters for the operation of such District and preservation of records shall be provided in the courthouse of the county in which such Presiding Judge resides. Upon the death, resignation or expiration of the term of office of such Presiding Judge, the Governor shall thereafter immediately appoint or reappoint a Presiding Judge of the Administrative District, as in the first instances above. Presiding Judges of Administrative Judicial Districts shall serve for a term of four (4) years from date of qualification as such administrative judge.

(b) The Chief Justice of the Supreme Court is authorized to make assignments within an administrative judicial district and to otherwise perform the duties of the Presiding Judge of that district:

- (1) on the death or resignation of the Presiding Judge, until a successor Presiding Judge is appointed; or
- (2) on notification to the Chief Justice by the Presiding Judge, or other appropriate source, of the absence, disabling illness, or other incapacity of the Presiding Judge which prevents the performance of his official duties as Presiding Judge for a period of time, until the Presiding Judge is again able to perform these duties; or
- (3) in a particular matter where the Presiding Judge disqualifies himself from performing the duties of Presiding Judge in that matter.

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

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

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

and efforts made to promote more effective administration of justice through the use of this Act.

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

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

Sec. 3. Repealed by Acts 1979, 66th Leg., p. 1357, ch. 608, § 4, eff. Aug. 27, 1979.

Meetings or Council of Judges

Sec. 4. It shall be the duty of the Presiding Judge of such Administrative District, once each year, to call a regular conference, and, at such times as may be necessary, a special conference, of the several district judges of the several judicial districts composing the Administrative District, at a time and place to be designated by the Presiding Judge, for consultation and counsel as to the state of business, civil and criminal, in the several district courts of the Administrative District, and to arrange for the disposition of the business pending on the dockets of the several district courts of the District. At the time of such consultation, or at any time thereafter, with or without an additional meeting of the judges, it shall be the duty of the Presiding Judge, from time to time, to assign any of the judges of the Administrative District to hold special or regular terms of court in any county of the Administrative District in order to try and dispose of accumulated business, under such rules as may be prescribed by the session, or sessions, of the district judges of the Administrative District. Such meeting or council of judges shall have the power to prescribe rules regulating and facilitating the order of trials, the keeping of records in the various counties of the district where judges are sent from one district into another to facilitate the disposition of cases, and to make such other rules and regulations as may be necessary to carry this Act into

practical operation. When it is deemed necessary, the Presiding Judge of the Administrative District may call special or additional meetings of the conference of judges during the year. The District Judges shall lay before each conference of judges a list of all cases pending, and the exact status of their dockets, together with such other information as may be required by the rules and regulations of the conference.

Assignment of Judges; Vacancy in Office

Sec. 5. Judges may be assigned in the manner herein provided for the holding of District Court when the regular Judge thereof is absent or is from any cause disabled or disqualified from presiding, and in instances where the regular District Judge is present or himself trying cases where authorized or permitted by the Constitution and laws of the State; and Judges may also be assigned in the manner herein provided for the holding of a District Court, when by reason of the death, resignation, or from any cause whatsoever, the office of District Judge of the District is or has become vacant.

Assignment of Retired, Regular, and Former Judges; Duty to Accept Assignment; Compensation

Sec. 5a. Retired district judges, as defined by Article 6228(b) of the Revised Civil Statutes of Texas, as amended, who have consented to be subject to assignment, all regular district judges in this state, and all former district judges who were elected at a general election or appointed by the governor; who have not been defeated for reelection; who have not been removed from office by impeachment, the Supreme Court, the governor upon address of the legislature, the State Judicial Qualifications Commission, or by the legislature's abolishment of the judge's court; who are not more than 70 years of age; and who certify to the presiding judge a willingness to serve and to comply with the same prohibitions relating to the practice of law that are imposed on a retired judge by Section 7, Article 6228(b) of the Revised Civil Statutes of Texas, 1925, as amended or hereafter amended, may be assigned under the provisions of this Act by the presiding judge of the administrative judicial district wherein such assigned judge resides, and while so assigned, shall have all the powers of a judge thereof. When such district judge is so assigned by the presiding judge of an administrative judicial district to a court in the same administrative district, or to a court in another administrative district upon call of the presiding judge of such other administrative district and then reassigned as provided for in Section 6 of this Act, as amended, it shall be the duty of such judge so assigned or reassigned to serve in such court or administrative district to which he may be assigned, or reassigned unless for good cause presented by him in writing to the presiding judge of his administrative district, he shall be relieved of such assignment by such presiding judge; provided, however, after the presentation of a written statement declining such duty for good

cause by such district judge, if the presiding judge refuses to relieve the district judge from the assignment, the district judge may, within five days after such refusal, petition the Chief Justice of the Supreme Court of the State of Texas to be relieved from such assignment for good cause, which said Chief Justice may at his discretion grant or refuse.

The compensation, salaries and expenses of such judges while so assigned or reassigned shall be paid in accordance with the laws of the state, except that the salary of such retired judges shall be paid out of moneys appropriated from the General Revenue Fund for such purpose in an amount representing the difference between all of the retirement benefits of such judge as a retired district judge and the salary and compensation from all sources of the judge of the court wherein he is assigned, and determined pro-rata for the period of time he actually sits as such assigned judge. On certification of the presiding judge of the administrative judicial district that a former district judge has rendered services under the provisions of this Act, the former district judge shall be paid, out of county funds and out of money appropriated by the legislature for such purpose, for services actually performed, the same amount of compensation, salary, and expenses that the regular judge is entitled to receive from the county and from the state for such services.

Assignment of Retired District Judges to Domestic Relations or Juvenile Courts

Sec. 5b. A retired district judge, as defined by Chapter 99, Acts of the 51st Legislature, Regular Session, 1949, as amended (Article 6228b, Vernon's Texas Civil Statutes), may be assigned by the presiding judge of the administrative judicial district wherein the assigned judge resides to a domestic relations or juvenile court within the geographic limits of the respective administrative judicial district. A presiding judge may, with the consent of a retired district judge within his district, make an assignment outside of his judicial district with the specific authorization of the presiding judge of the district in which that assignment is made. The assignment shall be governed by all other provisions of this Act, except that the county wherein the domestic relations or juvenile court is located shall pay the salary stipulated in Section 5a of this Act.

Certification of State's Share of Compensation of Former Judges for Certain Services

Sec. 5c. It shall be the duty of the presiding judge of the administrative judicial district to certify the state's share to be paid former district judges for services authorized prior to, on, or after the effective date of this Act pursuant to Sections 5a and 5b of this article. The amount so certified shall be paid from an item in the Judiciary Section—Comptroller's Department—of the appropriations act providing for payment of salaries of district judges and criminal district judges.

Secs. 5d to 5e. [Blank]

Limitation on assignment of judge to court in Harris County

Sec. 5f. Notwithstanding any other provision of this Act, neither the chief justice nor the presiding judge of the administrative judicial district in which Harris County is located may assign a judge to a court in Harris County if the regular district judge is present or trying cases unless the assignment is for the regular docket of the:

- (1) presiding administrative judge and the judge is present attending to administrative duties; or
- (2) presiding judge of a court created by the legislature and the judge is trying a capital murder case.

Duties of Judges

Sec. 6. It shall be the duty of any district judge of any district within the Administrative District to diligently discharge the administrative responsibilities of office, to rule on a case within three months after that case has been taken under advisement, to extend the regular terms of his court, and to call special terms, when necessary to carry out the purposes of this Act and dispose of pending litigation. It shall also be the duty of a district judge in whose court an election contest or suit brought for the removal of a local official is filed to request the Presiding Judge of the Administrative Judicial District who is not a resident of the county to hold a special or regular term of court in that county in order to dispose of such suits. A district judge shall request the Presiding Judge to assign a judge of the Administrative District to hear any motions to recuse such district judge from a case pending in his court. If the term be extended as herein provided no other term of the court in such district shall fail because of said extension, but such other terms may be opened and held as usual. The Presiding Judge of one Administrative District may call upon the Presiding Judge of another Administrative District to furnish judges to aid in the disposition of litigation pending in any judicial district within the Administrative District in which such judge so making the request has been designated as the Presiding Judge. For the trial of cases and the entry of orders and the disposition of other business necessary, the judge of any district in this State, or any District Judge sent to any district in this State by the Presiding Judge of an Administrative District, shall have power, by entering an order on the minutes, to convene a special term of the court for the disposition of the business coming before the district court.

Administrative Assistant; Duties

Sec. 7. (a) The Presiding Judge may employ, directly or through a contract with another governmental entity, an administrative assistant, on a full- or part-time basis, to aid and assist the Presiding Judge in carrying out the judge's duties under this Act. The administrative assistant shall receive the

compensation from the State provided by the General Appropriations Act.

(b) The administrative assistant must possess the qualifications established by rule of the Supreme Court.

(c) Each administrative assistant shall perform the duties that are required by the Presiding Judge and by rules of administration, and shall conduct the correspondence for the Presiding Judge of the Administrative District, keep a record of all its proceedings, and a complete and accurate record of all cases pending in the several courts of the Administrative District, the time of their filing, the style and purposes of the causes, and their final disposition, and such other matters as may be prescribed by the council of judges herein referred to. For such purposes he is authorized, with the approval of the Presiding Judge, to purchase the necessary office equipment, stamps, stationery and supplies, and to employ additional personnel as authorized by the council of judges. Such cost shall be divided pro rata among the counties and paid by the counties on the certificate of the Presiding Judge. The administrative assistant shall, under the direction of the Presiding Judge of the Administrative District, make an annual report on the activities of the district and such special reports as may be provided by the rules of administration to the Supreme Court of Texas in the manner directed by that court.

Expenses of Meeting of Judges

Sec. 8. The several district judges of the District, when required to attend the annual or special sessions of the judges herein prescribed, shall, in addition to all other compensation allowed them by law, receive their actual traveling expenses going to and returning from the place of meeting, and their actual expenses while in attendance on the meeting.

Expenses paid by counties composing district

Sec. 9. All of the aforesaid salaries, compensation, and expenses, and all other expenses authorized and incurred herein for the purpose of administering this Law, other than those provided by state appropriations, shall be paid by the several counties composing the Administrative District out of the General Fund of said counties. Said salaries, compensations, expenses, and expenditures herein authorized are to be paid in proportion to the number of weeks provided by Law for holding District Court in the respective counties, on certificates of approval of the Presiding Judge of the Administrative Judicial District.

Expenses of Judge Filling Assignment

Sec. 10. When the district judges are assigned under the provisions of this Act to districts other than their own district, and out of their own counties, they shall, in addition to all other compensation permitted or authorized by law, receive their actual expenses in going to and returning from their several assignments, and their actual living expenses

while in the performance of their duties under assignments, which expenses shall be paid out of the General Fund of the county in which their duties under assignments are performed, upon accounts certified and approved by the Presiding Judge of the Administrative District.

Differential Pay

Sec. 10a. Any active district judge of the State of Texas assigned to sit for the judge of a district or domestic relations court under the provisions of Chapter 156, Acts of the 40th Legislature, Regular Session, 1927, as amended, codified as Article 200a of Vernon's Texas Civil Statutes, shall, while so serving in any county outside his own judicial district, receive in addition to his necessary expenses additional compensation from the county to which he is assigned in an amount not to exceed the difference between the pay of such visiting judge from all sources exclusive of the per diem provided for such visiting judge under Section 2a(4) of Article 200a of Vernon's Texas Civil Statutes, and the pay received from all sources by the judge of the court to which he is so assigned, such amount to be paid by the county upon approval of the presiding judge of the Administrative District in which such court is located.

Compensation for Performing Duties as Presiding Judge of Administrative Judicial Districts

Sec. 11. (a) In addition to and cumulative of all other compensation, expenses, and perquisites authorized by law and this Act, Presiding Judges of Administrative Judicial Districts shall receive not to exceed \$5,000 per annum as compensation for performing duties as the Presiding Judge of an Administrative Judicial District. In each Administrative Judicial District the salary of the administrative judge shall be set biennially by the Texas Civil Judicial Council, heretofore created, as provided for in Chapter 19, Acts of the 41st Legislature, 1st Called Session, 1929, as amended (Article 2328a, Vernon's Texas Civil Statutes). Whether an administrative judge is active in administrative duties, performs part-time, or is retired from the bench shall be considered in arriving at the salary. Each county comprising the Administrative Judicial District shall upon certification pay out of the officers salary fund or the general fund of the county the amount of salary fairly apportioned to it. The aforesaid salary, or compensation, and all other expenses incidental thereto, shall be paid annually by the said counties in each Administrative Judicial District to the Presiding Judge of each Administrative Judicial District, and by said judge placed in an Administrative Fund, from which said salary, and other expenses incidental thereto, shall be paid. Said salary shall be paid in twelve equal monthly payments. Said salary shall be apportioned according to the population of each judicial district comprising the Administrative Judicial District and after so apportioned the amount apportioned to each judicial district shall be apportioned to each county

comprising the judicial district according to the population of the county.

(b) In addition to and cumulative of all other compensation, expenses, and perquisites authorized by law and this Act, the Presiding Judge of any Administrative Judicial District in Texas which has not less than forty nor more than fifty-nine district courts therein, when such Presiding Judge is a retired district judge or appellate judge, as provided in Section 2 of this Act, shall receive not less than \$5,000.00 nor more than \$15,000.00 per annum as compensation for performing duties as the Presiding Judge of such Administrative Judicial District. In addition to and cumulative of all other compensation, expenses, and perquisites authorized by law and this Act, the Presiding Judge of any Administrative Judicial District in Texas which has not less than sixty nor more than seventy-nine district courts therein, when such Presiding Judge is a retired district judge or appellate judge, as provided in Section 2 of this Act, shall receive not less than \$5,000.00 nor more than \$25,000.00 per annum as compensation for performing duties as the Presiding Judge of such Administrative Judicial District. Biennially the Council of Judges of such Administrative Judicial District shall fix the amount of such compensation by a majority vote of the judges. Each county comprising such Administrative Judicial District shall pay out of the officers salary fund or the general fund of the county the amount of salary apportioned to it as herein provided. The aforesaid salary, or compensation, and all other expenses incidental thereto, shall be paid annually by the said counties in such Administrative Judicial District to the Presiding Judge of such Administrative Judicial District, and by said judge placed in an Administrative Fund, from which fund said salary, and other expenses incidental thereto, shall be paid. Said salary shall be paid in twelve equal monthly payments. Said salary shall be apportioned according to the assessed property valuation of each judicial district comprising such Administrative Judicial District and after so apportioned the amount apportioned shall be apportioned to each county comprising the judicial district according to the assessed property valuation of the county.

(c) In addition to and cumulative of all other compensation, expenses, and perquisites authorized by law and this Act, the presiding judge of any administrative judicial district in Texas which has 80 or more district courts therein, when such presiding judge is a retired district or appellate judge, shall receive not less than \$5,000 nor more than \$30,000 per annum as compensation for performing duties as the presiding judge of such administrative judicial district. Biennially the council of judges of such administrative judicial district shall fix the amount of such compensation by a majority vote of the judges. Each county comprising such administrative judicial district shall pay out of the officers salary fund or the general fund of the county the amount of salary apportioned to it as herein provided.

The aforesaid salary or compensation and all other expenses incidental thereto, other than those provided by state appropriations, shall be paid annually by the said counties in such administrative judicial district to the presiding judge of such administrative judicial district, and by said judge placed in an administrative fund from which fund said salary and other expenses incidental thereto shall be paid. Said salary shall be paid in 12 equal monthly payments. Said salary shall be apportioned according to the assessed property valuation of each judicial district comprising such administrative judicial district and after being so apportioned the amount apportioned shall be apportioned to each county comprising the judicial district according to the assessed property valuation of the county.

[Acts 1927, 40th Leg., p. 228, ch. 156. Amended by Acts 1929, 41st Leg., p. 488, ch. 231, § 1; Acts 1943, 48th Leg., p. 25, ch. 22, § 1; Acts 1957, 55th Leg., p. 1236, ch. 408, § 1; Acts 1959, 56th Leg., p. 901, ch. 413, § 1, eff. May 30, 1959; Acts 1961, 57th Leg., p. 975, ch. 423, § 1, eff. Aug. 28, 1961; Acts 1965, 59th Leg., p. 62, ch. 22, § 1, eff. March 16, 1965; Acts 1965, 59th Leg., p. 820, ch. 398, § 1, eff. June 9, 1965; Acts 1967, 60th Leg., p. 1167, ch. 520, § 1, eff. June 14, 1967; Acts 1969, 61st Leg., p. 159, ch. 58, § 1, eff. April 3, 1969; Acts 1969, 61st Leg., p. 1984, ch. 674, § 1, eff. June 12, 1969; Acts 1971, 62nd Leg., p. 1967, ch. 605, § 1, eff. June 2, 1971; Acts 1971, 62nd Leg., p. 2818, ch. 919, § 1, eff. Aug. 30, 1971; Acts 1971, 62nd Leg., p. 3414, ch. 1043, § 1, eff. Aug. 30, 1971; Acts 1975, 64th Leg., p. 1193, ch. 450, §§ 1 and 2, eff. Sept. 1, 1975; Acts 1975, 64th Leg., p. 1911, ch. 614, § 1, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 248, ch. 115, § 1, eff. Aug. 29, 1975; Acts 1977, 65th Leg., p. 1060, ch. 389, § 1, eff. Aug. 29, 1977; Acts 1977, 65th Leg., p. 1194, ch. 460, § 1, eff. Aug. 29, 1977; Acts 1977, 65th Leg., p. 1988, ch. 794, § 1, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 192, ch. 101, § 1, eff. Sept. 1, 1979; Acts 1979, 66th Leg., p. 1126, ch. 538, § 1, eff. June 11, 1979; Acts 1979, 66th Leg., p. 1355, ch. 608, §§ 1 to 5, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 543, ch. 224, § 1, eff. Aug. 31, 1981; Acts 1981, 67th Leg., p. 600, ch. 238, § 1, eff. Aug. 31, 1981; Acts 1981, 67th Leg., p. 1871, ch. 448, § 1, eff. Aug. 31, 1981; Acts 1983, 68th Leg., p. 4563, ch. 759, § 1, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 4975, ch. 889, § 26, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 5431, ch. 1013, § 1, eff. June 19, 1983.]

Sections 2 and 3 of Acts 1971, 62nd Leg., p. 2818, ch. 919, provide:

"Sec. 2. All laws or parts of laws in conflict with provisions of this Act are hereby expressly repealed to the extent of such conflict, except that nothing in this Act shall be construed to modify, amend, or repeal the provisions of Section 11b, Chapter 156, Acts of the 40th Legislature, Regular Session, 1927, as added by Section 1, Chapter 674, Acts of the 61st Legislature, Regular Session, 1969 (Article 200a, Vernon's Texas Civil Statutes).

"Sec. 3. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

Art. 200b. Judicial Administration in Certain Counties

Application of Act

Sec. 1. This Act shall apply in any county in which there are three or more courts, including

criminal district courts, juvenile courts, and courts of domestic relations, having any of the jurisdiction conferred upon district courts under the constitution and laws of this State.

Authority of Judge

Sec. 2. In any county coming within the purview of Section 1 of this Act, any judge of a court having any district court jurisdiction may hear and determine any matter pending in any other of the courts having any district court jurisdiction, whether the matter is preliminary or final or after judgment in the matter. The judge may sign any judgment or order in any of the courts, with or without having the case transferred. Any such judgment, order, or action shall be valid and binding to the same extent as if the case were pending in the court of the judge so acting. This authority extends to any active or retired judge assigned to any of the courts having any district court jurisdiction under the provisions of Chapter 156, Acts of the 40th Legislature, Regular Session, 1927, as amended (Article 200a, Vernon's Texas Civil Statutes), or under the provisions of Chapter 99, Acts of the 51st Legislature, Regular Session, 1949, as amended (Article 6228b, Vernon's Texas Civil Statutes).

Rules

Sec. 3. (a) The judges of the courts having any district court jurisdiction may, by majority vote, make and amend rules governing the assignment, docketing, transfer, and hearing of cases, including civil, criminal, juvenile, and domestic relations cases, subject to jurisdictional limitations.

(b) The judges may make and amend rules of practice and procedure in the courts not inconsistent with the statutes of this State and not inconsistent with the rules of procedure promulgated by the Supreme Court of Texas.

Presiding Judge

Sec. 4. (a) The judges of the courts having any district court jurisdiction may elect, from time to time by majority vote, one of their number as presiding judge. The presiding judge may, under rules adopted under Section 3 of this Act, assign and transfer any case pending in any of the courts to any other of the courts; he may direct the manner in which such cases shall be filed and docketed; he may assign any case or proceeding pending in any of the courts to the judge of any other of the courts; and he may assign the judge of any of the courts to try any case or hear any proceeding pending in any other of the courts.

(b) The judges of the courts shall try any case and hear any proceeding as assigned by the presiding judge. The district clerk of the county shall file, docket, transfer, and assign all such cases as directed by the presiding judge in accordance with the rules adopted under Section 3 of this Act.

Appointment and Removal of Presiding Judges

Sec. 5. The rules adopted under Section 3 of this Act may authorize the presiding judge elected under Section 4 to appoint and remove, from time to time, presiding judges for courts assigned to any specified class of cases, such as civil, criminal, juvenile, and domestic relations cases. The presiding judge appointed under this section shall have the same authority under the rules adopted under Section 3 of this Act, with respect to such class of cases and with respect to the judges of the courts assigned to such class of cases, as is conferred under Section 4 of this Act on the presiding judge of all the courts in the county.

Jurisdiction

Sec. 6. Neither this Act nor any rule adopted under this Act may be construed to authorize any judge to act in a case of which his own court would not have potential jurisdiction under the constitution and laws of this State.

[Acts 1971, 62nd Leg., p. 1395, ch. 376, eff. May 26, 1971.]

Art. 200c. Senior District Court Judges, Dallas County

System of Senior District Court Judges

Sec. 1. The purpose of this Act is to establish a system by which qualified judges will be made available to serve in cases in which the regularly elected judges are not available to sit or need assistance because of the case load. Under this Act a judge may be appointed as a senior criminal district court judge, a senior civil district court judge, or a senior family court judge.

Lists of Appointed Senior Judges

Sec. 2. The presiding judge of the First Administrative Judicial District shall establish and maintain:

(1) a list of retired and former judges of district courts appointed to serve as senior criminal district court judges in Dallas County;

(2) a list of retired and former judges of district courts appointed to serve as senior civil court judges in Dallas County; and

(3) a list of retired and former judges appointed to serve as family court judges in Dallas County.

Qualifications of Senior Judges

Sec. 3. (a) To be qualified for appointment to any of the lists established by Section 2 of this Act, an applicant must have served as the judge of a district court for 12 years, whether or not consecutive, exercising primarily criminal, civil, or family court jurisdiction and must have developed an expertise in criminal law, civil law, or family law. An applicant may be appointed only to the list applicable to his or her particular area of previous expertise.

(b) On request, an applicant may be appointed to one or more lists if the applicant meets the requirements established for each area of expertise.

(c) To be eligible for appointment, an applicant must not have been removed from office by impeachment, the supreme court, the governor on address by the legislature, or the State Commission on Judicial Conduct.

(d) To be eligible for appointment, an applicant must certify a willingness to serve and be not more than 65 years of age.

Appointment of Senior Judges

Sec. 4. (a) The appointment of senior district court judges under this Act shall be made by the presiding judge of the First Administrative Judicial District subject to confirmation by the senate.

(b) A senior district court judge appointed and confirmed under this Act may not, during the term of appointment, appear and plead as an attorney in any court in this state.

Reappointment of Senior Judges

Sec. 5. Once appointed in a particular list, a senior district court judge is subject every four years to reappointment by the appointing authority and to confirmation by the senate.

Compensation of Senior Judges

Sec. 6. (a) The compensation, salary, and expenses of a senior district court judge shall be paid in accordance with the laws of this state out of funds appropriated from the general revenue fund of Dallas County. Except as provided by Subsection (b) of this section, the compensation, salary, and expenses of a senior district court judge shall be equivalent to the highest compensation, salary, and expenses paid to any regular district court judge in the state, whether paid from county or state funds, or both with the provision that funds paid from the general revenue fund of the county must have commissioners court approval.

(b) A senior district court judge appointed under this Act who is a retiree of the Judicial Retirement System of Texas or the Texas County and District Retirement System is entitled to compensation, salary, and expenses from the general revenue fund of Dallas County in an amount equal to the amount computed under Subsection (a) of this section less the amount of any annuity the judge receives during the same period from either or both of the retirement systems.

Assignment of senior judges

Sec. 7. (a) Assignments made under this Act shall be made by the presiding judge of the First Administrative Judicial District.

(b) When a senior district court judge is assigned under this Act, it is the duty of the judge so assigned or reassigned to serve in that district court

unless, for good cause presented by him or her in writing to the presiding judge, the senior district court judge is relieved of the assignment by the presiding judge.

(c) Nothing in this Act prevents assignment of a senior district court judge to a county other than Dallas County, if the other county reimburses Dallas County for the compensation, salary, and expenses of the senior district court judge during the period of the assignment.

(d) A senior district court judge is entitled, during a period of assignment, to all per diem allowances paid by the state to judges sitting outside the county of their residence.

Assignment of Other Judges

Sec. 8. Nothing in this Act prevents the assignment of a judge other than a senior district court judge in an instance in which no senior district court judge is available to sit.

Retirement System Membership, Contributions, and Credit

Sec. 9. (a) A senior district court judge appointed under this Act who is a retiree of the Judicial Retirement System of Texas or the Texas County and District Retirement System is entitled to receive retirement benefits otherwise payable during the period an appointment is in effect but may not resume membership or receive credit in any of those retirement systems from which the judge has retired.

(b) A senior district court judge appointed under this Act who is not a retiree of the Judicial Retirement System of Texas retains or resumes membership and accrues service credit in that retirement system for each month the appointment is in effect.

(c) A senior district court judge appointed under this Act who is not a retiree of the Texas County and District Retirement System is subject to the conditions for membership in that retirement system during the period the appointment is in effect that are provided by Sections 52.201, 52.202, and 52.203, Title 110B, Revised Statutes. If a senior district court judge begins, retains, or resumes membership in the Texas County and District Retirement System, the judge accrues service credit in that retirement system for each month of membership in which the appointment is in effect.

(d) Before the 16th day of each month, the custodian of county funds of Dallas County shall pay or cause to be paid to the Judicial Retirement System of Texas at the system's office:

(1) a contribution deducted from the compensation of each senior district court judge at the rate required of other members of the retirement system for current service and based on the state salary paid to elected district judges during that period; and

(2) a contribution from the county general revenue fund for each senior district court judge at the effective rate of state contributions to the retirement system, determined by the Judicial Retirement System of Texas as a monthly percentage of the salary that would be paid by the state if the judge were an elected district judge that is based on the ratio of legislative appropriations to finance benefits payable from the system to the state salaries payable to contributing members of the system for the period.

(e) The custodian of county funds of Dallas County shall pay or cause to be paid to the Texas County and District Retirement System member and subdivision contributions based on the portion of compensation paid by the county under this Act that exceeds the amount computed under Subdivision (1) of Subsection (d) of this section for each senior district court judge who is a contributing member of the retirement system during the most recent payroll period. The contributions shall be paid in the manner provided by Sections 55.403 and 55.404, Title 110B, Revised Statutes.

(f) Retirement system contributions paid as provided by this section shall be deposited by the respective retirement systems in the funds of each retirement system in which similar contributions are deposited for other members of the retirement system.

Expenses

Sec. 10. When a senior district court judge is assigned under this Act to a court located in a county other than the county in which the assigned judge resides, the judge shall, in addition to all other compensation permitted or authorized by law, receive the actual expenses incurred in going to and returning from his or her assignment and the actual living expenses incurred while in the performance of his or her duties under assignment, which expenses shall be paid out of the general revenue fund of the county in which the senior district court judge actually sat.

Continuing Judicial Education

Sec. 11. A senior district court judge must be able to demonstrate yearly that he or she participated in the preceding 12 months in at least 10 days of continuing judicial education at a program sponsored by any state bar association, by the American Bar Association, or by any law school. Failure to meet this criterion is grounds for denying reappointment as a senior district court judge.

Construction of Act

Sec. 12. (a) This Act does not limit a senior criminal district court judge to sitting only in criminal cases, a senior civil district court judge to sitting only in civil cases, or a senior family court judge to sitting only in cases involving family law.

(b) Except as provided by Section 8 of this Act, this Act does not limit a retired or former judge from sitting as a visiting judge under any other Act enacted by the legislature.

[Acts 1983, 68th Leg., p. 3757, ch. 578, eff. Aug. 29, 1983.]

Art. 200d. Trial by Special Judge in District Court Civil Cases

Referral by Agreement

Sec. 1. On agreement of the parties, the judge in a civil case filed in district court may order referral of the case as provided by this Act and shall stay proceedings in his court pending the outcome of the trial. Any or all of the issues in the cases, whether an issue of fact or law, may be referred.

Motion for Referral

Sec. 2. Each party to the action must file in the court in which the case is filed a motion that:

- (1) requests the referral;
- (2) waives the party's right to trial by jury;
- (3) states the issues to be referred;
- (4) states the time and place agreed on by the parties for the trial; and
- (5) states the name of the special judge, the fact that the special judge has agreed to hear the case, and the fee the judge is to receive as agreed on by the parties.

Qualifications of Judge

Sec. 3. The special judge must be a former district judge, retired under Subtitle E, Title 110B, Revised Statutes.¹

Referral Order Entered

Sec. 4. An order of referral must specify the issue referred, the time and place for trial, and the name of the special judge. An order of referral may designate the time for filing of the special judge's report. The clerk of the court shall send a copy of the order to the special judge.

Procedure

Sec. 5. Rules and statutes relating to procedure and evidence in district court apply to a trial under this Act.

Powers of Special Judge

Sec. 6. (a) A special judge shall conduct the trial in the same manner as a court trying an issue without a jury.

(b) While serving as a special judge, the judge has the powers of a district court judge except that he may not:

- (1) award attorney's fees to a party; or
- (2) hold a person in contempt of court unless the person is a witness before him.

Representation by Attorney

Sec. 7. A party has the right to be represented by an attorney at the trial held as provided by this Act.

Court Reporter Required

Sec. 8. The parties shall provide a court reporter who meets the qualifications prescribed by law for district court reporters to maintain a record of the proceedings at the hearing.

Fees and Costs

Sec. 9. (a) The parties, in equal shares, shall pay:

- (1) the special judge's fee; and
- (2) all administrative costs, including the court reporter's fee, related to the trial.

(b) A cost for a witness called by a party or any other cost related only to a single party's case shall be paid by the party who incurred the cost.

(c) The state or a unit of local government may not pay any costs related to a trial under this Act.

Restrictions on site and use of public employees

Sec. 10. A trial under this Act may not be held in a public courtroom, and a public employee may

not be involved in the trial during regular working hours.

Special Judge's Verdict

Sec. 11. The special judge's verdict must comply with the requirements for a verdict by the court. The verdict stands as a verdict of the district court. Unless otherwise specified in an order of referral, the special judge shall submit the verdict not later than the 60th day after the day the trial adjourns.

New Trial

Sec. 12. If the special judge does not submit the verdict within the time period provided by Section 11 of this Act, the court may grant a new trial if:

- (1) a party files a motion requesting the new trial;
- (2) notice is given to all parties stating the time and place that a hearing will be held on the motion; and
- (3) the hearing is held.

Right to Appeal

Sec. 13. The right to appeal is preserved. An appeal is from the order of the district court as provided by the Texas Rules of Civil Procedure.

[Acts 1983, 68th Leg., p. 5060, ch. 917, eff. June 19, 1983.]

¹ Title 110B, § 41.001 et seq.

TITLE 9

APPRENTICES [Repealed]

Arts. 201 to 223. Repealed by Acts 1973, 63rd Leg., p. 1458, ch. 543, § 3, eff. Jan. 1, 1974

Acts 1973, 63rd Leg., p. 1458, ch. 543, repealing these articles, enacts Title 2 of the Texas Family Code.

TITLE 10

ARBITRATION

1. TEXAS GENERAL ARBITRATION ACT

- Art.**
 224. Validity of Arbitration Agreements.
 224-1. Notice in Agreements.
 225. Proceedings to Compel or Stay Arbitrations.
 226. Appointment of Arbitrators by Court.
 227. Majority Action by Arbitrators.
 228. Hearings before Arbitrators and Notices Thereof.
 229. Representation by Attorneys.
 230. Testimony at Hearings before Arbitrators by Witnesses; Subpoenas and Dispositions Therefor.
 231. Awards by Arbitrators.
 232. Changes of Awards by Arbitrators.
 233. Fees and Expenses of Arbitrations as Awarded by Arbitrators.
 234. Courts with Jurisdiction in Arbitration Proceedings.
 235. Applications to Courts and the Effect Thereof; Court Proceedings on Applications to Courts; Venue Thereof; Stay of Proceedings in Another Court Pursuant to a Later Application; What the Court may Require that an Application Contain; When Applications may be Filed in Advance of or Pending or at or after the Conclusion of Arbitration Proceedings; Acquisition of Jurisdiction over Adverse Parties by Service of Process or in Rem by Ancillary Proceedings; Court Relief in Aid of Pending or Prospective Arbitration Proceedings or the Enforcement of Court Orders or Decrees or Satisfaction of Court Judgments; Court Hearings on Applications.
 236. Confirmation of an Award.
 237. Vacating an Award.
 238. Modification or Correction of Award.
 238-1. Judgment or Decree Upon an Award; The Enforcement Thereof.
 238-2. Appeals.
 238-3. Act Not Retroactive.
 238-4. Uniformity of Interpretation.
 238-5. Severability.
 238-6. Name of this Act; Definition of Term "This Act"; Effect of Division into Articles, Sections, and Paragraphs and of Captions of Articles.

1A. MISCELLANEOUS PROVISIONS

- Art.**
 238-20. Specific Enforcement of Agreements to Arbitrate Future Disputes.
 2. ARBITRATION BETWEEN EMPLOYER AND EMPLOYED
 239. Board of Arbitration Authorized.
 240. District Judge to Establish Board, Etc.
 241. Controversy Involving Labor Organizations.
 242. Submission in Writing.
 243. Arbitrators to Take Oath, Etc.
 244. Powers and Duties of Chairman and Board.
 245. Adjudication Terminates Powers.
 246. Status Quo Preserved.
 247. Compensation.
 248. Award to Take Effect When.
 249. Judgment Entered.

1. TEXAS GENERAL ARBITRATION ACT

Part 1 of Title 10, Arbitration in General, consisting of articles 224 to 238, was revised and amended by Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, to read as it now appears in articles 224 to 238-6.

Sections 2 and 3 of the 1965 Act provided:

"Sec. 2. This Act does not affect the enforcement of arbitration agreements made before the effective date of this Act.

"Sec. 3. This Act takes effect on January 1, 1966."

Former arts. 224 to 238 were derived from Const. Art. 16, § 13 and Acts 1846, p. 127.

Art. 224. Validity of Arbitration Agreements

A written agreement to submit any existing controversy to arbitration or a provision in a written contract to submit to arbitration any controversy thereafter arising between the parties is valid, enforceable and irrevocable, save upon such grounds as exist at law or in equity for the revocation of any

contract. A court shall refuse to enforce an agreement or contract provision to submit a controversy to arbitration if the court finds it was unconscionable at the time the agreement or contract was made. Provided, however, that none of the provisions of this Act shall apply to:

(a) any collective bargaining agreement between an employer and a labor union;

(b) any contract for the acquisition by an individual person or persons (as distinguished from a corporation, trust, partnership, association, or other legal entity) of real or personal property, or services, or money or credit where the total consideration therefor to be paid or furnished by the individual is \$50,000 or less, unless said individual and the other party or parties agree in writing to submit to arbitration and such written agreement is signed by the parties to such agreement and their attorneys;

(c) any claim for personal injury except upon the advice of counsel to both parties as evidenced by a written agreement signed by counsel to both parties. A claim for workers' compensation shall not be submitted to arbitration under this Act.

[Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966. Amended by Acts 1979, 66th Leg., p. 1708, ch. 704, § 1, eff. Aug. 27, 1979.]

Art. 224-1. Notice in Agreements

No agreement described in Article 224 shall be arbitrated unless notice that a contract is subject to arbitration under this Act is typed in underlined capital letters, or is rubber-stamped prominently, on the first page of the contract.

[Acts 1979, 66th Leg., p. 1708, ch. 704, § 2, eff. Aug. 27, 1979.]

Art. 225. Proceedings to Compel or Stay Arbitrations

Sec. A. On application of a party showing an agreement described in Article 224 of this Act, and the opposing party's refusal to arbitrate, the court shall order the parties to proceed with arbitration; but if the opposing party denies the existence of the agreement to arbitrate, the court shall proceed summarily to the determination of the issue so raised and shall order arbitration if found for the moving party; otherwise, the application shall be denied.

Sec. B. On application, the court may stay an arbitration proceeding commenced or threatened on a showing that there is no agreement to arbitrate. Such an issue, when in substantial and bona fide dispute, shall be forthwith and summarily tried and the stay ordered if found for the moving party. If found for the opposing party, the court shall order the parties to proceed to arbitration.

Sec. C. If an issue referable to arbitration under the alleged agreement is involved in an action or proceeding pending in a court having jurisdiction to hear applications under Section A of Article 234 of this Act, the application shall be made therein. Oth-

erwise and subject to Article 235 of this Act, the application may be made in any court of competent jurisdiction.

Sec. D. Any action or proceeding involving an issue subject to arbitration shall be stayed if an order for arbitration or an application therefor has been made under the provisions of this Article 225, or, if the issue is severable, the stay may be with respect thereto only. When the application is made in such action or proceeding, the order for arbitration shall include such stay.

Sec. E. An order for arbitration shall not be refused on the ground that the claim in issue lacks merit or bona fides or because any fault or grounds for the claim sought to be arbitrated have not been shown.

[Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.]

Art. 226. Appointment of Arbitrators by Court

If the arbitration agreement provides a method of appointment of arbitrators, this method shall be followed. In the absence thereof, or if the agreed method fails or for any reason cannot be followed, or when an arbitrator appointed fails or is unable to act and his successor has not been duly appointed, the court on application of a party setting forth the nature of the issues to be arbitrated and the qualifications of the proposed arbitrators shall appoint one or more qualified arbitrators. An arbitrator so appointed has all the powers of one specifically named in the agreement.

[Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.]

Art. 227. Majority Action by Arbitrators

The powers of the arbitrators may be exercised by a majority unless otherwise provided by the agreement or by this Act.

[Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.]

Art. 228. Hearings before Arbitrators and Notices Thereof

Unless otherwise provided by the agreement:

Sec. A. The arbitrators shall appoint a time and place for the hearing and cause notification to the parties to be served personally or by registered or certified mail with return receipt requested not less than five days before the hearing. Appearance at the hearing waives such notice. The arbitrators may adjourn the hearing from time to time as necessary and, on request of a party and for good cause, or upon their own motion, may postpone the hearing to a time not later than the date fixed by the agreement for making the award unless the parties consent to a later date. The arbitrators may hear and determine the controversy upon the evidence produced notwithstanding the failure of a party duly notified to appear. The court on application may direct the arbitrators to proceed promptly

with the hearing and determination of the controversy.

Sec. B. The parties are entitled to be heard, to present evidence material to the controversy and to cross-examine witnesses appearing at the hearing.

Sec. C. The hearing shall be conducted by all the arbitrators but a majority may determine any question and render a final award. If, during the course of the hearing, an arbitrator for any reason ceases to act, the remaining arbitrator or arbitrators appointed to act as neutrals may continue with the hearing and determination of the controversy.

[Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.]

Art. 229. Representation by Attorneys

A party has the right to be represented by an attorney at any proceeding or hearing under this Act. A waiver thereof prior to the proceeding or hearing is ineffective.

[Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.]

Art. 230. Testimony at Hearings before Arbitrators by Witnesses; Subpoenas and Dispositions Therefor

Sec. A. The arbitrators shall have the power to administer oaths required of witnesses in a civil action pending in a district court and may cause same to be administered by any one of them, to each witness testifying before them.

Sec. B. The arbitrators may authorize a deposition to be taken of a witness who cannot be required by subpoena to appear before them or who is unable to attend the hearing, for use as evidence, or may authorize a deposition of an adverse witness for discovery or evidentiary purposes, such depositions to be taken in the manner provided by law for depositions in a civil action pending in a district court.

Sec. C. The arbitrators may issue or cause to be issued by any one of them, subpoenas for the attendance of witnesses and for the production of books, records, documents, and other evidence; the appearance of the witness required by such a subpoena may be either at the hearing before the arbitrators or at the deposition of the witness. Subpoenas so issued shall be served in the manner provided by law for the service of subpoenas issued in a civil action pending in a district court. All provisions of law requiring a witness under subpoena to appear, to produce and to testify, pursuant to a subpoena issued in such a civil action, shall apply to subpoenas issued under this Article.

Sec. D. Fees for witnesses attending any hearing before arbitrators or any deposition pursuant to the provisions of this Article, shall be the same as for a witness in a civil action in a district court.

[Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.]

Art. 231. Awards by Arbitrators

Sec. A. The award shall be in writing and signed by the arbitrators joining in the award. The arbitrators shall deliver a copy to each party personally or by registered or certified mail, or as provided in the agreement.

Sec. B. An award shall be made within the time fixed therefor by the agreement or, if not so fixed, within such time as the court orders on application of a party. The parties may extend the time in writing either before or after the expiration thereof. A party waives the objection that an award was not made within the time required unless he notifies the arbitrators of his objection prior to the delivery of the award to him.

[Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.]

Art. 232. Changes of Awards by Arbitrators

On application of a party or, if an application to the court is pending under Articles 236, 237 and 238, on submission to the arbitrators by the court under such conditions as the court may order, the arbitrators may modify or correct the award upon the grounds stated in Section A of Article 238, or for the purpose of clarifying the award. The application shall be made within twenty days after delivery of the award to the applicant. Written notice thereof shall be given forthwith to the opposing party, stating that he must serve his objections thereto, if any, within ten days from the notice. The award so modified or corrected is subject to the provisions of Articles 236, 237 and 238.

[Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.]

Art. 233. Fees and Expenses of Arbitrations as Awarded by Arbitrators

Unless otherwise provided in the agreement to arbitrate, the arbitrators' expenses and fees, together with other expenses incurred in the conduct of the arbitration, shall be paid as provided in the award. Attorneys fees shall be awarded by the arbitrators as additional sums required to be paid under the award only if provided for in the agreement to arbitrate or provided by law as to any recovery in a civil action in the district court on such a cause of action on which the award in whole or in part is based.

[Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.]

Art. 234. Courts with Jurisdiction in Arbitration Proceedings

Sec. A. The term "court" as used in this Act shall mean and include any court of this State of competent jurisdiction as to the parties, the subject matter, and the amount in controversy. Such a court shall have jurisdiction to hear and determine applications as provided in Article 235.

Sec. B. The making of an agreement described in Article 224 and to which that Article is applicable (but this expressly shall not be the effect of the making of an agreement to which that Article is made inapplicable by the last sentence thereof), which provides for or authorizes an arbitration in this State, confers jurisdiction on the court to enforce the agreement under this Act and to enter judgment on an award thereunder.

[Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.]

Art. 235. Applications to Courts and the Effect Thereof; Court Proceedings on Applications to Courts; Venue Thereof; Stay of Proceedings in Another Court Pursuant to a Later Application; What the Court may Require that an Application Contain; When Applications may be Filed in Advance of or Pending or at or after the Conclusion of Arbitration Proceedings; Acquisition of Jurisdiction over Adverse Parties by Service of Process or in Rem by Ancillary Proceedings; Court Relief in Aid of Pending or Prospective Arbitration Proceedings or the Enforcement of Court Orders or Decrees or Satisfaction of Court Judgments; Court Hearings on Applications

Sec. A. The jurisdiction of a court may be invoked by the filing with the clerk of that court of an application for the entry by the court of a judgment or decree or order provided for by the terms of this Act. Upon the filing of the initial application and the payment to the clerk of the fees of court required to be paid on the filing of a civil action in the court, the clerk shall docket the proceedings as a civil action pending in that court.

Sec. B. The filing of the initial application shall be with the clerk of the court of that county in Texas in which (if it does so provide) the arbitration agreement shall provide that the hearing before the arbitrators shall be held; or if the hearing has been held, in the county in which it was held. Otherwise, the initial application shall be filed in the county in which the adverse party resides (or one of them if there are two or more adverse parties) or has a place of business; or if no adverse party has a residence or place of business in this State, in any county. The initial application filed with the clerk of a court having jurisdiction but in a county other than as provided for in this Section, shall be transferred to a court of the county provided for in this Section by an order comparable to an order sustaining a plea of privilege to be sued in a civil action in a district court of a county other than the county in which an action is filed; provided that such order of transfer shall be entered only if applied for by a party adverse to the applicant who files the initial application, within twenty days of the service of

process on such adverse party and in advance of any other appearance in the court of that adverse party other than one challenging the jurisdiction of the court.

Sec. C. An initial application having been so filed, the court having jurisdiction thus invoked, may by order or orders stay proceedings pursuant to any application later filed seeking to invoke the jurisdiction of any other court or the entry of a judgment or decree or order provided for by the terms of this Act; or may stay any civil action or other proceeding later instituted; provided, however, that any such stay of proceedings in any civil action or other proceeding or pursuant to an application later filed in any other court shall be limited to and affect only an issue subject to arbitration under the arbitration agreement pursuant to the terms of which the initial application was so filed.

Sec. D. As provided in Section C of Article 225, the initial application and all subsequent applications to the court relating to arbitration of an issue subject to arbitration under an arbitration agreement shall be filed in a civil action or proceeding pending in a court having jurisdiction to hear applications under the provisions of Section A of Article 234 if the civil action or proceeding is pending before the filing of the initial application as otherwise provided by Section A of Article 235.

Sec. E. The court may require that an application filed under this Act for entry by it of any judgment or decree or order shall show the jurisdiction of the court, shall have attached to it a copy of the arbitration agreement, shall define the issue or issues subject to arbitration between the parties under the arbitration agreement, shall specify the status of the proceedings before arbitrators and show the need for the entry of the judgment, decree or order by the court sought by the applicant. No application shall be deemed inadequate because of the absence of any of these requirements unless the court shall, in its discretion, first require that the application as filed be amended to meet the requirements of the court and a period of ten days is granted to the applicant to permit him to comply.

Sec. F. An application for entry by the court of a judgment or decree or order provided for by the terms of this Act may be filed in advance of the institution of any arbitration proceedings but in aid thereof, or during the pendency of any arbitration proceeding before the arbitrators or, subject to the provisions of subsequent Articles of this Act, at or after the conclusion thereof.

Sec. G. In advance of the institution of any arbitration proceedings, but in aid thereof, an application may be filed for order or orders to be entered by the court, including but not limited to applications: (i) invoking the jurisdiction of the court over the adverse party and for effecting same by service of process on him in advance of the institution of arbitration proceedings (it not being required to be shown in this connection that the adverse party is

about to, or may, absent himself from the state if jurisdiction over him is not effected by service of process on him before the institution of arbitration proceedings); or (ii) invoking the jurisdiction of the court over the controversy in rem, by attachment, garnishment, sequestration, or any other ancillary proceeding in the manner by which, and on complying with the conditions under which, such proceedings may be instituted and conducted ancillary to a civil action in a district court; or (iii) seeking to restrain or enjoin the destruction of the subject matter of the controversy or any essential part thereof, or the destruction or alteration of books, records, documents, or evidence needed for the arbitration proceeding, or seeking from the court in its discretion, order for deposition or depositions needed in advance of the commencement of the arbitration proceedings for discovery, for perpetuation of testimony or for evidence; or (iv) seeking the appointment of arbitrator or arbitrators so that proceedings before them under the arbitration agreement may proceed; or (v) seeking any other relief, which the court can grant in its discretion, needed to permit the orderly arbitration proceedings to be instituted and conducted and to prevent any improper interference or delay thereof.

Sec. H. During the pendency of any arbitration proceedings before the arbitrators, an application may be filed for order or orders to be entered by the court, including but not limited to applications: (i) referred to or to serve any purpose referred to in Section G of this Article; or (ii) to require compliance by any adverse party or any witness with order or orders made by arbitrators during the arbitration proceedings, pursuant to provisions of this Act; or (iii) to require the issuance and service under orders of the court rather than orders made by the arbitrators, of subpoenas, notices or other court processes in aid of the arbitration proceedings before the arbitrators; or in any ancillary proceedings in rem by attachment, garnishment, sequestration or otherwise, in the manner of and on complying with the conditions under which such ancillary proceedings may be instituted and conducted ancillary to a civil action in a district court; or (iv) to seek to effect or maintain security for the satisfaction of any court judgment that may be later entered pursuant to the provisions of an award. During the pendency of the arbitration proceedings or at or after their conclusion, an application may be filed to seek any of the above mentioned relief or otherwise aid in the enforcement of any court judgment or decree or order entered pursuant to the provisions of this Act; or for relief as provided in Articles 236, 237 and 238.

Sec. I. On filing of any initial application herein authorized, the clerk of the court shall issue process for service upon each adverse party named therein, attaching a copy of the application to each, and appropriate officials authorized so to do may proceed to effect service of such process on each adverse party, the form and substance of the process

and service and the return of service, insofar as applicable, being the form provided for as to process and service on a defendant in a civil action in a district court.

Sec. J. Upon the filing of any application other than the initial application, if the jurisdiction over the adverse party has been established by service of process on him or in rem upon the initial application (though, if not, then on such subsequent application there shall be a service of process as provided for in Section I of this Article), each subsequent application with reference to the same arbitration proceedings or prospective proceedings under the same arbitration agreement and relating to the same controversy or controversies, shall be treated for the purposes of notice to each adverse party, as if a motion filed in a pending civil action in a district court. Every such subsequent application to the court for any relief and every initial application shall be heard by the court in the manner and pursuant to the notice provided by law or rule of court as to the making and hearing of such a motion.

[Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.]

Art. 236. Confirmation of an Award

Upon application of a party, the court shall confirm an award, unless within the time limits hereinafter imposed grounds are urged for vacating or modifying or correcting the award, in which case the court shall proceed as provided in Articles 237 and 238 of this Act.

[Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.]

Art. 237. Vacating an Award

Sec. A. Upon application of a party, the court shall vacate an award where:

(1) The award was procured by corruption, fraud or other undue means;

(2) There was evident partiality by an arbitrator appointed as a neutral or corruption in any of the arbitrators or misconduct or wilful misbehavior of any of the arbitrators prejudicing the rights of any party;

(3) The arbitrators exceeded their powers;

(4) The arbitrators refused to postpone the hearing upon sufficient cause being shown therefor or refused to hear evidence material to the controversy or otherwise so conducted the hearing, contrary to the provisions of Article 228, as to prejudice substantially the rights of a party; or

(5) There was no arbitration agreement and the issue was not adversely determined in proceedings under Article 225 and the party did not participate in the arbitration hearing without raising the objection; but the fact that the relief was such that it could not or would not be granted by a court of law

or equity is not ground for vacating or refusing to confirm the award.

Sec. B. An application under this Article shall be made within ninety days after delivery of a copy of the award to the applicant, except that, if predicated upon corruption, fraud or other undue means, it shall be made within ninety days after such grounds are known or should have been known.

Sec. C. In vacating the award on grounds other than stated in paragraph 5 of Section A of this Article, the court may order a rehearing before new arbitrators chosen as provided in the agreement, or in the absence thereof, by the court in accordance with the provisions of Article 226; or, if the award is vacated on grounds set forth in paragraphs 3 and 4 of Section A of this Article, the court may order a rehearing before the arbitrators who made the award or their successors appointed in accordance with the provisions of Article 226. The time within which the agreement requires the award to be made is applicable to the rehearing and commences from the date of the order.

Sec. D. If the application to vacate is denied and no motion to modify or correct the award is pending, the court shall confirm the award.

[Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.]

Art. 238. Modification or Correction of Award

Sec. A. Upon application made within ninety days after delivery of a copy of the award to the applicant, the court shall modify or correct the award where:

- (1) There was an evident miscalculation of figures or an evident mistake in the description of any person, thing, or property referred to in the award;
- (2) The arbitrators have awarded upon a matter not submitted to them and the award may be corrected without affecting the merits of the decision upon the issues submitted; or
- (3) The award is imperfect in a matter of form, not affecting the merits of the controversy.

Sec. B. If the application is granted, the court shall modify and correct the award so as to effect its intent and shall confirm the award as so modified and corrected. Otherwise, the court shall confirm the award as made.

Sec. C. An application to modify or correct an award may be joined in the alternative with an application to vacate the award.

[Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.]

Art. 238-1. Judgment or Decree Upon an Award; The Enforcement Thereof

Upon the granting of an order confirming, modifying or correcting an award, judgment or decree shall be entered in conformity therewith and be enforced as any other judgment or decree. Costs of

the application and of the proceedings subsequent thereto, and disbursements may be awarded by the court.

[Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.]

Art. 238-2. Appeals

Sec. A. An appeal may be taken from:

- (1) An order denying an application to compel arbitration made under Section A of Article 225;
- (2) An order granting an application to stay arbitration made under Section B of Article 225;
- (3) An order confirming or denying confirmation of an award;
- (4) An order modifying or correcting an award;
- (5) An order vacating an award without directing a rehearing; or
- (6) A judgment or decree entered pursuant to the provisions of this Act.

Sec. B. The appeal shall be taken in the manner and to the same extent as from orders or judgments in a civil action.

[Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.]

Art. 238-3. Act Not Retroactive

The Act applies only to agreements made subsequent to the taking effect of this Act.

[Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.]

Art. 238-4. Uniformity of Interpretation

This Act shall be so construed as to effectuate its general purpose and make uniform the construction of those articles and sections that are enacted into the law of arbitration proceedings of other states.

[Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.]

Art. 238-5. Severability

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

[Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.]

Art. 238-6. Name of this Act; Definition of Term "This Act"; Effect of Division into Articles, Sections, and Paragraphs and of Captions of Articles

The name of this Act is "Texas General Arbitration Act." The term "this act" as used therein shall mean and refer to Article 224 through this Article 238-6, inclusive. This Act is divided into articles with a caption for each, with a number assigned to

each article, certain of the articles are divided into sections with a capital letter assigned to each section and certain of the sections are subdivided into paragraphs with a parenthetical number assigned to each such paragraph. These subdivisions of this Act however are for purposes of convenience only and in order that there may be references in one provision of the Act to other provision or provisions of the Act more readily; neither any such subdivision of the Act nor any caption for any article however shall be any aid to or given any effect in connection with any construction of the Act or any part thereof.

[Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.]

1A. MISCELLANEOUS PROVISIONS

Art. 238-20. Specific Enforcement of Agreements to Arbitrate Future Disputes

Purpose

Sec. 1. The purpose of this Act is to abrogate the common law arbitration rule prohibiting specific enforcement of executory arbitration agreements.

Validity of Arbitration Agreements

Sec. 2. A written agreement or a provision in a written contract to submit to arbitration at common law any controversy thereafter arising between the parties is valid, enforceable, and irrevocable, except upon those grounds that exist at law or in equity for the revocation of any contract.

Applicability

Sec. 3. The provisions of this Act apply only to written arbitration agreements between members of associations or corporations which are exempt from the payment of federal income taxes pursuant to Section 501(c) of the U.S. Internal Revenue Code.¹

Saving Clause

Sec. 4. (a) This Act is cumulative of and supplemental to any other laws and parts of law relating to common law arbitration and, except as specifically provided, does not abrogate or repeal those other laws or parts of law.

(b) This Act does not alter or affect Title 10, Revised Statutes (Article 224 et seq.), or any other statutory arbitration rules.

[Acts 1983, 68th Leg., p. 4748, ch. 830, eff. Aug. 29, 1983.]
¹ 26 U.S.C.A. § 501(c).

2. ARBITRATION BETWEEN EMPLOYER AND EMPLOYED

Art. 239. Board of Arbitration Authorized

Whenever any grievance or dispute of any nature, growing out of the relation of employer and employes, shall arise or exist between employer and employes, it shall be lawful, upon mutual consent of

all parties, to submit all matters respecting such grievance or dispute in writing to a board of arbitrators to hear, adjudicate, and determine the same. Said board shall consist of five persons. When the employes concerned in such grievance or dispute, as the aforesaid, are members in good standing of any labor organization which is represented by one or more delegates in a central body, the said central body shall have power to designate two of said arbitrators, and the employer shall have the power to designate two others of said arbitrators; and the said four arbitrators shall designate a fifth person as arbitrator, who shall be chairman of the board. In case the employes concerned in any such grievance or dispute, as aforesaid, are members in good standing of a labor organization which is not represented in a central body, then the organization of which they are members shall designate two members of said board; and said board shall be organized as hereinbefore provided; and in case the employes concerned in any such grievance or dispute, as aforesaid, are not members of any labor organization, then a majority of said employes, at a meeting duly held for that purpose, shall designate two arbitrators for said board; and said board shall be organized as hereinbefore provided; provided, that when the two arbitrators shall have been selected by each of the respective parties to the controversy, the district judge of the district having jurisdiction of the subject matter shall, upon notice from either of said arbitrators that they have failed to agree upon the fifth arbitrator, appoint said fifth arbitrator.

[Acts 1925, S.B. 84.]

Art. 240. District Judge to Establish Board, Etc.

Any board, as aforesaid selected, may present a written petition to the district judge of the county where such grievance or dispute to be arbitrated may arise, signed by a majority of said board, setting forth in brief terms the facts showing their due and regular appointment, and the nature of the grievance or dispute between the parties to said arbitration, and praying the license or order of such judge establishing and approving of said board of arbitration. Upon the presentation of said petition, said judge, if it appear that all requirements of this law have been complied with, shall make an order establishing such board of arbitration, and referring the matters in dispute to it for hearing, adjudication and determination. The said petition and order, or a copy thereof, shall be filed in the office of the district clerk of the county in which the arbitration is sought.

[Acts 1925, S.B. 84.]

Art. 241. Controversy Involving Labor Organizations

When a controversy involves and affects the interests of two or more classes or grades of employes belonging to different labor organizations, or of individuals who are not members of a labor

organization, then the two arbitrators selected by the employes shall be agreed upon and selected by the concurrent action of all such labor organizations, and a majority of such individuals who are not members of a labor organization.

[Acts 1925, S.B. 84.]

Art. 242. Submission in Writing

The submission shall be in writing, shall be signed by the employer or receiver and the labor organization representing the employes, or any laborer or laborers to be affected by such arbitration who may not belong to any labor organization, shall state the question to be decided, and shall contain appropriate provisions by which the respective parties shall stipulate as follows:

1. That pending the arbitration, the existing status prior to any disagreement or strike, shall not be changed.

2. That the award shall be filed in the office of the clerk of the district court of the county in which said arbitration is held, and shall be final and conclusive upon both parties, unless set aside for error of law, apparent on the record.

3. That the respective parties to the award will each faithfully execute the same, and that the same may be specifically enforced in equity so far as the powers of a court of equity permit.

4. That the employes dissatisfied with the award shall not, by reason of such dissatisfaction, quit the service of said employer or receiver before the expiration of thirty days, nor without giving said employer or receiver thirty days written notice of their intention to quit.

5. That said award shall continue in force as between the parties thereto for the period of one year after the same shall go into practical operation; and no new arbitration upon the same subject between the same parties shall be had until the expiration of said one year.

[Acts 1925, S.B. 84.]

Art. 243. Arbitrators to Take Oath, Etc.

The arbitrators so selected shall sign a consent to act as such and shall take and subscribe an oath before some officer authorized to administer the same, to faithfully and impartially discharge his duties as such arbitrator, which consent and oath shall be immediately filed in the office of the clerk of the district court wherein such arbitrators are to act. When said board is ready for the transaction of business, it shall select one of its members to act as secretary, and the parties to the dispute shall receive notice of a time and place of hearing, which shall be not more than ten days after such agreement to arbitrate has been filed.

[Acts 1925, S.B. 84.]

Art. 244. Powers and Duties of Chairman and Board

The chairman shall have power to administer oaths and to issue subpoenas for the production of books and papers and for the attendance of witnesses, to the same extent that such power is possessed by a court of record, or the judge thereof, in this State. The board may make and enforce the rules for its government and transaction of the business before it and fix its sessions and adjournment, and shall hear and examine such witnesses as may be brought before the board, and such other proof as may be given relative to the matter in dispute.

[Acts 1925, S.B. 84.]

Art. 245. Adjudication Terminates Powers

When said board shall have rendered its adjudication and determination, its powers shall cease, unless there may be at the time in existence other similar grievances or disputes between the same class of persons mentioned in the first article of this subdivision, and in such case such persons may submit their differences to said board, which shall have power to act and adjudicate and determine the same as fully as if said board were originally created for the settlement of such difference or differences.

[Acts 1925, S.B. 84.]

Art. 246. Status Quo Preserved

During the pendency of such arbitration it shall not be lawful for the employer or receiver party to such arbitration, nor his agent, to discharge the employes parties thereto, except for inefficiency, violation of law, or neglect of duty, or where reduction of force is necessary, nor for the organization representing such employes to order, nor for the employes to unite in, aid or abet strikes or boycotts against such employer or receiver.

[Acts 1925, S.B. 84.]

Art. 247. Compensation

Each of the said board of arbitrators shall receive three dollars per day for every day in actual service, not to exceed ten days, and traveling expenses not to exceed five cents per mile actually traveled in getting to, or returning from, the place where the board is in session. The fees of witnesses of the aforesaid board shall be fifty cents for each day's attendance and five cents per mile traveled by the nearest route to, and returning from, the place where attendance is required by the board. All subpoenas shall be signed by the secretary of the board and may be served by any person of full age authorized by the board to serve the same. And the fees and mileage of witnesses and the per diem and traveling expenses of said arbitrators shall be taxed as costs against either or all of the parties to said arbitration, as the board of arbitrators may deem just, and shall constitute part of their award; and each of the parties to said arbitration shall, before

the arbitrators proceed to consider the matters submitted to them, give a bond, with two or more good and sufficient sureties, in an amount to be fixed by the board of arbitration, conditioned for the payment of all expenses connected with the said arbitration.

[Acts 1925, S.B. 84.]

Art. 248. Award to Take Effect When

The award shall be made in triplicate. One copy shall be filed in the district clerk's office, one copy shall be given to the employer or receiver, and one copy to the employés or their duly authorized representative. The award, being filed in the District Clerk's office, as hereinbefore provided, shall go into practical operation, and judgment shall be entered thereon accordingly, at the expiration of ten days from such filing, unless within such ten days either party shall file exceptions thereto for matter of law apparent on the record; in which case said award shall go into practical operation, and judgment shall be rendered accordingly, when such exceptions shall have been fully disposed of by either said district court or on appeal therefrom.

[Acts 1925, S.B. 84.]

Art. 249. Judgment entered

In civil cases, at the expiration of ten days from the decision of the district court, upon exceptions taken to said award as aforesaid, judgment shall be entered in accordance with said decision, unless during the said ten days either party shall appeal therefrom to the court of appeals holding jurisdiction thereof. In such case, only such portions of the record shall be transmitted to the appellate court as is necessary to the proper understanding and consideration of the questions of law presented by said exceptions and to be decided. The determination of said court of appeals, upon said questions shall be final, and being certified by the clerk of said court of appeals, judgment pursuant thereto shall thereupon be entered by said district court. If exceptions to an award are finally sustained, judgment shall be entered setting aside the award; but in such case the parties may agree upon a judgment to be entered disposing of the subject matter of the controversy, which judgment, when entered, shall have the same force and effect as judgment entered upon an award.

[Acts 1925, S.B. 84. Amended by Acts 1981, 67th Leg., p. 762, ch. 291, § 2, eff. Sept. 1, 1981.]

Section 149 of the 1981 amendatory act provides, in part:
 "This Act takes effect on September 1, 1981. Appeals to the courts of appeals filed on or after that date shall be filed in the court of appeals having jurisdiction."

TITLE 10A

ARCHITECTS

Art.

- 249a. Regulation of Practice of Architecture.
- 249b. Temporary Provisions.
- 249c. Regulation of Practice of Landscape Architecture.
- 249d. Construction Contracts; Indemnification of Architects or Engineers; Covenants.

Art. 249a. Regulation of Practice of Architecture

Architects to Register

Sec. 1. In order to safeguard life, health, and property, and the public welfare, and in order to protect the public against the irresponsible practice of the profession of architecture by properly defining and regulating the practice of architecture, no person shall practice architecture, as herein defined, within this State, after ninety (90) days after the appointment and qualification of the members of the Board of Architectural Examiners hereinafter created, unless he be a registered architect, as provided by this Act.

Board of Architectural Examiners Created; Qualifications; Term of Office; Vacancies

Sec. 2. There is hereby created a Board of Architectural Examiners to be known as the Texas Board of Architectural Examiners, and such Board shall consist of four (4) reputable practicing architects who have resided in the State of Texas and have been actively engaged in the practice of architecture for five (5) years next preceding their appointment, two (2) members who are licensed landscape architects under the laws of this State, and three (3) members of the general public who are not registered architects or licensed landscape architects and who do not have, other than as consumers, financial interests in the practice of architecture or landscape architecture. Members of the Board are appointed by the Governor of this State. Members hold office for staggered terms of six years. The terms of office of the appointees who fill the offices of incumbent members whose terms expire June 21, 1981, 1983, and 1985, shall expire January 31, 1987, 1989, and 1991, respectively. All succeeding members shall serve until January 31 of odd-numbered years. All vacancies occurring in the membership of said Board shall be filled by appointment by the Governor of this State for the unexpired term of such membership. All appointments to said Board shall be subject to confirmation by the Texas Senate.

Not more than one (1) member of said Board shall be a stockholder or owner of any interest in, nor be a member of the faculty, or board of trustees, or

other governing board of, nor be an officer of, any school or college which teaches architecture or landscape architecture.

A member of said Board shall not be disqualified for, nor prohibited from, performing any work or rendering any service on any State, county, municipal, or other public building or work for a fee or other direct compensation because of membership on said Board.

Appointments to the Board shall be made without regard to the race, creed, sex, religion, or national origin of the appointees.

Failure of a Board member to attend at least one-half of the regularly scheduled meetings held each year automatically removes the member and creates a vacancy on the Board.

A member or employee of the Board may not be an officer, employee, or paid consultant of a professional society in the architecture and landscape architecture professions.

A member or employee of the Board may not be related within the second degree by affinity or within the second degree by consanguinity to a person who is an officer, employee, or paid consultant of a professional society in the regulated profession.

Application of Sunset Act

Sec. 2a. The Board of Architectural Examiners is subject to the Texas Sunset Act;¹ and unless continued in existence as provided by that Act the board is abolished, and this Act expires effective September 1, 1991.

¹ Article 5429k.

Oath; Organization of Board; Bond of Secretary-Treasurer; Powers and Duties; Rules and Regulations; Open Meetings; Procedure

Sec. 3(a). The members of the Texas Board of Architectural Examiners shall, before entering upon the discharge of their duties, qualify by subscribing to, before a Notary Public or other officer authorized by law to administer oaths, and filing with the Secretary of State, the Constitutional oath of office. They shall, as soon as organized, and annually thereafter in the month of January, elect from their number a chairman and vice-chairman. A secretary-treasurer of this Board shall be appointed by the Board and shall hold office at the pleasure of the Board. The secretary-treasurer may, but need not, be a Member of the Board. The secretary-treasurer, before entering upon his duties, shall make

and file a bond of not less than Five Thousand Dollars (\$5,000.00) with the State Comptroller. Said bond shall be payable to the Governor of this State for the benefit of said Board; shall be conditioned upon the faithful performance of the duties of such officer, and shall be in such form as may be approved by the Attorney General of this State; and shall be executed by a surety company, as surety, and be approved by the Texas Board of Architectural Examiners. The premium on the bond shall be paid from the Architects Registration Fund.

(b). The Board shall adopt all reasonable and necessary rules, regulations, and by-laws not inconsistent with the Texas Constitution, the laws of this State, and this Act for the performance of their duties in administering this Act. If the appropriate standing committees of both houses of the legislature acting under Subsection (g), Section 5, Administrative Procedure and Texas Register Act, as added (Article 6252-13a, Vernon's Texas Civil Statutes), transmit to the Board statements opposing adoption of a rule under that section, the rule may not take effect, or if the rule has already taken effect, the rule is repealed effective on the date the Board receives the committees' statements. The Board shall adopt a seal, which shall be used on official documents. The design of the seal shall be similar to the seal of other departments of the State, in that it shall contain the five-pointed star with a circular border, and within the border shall contain the words, "Texas Board of Architectural Examiners".

(c). The secretary-treasurer of the Board shall keep a correct record of all the proceedings of the Board and of all moneys received or expended by the Board, which record shall be open to public inspection at all reasonable times. The records shall reflect all renewals or refusals of certificates of registration; and they shall also contain the name, known place of residence, and the date and serial number of the registration certificate of every registered architect entitled to practice his or her profession in this State, and a record of all renewals of such certificates.

(d). The Board shall cause the prosecution of all persons violating any of the provisions of this Act, and may incur the expense reasonably necessary in that behalf.

(e). The Board is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

**Fees; Architects Registration Fund; Office;
Employees; Compensation**

Sec. 4(a). All fees collected or money derived under the provisions of this Act shall be received and accounted for by the secretary-treasurer. All of these funds which are received shall be paid weekly to the State Treasurer, who shall keep this

money in a separate fund to be known as the Architects Registration Fund. This fund shall be paid out only by warrants of the State Comptroller, upon itemized vouchers, approved by the chairman or acting chairman and attested by the secretary-treasurer of the Board. Disbursements shall not in any way be a charge upon the General Revenue Fund of this State.

(b). To aid the Board in performing its duties, the Board shall maintain an office in Austin, Travis County, Texas. The Board may employ an executive director to conduct the affairs of the Board under the Board's direction. The executive director shall receive a salary which the Board shall determine. The Board shall employ clerical help and assistants as are necessary for the proper performance of its work and may make expenditures for this purpose. A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes), may not serve as a member of the Board or act as the general counsel to the Board.

(c). Each member of the Board shall receive as compensation the sum of Twenty-Five Dollars (\$25.00) per day for each day he is actually engaged in the duties of his office, including time spent in necessary travel, together with all legitimate expenses incurred in the performance of his duties. All per diem and expenses incurred under this Act shall be paid from the Architects Registration Fund as provided in this Act.

**Quorum; Meetings; Rules and Regulations;
Enforcement; Complaints**

Sec. 5(a). A majority of the membership of the Board shall constitute a quorum. Regular meetings of the Board shall be held at such times as the Board may fix and determine. Special meetings of the Board shall be called by the chairman, or in his absence from the State, or inability to act, by the vice-chairman of the Board.

(b). In addition to the powers and duties granted to the Board by other provisions of this Act, the Board may make all rules consistent with the laws and constitution of this State which are reasonably necessary for the proper performance of its duties, the regulation of the practice of architecture and the examination and registration of applicants to practice architecture in this State, and the enforcement of this Act.

(c). The Texas Board of Architectural Examiners is hereby empowered and authorized to enforce such rules and regulations, the provisions of this Act, and the statutes of this state pertaining to the practice of architecture, by applying to a court of competent jurisdiction in the county of the residence of the defendant or the county where the violation occurred for relief by injunction, restraining order, or such other relief as may be available from such court, in order to enjoin or restrain a person, firm,

corporation, partnership or any other group or combination of persons from the commission of any act which is contrary to or in violation of such rules, regulations or statutes. The Board has the right to institute these actions in its own name. The remedy provided by this section shall be in addition to any other remedy provided by law. The Board may be represented by the Attorney General, the District Attorney, or the County Attorney, and by other counsel when necessary.

(d). The Board may not promulgate rules restricting competitive bidding or advertising by licensees except to prohibit false, misleading, or deceptive practices.

(e). The Board shall keep an information file about each complaint filed with the Board relating to a licensee. If a written complaint is filed with the Board relating to a licensee, the Board, at least as frequently as quarterly, shall notify the complainant of the status of the complaint until the complaint is finally disposed of.

Meetings; Examinations; Fee; Certificate

Sec. 6(a). It shall be the duty of the Texas Board of Architectural Examiners to hold meetings at least twice each year at such times and places as the Board may determine for the purpose of transacting its business and to examine all applicants for license to practice architecture in this State on any subjects and procedures pertaining to architecture which the Board in its discretion may require.

Text of (b) as amended by Acts 1983, 68th Leg., p. 358, ch. 81, § 4(a)

(b). Each person applying for examination shall pay to the Board a uniform fee to be fixed by the Board, but which shall not exceed Three Hundred Dollars (\$300.00). The Board shall report to each applicant within a reasonable time after the examination whether or not the applicant passed or failed the examination. An applicant who has passed the examination shall be granted a certificate to practice architecture in this State. The original certificate herein provided for shall be valid for the balance of the current registration year and must be renewed each year thereafter in the manner and time provided by law.

Text of (b) as amended by Acts 1983, 68th Leg., p. 4518, ch. 737, § 1

(b). Each person applying for examination shall pay to the Board a uniform fee prescribed by the Board in an amount that is reasonable and necessary to defray the cost of administering the examination. The Board shall report to each applicant within a reasonable time after the examination whether or not the applicant passed or failed the examination. An applicant who has passed the examination shall be granted a certificate to practice architecture in this State. The original certificate herein provided for shall be valid for the balance of the current registration year and must be renewed

each year thereafter in the manner and time provided by law.

(c). A person shall be notified of the results of an examination taken by the person within 30 days after the testing date. However, if an examination given under this Act is graded or reviewed by a national testing service, the Board shall notify examinees of the results of the examination within two weeks after the Board's receipt of the results from the national testing service. In no event shall more than 90 days elapse between the testing date and notification of the results unless the Board notifies the examinees of the reason for the delay in notification. The Board shall send to the person not later than the 30th day after the day on which the request is received by the Board an analysis of the person's performance on the examination.

Qualifications of Applicants for Registration

Sec. 7(a). An applicant for examination for registration as an architect in this State shall present a diploma from and be a graduate of a recognized university or college of architecture approved by the Board and shall also present evidence acceptable to the Board of such applicant's having had satisfactory experience in architecture, in the office or offices of one or more legally practicing architects, as prescribed in the rules and regulations adopted by the Board.

(b). Repealed by Acts 1973, 63rd Leg., p. 806, ch. 361, § 11, eff. June 12, 1973.

(c). The Board shall accept for examination, an applicant, although not a graduate as above required, who possesses all of the other qualifications and furnishes evidence acceptable to the Board of his having completed not less than eight years' satisfactory experience in architecture in the office or offices of one or more legally practicing architects, or any combination of architectural schooling and experience totaling eight years; provided, however, in accordance with its rules and regulations, the Board may permit such applicant to take the qualifying test for the examination after five years of such experience.

Licensees from Other States or Countries; Fees

Sec. 8(a). The Texas Board of Architectural Examiners may, in its discretion in each instance, grant a certificate to practice architecture in this State to an architect who possesses a valid and current certificate or license to practice architecture in another State or territory of the United States of America or of another country, where the requirements and qualifications of such other jurisdiction were equal to or the equivalent of the requirements of the Texas Board of Architectural Examiners at the time of the granting of the certificate or license to practice architecture in the other jurisdiction. An applicant for a certificate under this section shall possess all of the other qualifications prescribed in this Act for other applicants and shall

make application in the same manner and form as any other applicant; and such applicant shall furnish the Board such documents and other evidence concerning his application and qualifications as will substantiate his qualifications.

(b). All applications under this Section shall be accompanied by a fee of One Hundred Dollars (\$100.00) payable to the Texas Board of Architectural Examiners for the processing and investigating of the application so filed and for the issuance of the certificate herein provided for. The provisions of this section shall apply only where the laws, legal requirements and regulations of such other jurisdiction extend like or similar privileges to practice architecture in such other jurisdiction to registered architects of this State.

Seal; Restricted Use; Penalty

Sec. 9. Every registered architect shall obtain and keep a seal, such as is authorized, prescribed, and approved by the Texas Board of Architectural Examiners, with which he or she shall stamp or impress all drawings or specifications issued from his or her office for use in this State. The design of the seal shall be the same as that to be used by the Texas Board of Architectural Examiners, except that it shall bear the words "Registered Architect, State of Texas" instead of "Texas Board of Architectural Examiners." No person, firm, partnership, corporation or any other group or combination of persons shall use or attempt to use such prescribed seal, or any similar seal, or replica thereof unless the use is by and through an architect duly registered under the provisions of this Act. No architect duly registered under this Act shall authorize or permit the use of his seal by any unregistered person, firm, corporation, partnership or any other group or combination of persons without his personal supervision, and a violation hereof shall be grounds for cancellation of the registration certificate of any such offending architect.

Practice of Architecture Defined; Exceptions

Sec. 10(a). "Practice of Architecture" shall mean any service or creative work, either public or private, applying the art and science of developing design concepts, planning for functional relationships and intended uses, and establishing the form, appearance, aesthetics, and construction details, for any building or buildings, or environs, to be constructed, enlarged or altered, the proper application of which requires architectural education, training and experience. "Practice architecture" or "practicing architecture" shall mean performing or doing, or offering or attempting to do or perform any service, work, act or thing within the scope of the practice of architecture.

(b). Notwithstanding any other provision of this Act or any rule or regulation of the Board of Architectural Examiners, it is the intent of this Act to acknowledge the necessity of professional interrelations and cooperation between the professions

for the benefit of the public and to achieve the highest standards in design, planning, and building. Therefore, nothing in this Act or any such rule or regulation, heretofore or hereafter adopted, shall be construed or given effect in any manner whatsoever so as to prevent, limit or restrict any professional engineer licensed under the laws of this State from performing any act, service or work within the definition of the practice of professional engineering as defined by the Texas Engineering Practice Act.¹

(c). Nothing in this Act shall be construed as curtailing draftsmen, clerks of the works, superintendents and other employees of registered architects or engineers, under provisions of this Act from acting under the instructions, control or supervision of such architect or engineer employers.

(d). Nothing in this Act may be construed as curtailing any regular full time employee of a privately owned public utility or cooperative utility and/or affiliates who is engaged solely and exclusively in performing services for such utility and/or its affiliates. This exemption includes the use of job titles and personnel classifications by such persons not in connection with any offer of architectural services to the public, providing that no name, title, or words are used which tend to convey the impression that an unlicensed person is offering architectural services to the public.

(e). Nothing in this Act shall be construed to prohibit the use of the title "Landscape Architect" by qualified persons or to limit the practice of landscape architecture.

(f). Nothing in this Act shall be construed to prohibit the use of the title "Interior Designer" or "Interior Decorator" by qualified persons or to limit the practice of interior designing or interior decorating.

(g). Nothing in this Act shall prevent registered professional engineers licensed under the laws of this State from planning and supervising work, such as railroad, hydroelectric work, industrial plants, or other construction primarily intended for engineering use or structures incidental thereto, nor prevent said engineers from planning, designing, or supervising the mechanical, electrical, or structural features of any building.

(h). A firm, partnership, association or corporation, including firms, partnerships, corporations and joint stock associations carrying on the practice of engineering under Section 17 of the Texas Engineering Practice Act, may engage in the practice of architecture and may hold itself out to the public as offering architectural services, provided that the actual practice of architecture on behalf of such firms, partnerships or corporations is carried on, conducted and performed only by architects registered, and licensed in this State.

(i). No firm, partnership, association, or corporation may engage in the practice of architecture, or hold itself out to the public as being engaged in the

practice of architecture or use the word "architect" or "architecture" in its name in any manner unless all architectural services are rendered by and through persons to whom registration certificates have been duly issued, and which certificates are in full force and effect.

¹ Article 3271a.

Revocation or Cancellation of Certificates

Sec. 11. Registration certificates of architects issued in accordance with this Act shall remain in full force and effect until expiration date unless revoked or suspended for cause as herein provided. The registration certificate and right of any person to practice architecture in this State may be revoked and cancelled by the Texas Board of Architectural Examiners after due notice and hearing and upon the proof of the violation of the law in any respect in regard thereto, or for any cause for which the Texas Board of Architectural Examiners is authorized to refuse to grant registration certificates, or for proof of gross incompetency, or for recklessness in the construction of buildings on the part of the architect designing, planning, or supervising the construction or alteration of same, or for dishonest practice on the part of the holder of such registration certificate. The action of the Board in revoking and cancelling such registration certificate may be appealed to a District Court in the County of residence of the aggrieved party, and such appeal shall be trial de novo as in cases from the justice court to the county court.

Annual Registration and Fee; Certificate of Renewal; Failure to Renew; Suspension and Revocation

Sec. 12. All certificates of registration shall expire annually on a date set by the Board as part of a staggered renewal system and shall become invalid on that date unless renewed. It shall be the duty of the secretary-treasurer of the Board to notify every person registered under this Act of the date of expiration of his certificate and the amount of the fee that shall be required for its renewal for one (1) year. The notice shall be mailed at least one (1) month in advance of the date of the expiration of said certificate. Renewal may be effected by the payment of a fee to be set by the Board, but not to exceed Fifty Dollars (\$50.00) for residents nor One Hundred Dollars (\$100.00) for nonresidents. Upon receipt of the required fee within the time and in the manner prescribed by the Board the designated officer or employee of the Board shall issue to the registered architect a certificate of renewal of his registration certificate for the term of one (1) year. Failure to renew a certificate of registration by the expiration date established by the Board shall result in an increase of the renewal fee by Twenty Dollars (\$20.00). If failure to renew shall continue for more than ninety (90) days after the date of expiration of the certificate of registration, such certificate to practice architecture in this State may be revoked and an entry of such revocation made in the official records of the Board; and thereafter the applicant

may be required in the discretion of the Board in each case to take and satisfactorily pass such examination as may be prescribed by the Board, and if the applicant passes such examination successfully the fee to be paid upon the renewal of the registration certificate shall be, in such case, the sum not to exceed One Hundred Dollars (\$100.00) as set by the Board. A registered architect, as herein defined, who is on active duty as a member of the Armed Forces of the United States of America subsequent to October 1, 1940, and who was at the time of his entry into said service or is now in good standing as a registered architect in this State, shall have his name continued on the list of registered architects and shall be exempt from the payment of any further fee during his service, as aforesaid, and until separated from the service; and when his active duty status ceases and he is separated from the service, he shall be exempt from payment of such fee for the then current fiscal year.

Expiration Dates of Registration; Proration of Fees

Sec. 12A. The board by rule shall adopt a system under which registrations expire on various dates during the year. The date for mailing notice of suspension and the period for reinstatement shall be adjusted accordingly. For the year in which the expiration date is changed, registration fees payable on September 30 shall be prorated on a monthly basis so that each registrant shall pay only that portion of the registration fee which is allocable to the number of months during which the registration is valid. On renewal of the registration on the new expiration date, the total registration fee is payable.

Contracts to Contain Certain Information; Public Information Program; Complaint Form

Sec. 12B. (a) In each written contract in which a licensee under this Act agrees to perform architectural services in this state, the licensee shall include the mailing address and telephone number of the board and a statement that the board has jurisdiction over individuals licensed under this Act.

(b) The board shall establish a public information program for the purpose of informing the public about the practice and regulation of architectural services in this state. As part of the program, the board shall prescribe and distribute in a manner that it considers appropriate a standard complaint form and shall make available to the general public and other appropriate state agencies the information compiled as part of the program. The program shall include information to inform prospective applicants for licensing under this Act about the qualifications and requirements for licensing.

Annual Financial Report by Board; Biennial Audit

Sec. 12C. (a) Before September 1 of each year, the board shall file a written report with the legislature and the governor in which the board accounts for all funds received and disbursed by the board during the preceding year.

(b) The state auditor shall audit the financial transactions of the board during each fiscal biennium.

Penalty

Sec. 13. If any person or firm shall, for a fee or other direct compensation, pursue the practice of the profession of architecture in this State as herein defined, or shall engage in this State in the profession or business of planning, designing, or supervising the construction of buildings to be erected or altered by or for other persons than himself, herself, or themselves, and shall advertise, or put out any sign, card, or drawings in this State designating himself, herself, or themselves as an architect, architectural designer, or other title of profession or business using some form of the word "Architect" without first having complied with the provisions of this Act, such person, or the members of such firm, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than Twenty-five Dollars (\$25.00) and not more than Two Hundred Dollars (\$200.00) for each offense; and each and every day of violation of this Act as above set forth shall constitute a separate offense.

Exceptions from Act

Sec. 14. This Act shall not apply:

1. To the practice of architecture solely as an officer or employee of the United States, but persons so engaged or employed shall not engage in the private practice of architecture in this State without first having a registration certificate as herein provided;

2. To legally qualified architects residing in another State or county outside the border of the United States, who do not maintain nor open offices in this State, who agree to perform or hold themselves out as able to perform any of the professional services involved in the practice of architecture, provided that when performing the architectural service in this State, they shall employ a resident registered architect of this State as a consultant, or shall act as a consultant of a registered architect in this State or shall register as an architect in this State as provided by this Act;

3. To the preparation of plans and specifications for and the supervision of the alteration of any building not involving substantial and major structural changes;

4. To the preparation of plans and specifications for and the supervision of the construction, enlargement, or alteration of private buildings which are used exclusively for farm, ranch, or agricultural purposes or used exclusively for storage of raw agricultural commodities.

5. To any person or firm who prepares plans and specifications for the erection or alteration of a building, or supervises the erection or alteration of a building by or for other persons than himself, or themselves, but does not in any manner represent

himself, herself, or themselves to be an architect, architectural designer, or other title of profession or business using some form of the word "architect."

[Acts 1937, 45th Leg., p. 1279, ch. 478. Amended by Acts 1941, 47th Leg., p. 478, ch. 301, § 1; Acts 1943, 48th Leg., p. 254, ch. 155, § 1; Acts 1951, 52nd Leg., p. 413, ch. 259, § 1; Acts 1951, 52nd Leg., p. 835, ch. 473, §§ 2 to 11; Acts 1955, 54th Leg., p. 1303, ch. 515, § 1; Acts 1969, 61st Leg., p. 2377, ch. 802, §§ 1 to 10, eff. June 14, 1969; Acts 1973, 63rd Leg., p. 626, ch. 266, § 14; Acts 1973, 63rd Leg., pp. 801 to 806, ch. 361, §§ 1 to 11, eff. June 12, 1973; Acts 1975, 64th Leg., p. 792, ch. 305, § 1, eff. May 27, 1975; Acts 1977, 65th Leg., p. 1835, ch. 735, § 2.023, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 1384, ch. 619, §§ 1 to 7, eff. Sept. 1, 1979; Acts 1983, 68th Leg., p. 358, ch. 81, § 4(a), eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 4518, ch. 737, § 1, eff. Aug. 29, 1983.]

Section 10 of the 1979 amendatory act provides as follows:

"(a) A person holding office as a member of the Texas Board of Architectural Examiners on September 1, 1979, continues to hold the office for the term for which the member was originally appointed.

"(b) The offices of the two landscape architect members of the Texas State Board of Landscape Architects whose terms expire August 31, 1981, or August 31, 1983, are transferred to the Texas Board of Architectural Examiners. The persons holding these offices continue to hold office as the landscape architect members of the architectural examiners board. The landscape architect member whose term on the landscape architects board would expire August 31, 1981, serves on the architectural examiners board for a term expiring June 21, 1981. The landscape architect member whose term on the landscape architects board would expire August 31, 1983, serves on the architectural examiners board for a term expiring June 21, 1983.

"(c) The governor shall appoint to the Texas Board of Architectural Examiners a public member for a term expiring June 21, 1985. The governor shall appoint to the architectural examiners board a public member to fill the office of an incumbent architect member whose term expires June 21, 1981, and a public member to fill the office of an incumbent architect member whose term expires June 21, 1983."

Art. 249b. Temporary Provisions

Acts 1943, 48th Leg., p. 406, ch. 274, § 1, as amended and reenacted by Acts 1947, 50th Leg., p. 1012, ch. 430, § 1, Acts 1967, 60th Leg., p. 1765, ch. 667, § 1 and Acts 1971, 62nd Leg., p. 2451, ch. 791, § 1 read: "That any person of good moral character who on May 22, 1937, was practicing architecture in Texas and had been engaged in the practice of architecture for a period of six months prior to May 22, 1937, and who shall present to the Board of Architectural Examiners of this state an affidavit to that effect, shall be entitled to receive from said Board without examination a certificate authorizing him or her to practice architecture in the State of Texas without examination upon payment to the Secretary-Treasurer of the Board a fee of \$25.00, and the Secretary-Treasurer of the Board shall thereupon issue a registration certificate as above required to each such person having complied with the provisions of this Act; provided, however, that the Board may, in its discretion, require further evidence than the affidavit hereinabove provided for that the applicant was actually engaged in the practice of architecture on May 22, 1937, and for six months prior thereto. Such practicing architect shall be required to file his or her application for registration under this Act within ninety (90) days from the date this Act goes into effect."

Art. 249c. Regulation of Practice of Landscape Architecture

Definitions

Sec. 1. As used in this Act:

(a) "Landscape architect" means a person licensed to practice or teach landscape architecture in this state as provided herein.

(b) "Landscape architecture" means the performance of professional services such as consultation, investigation, research, preparation of general development and detailed design plans, studies, specifications, and responsible supervision in connection with the development of land areas where, and to the extent that, the principal purpose of such service is to arrange and modify the effects of natural scenery for aesthetic effect, considering the use to which the land is to be put. Such services concern the arrangement of natural forms, features, and plantings, including the ground and water forms, vegetation, circulation, walks, and other landscape features to fulfill aesthetic and functional requirements but shall not include any services or functions within the definition of the practice of engineering, public surveying, or architecture as defined by the laws of this state.

(c) "Board" means the Texas Board of Architectural Examiners.

(d) "Person" means a natural person except where otherwise specifically indicated.

(e) "Secretary" means the secretary-treasurer of the board as herein provided.

Exemptions

Sec. 2. (a) The provisions of this Act do not apply to nor affect laws relating to a professional engineer, building designer, land surveyor, nurseryman, or an architect (except landscape architect), respectively.

(b) Every agriculturist, agronomist, horticulturist, forester, gardener, contract gardener, garden or lawn caretaker, nurseryman, grader or cultivator of land and any person making plans for property owned by himself is exempt from registration under the provisions of this Act, provided however, none of the foregoing shall use the title or term "landscape architect" in any sign, card, listing, or advertisement or represent himself to be a "landscape architect" without complying with the provisions of this Act.

Staff

Sec. 3. The board may employ staff necessary to administer this Act.

Rules

Sec. 4. The board may adopt rules and prescribe forms necessary to administer this Act. If the appropriate standing committees of both houses of the legislature acting under Subsection (g), Section 5, Administrative Procedure and Texas Register Act, as added (Article 6252-13a, Vernon's Texas Civil Statutes), transmit to the board statements opposing adoption of a rule under that section, the rule may not take effect, or if the rule has already

taken effect, the rule is repealed effective on the date the board receives the committees' statements.

Qualifications for Registration

Sec. 5.

Text of (a) as amended by Acts 1983, 68th Leg., p. 359, ch. 81, § 4(b)

(a) No person shall represent himself as a landscape architect, as defined herein, unless such person has previously qualified to be licensed under this Act or satisfactorily passes the examination as may be prescribed by the board to be licensed as provided herein. The following persons shall be qualified for registration and receive a license: any person who is over the age 18 years and having or holding a degree from a school whose study of landscape architecture is approved by the board, or shall have had not less than seven years' actual experience in the office of a licensed landscape architect, may apply for examination and such application shall be accompanied by a fee not to exceed \$250 as set by the board. The examination to be approved by the members of the board and given by the board at its office in Austin, Travis County, Texas, or such other place as the board may determine or designate.¹ The scope of the examination and the methods of procedure shall be prescribed by the board with special reference to the applicant's ability which will insure safety to the public welfare and the property rights.

Text of (a) as amended by Acts 1983, 68th Leg., p. 1098, ch. 247, § 1

(a) From and after the effective date of this Act, no person shall represent himself as a landscape architect, as defined herein, unless such person has previously qualified to be licensed under this Act or satisfactorily passes the examination as may be prescribed by the board to be licensed as provided herein. The following persons shall be qualified for registration and receive a license: any person who is over the age of 18 years and having or holding a degree from a school whose study of landscape architecture is approved by the board, or shall have had not less than seven years' actual experience in the office of a licensed landscape architect, may apply for examination. The application must be accompanied by a registration fee set by the board in an amount that is reasonable and necessary to defray administrative costs. The examination to be approved by the members of the board and given by the board at its office in Austin, Travis County, Texas, or such other place as the board may determine or designate.¹ The scope of the examination and the methods of procedure shall be prescribed by the board with special reference to the applicant's ability which will insure safety to the public welfare and the property rights.

(b) A person shall be notified of the results of an examination taken by the person within 30 days after the testing date. However, if an examination

given under this Act is graded or reviewed by a national testing service, the board shall notify examinees of the results of the examination within two weeks after the board's receipt of the results from the national testing service. In no event shall more than 90 days elapse between the testing date and notification of the results unless the board notifies the examinees of the reason for the delay in notification. If requested in writing by a person who fails the examination, the board shall send to the person not later than the 30th day after the day on which the request is received by the board an analysis of the person's performance on the examination.

¹ So in enrolled bill.

Reciprocal Provisions

Sec. 6. The board shall certify for registration without examination an applicant who is legally registered as a landscape architect in any state or country whose requirements for registration are at least substantially equivalent to the requirements of this state. Such application shall be accompanied by a fee to be determined by the board.

Certificates of Registration

Sec. 7. All certificates of registration shall expire each year on the day set by the board as part of a staggered renewal system and shall become invalid on that date unless renewed. It shall be the duty of the secretary-treasurer of the board to notify every person registered under this Act of that date of expiration of his certificate and the amount of the fee that shall be required for its renewal for one year; such notice shall be mailed at least one month in advance of the date of the expiration of said certificate. Renewal may be effected by payment of the fee as prescribed and set by the board. Upon receipt of the required fee within the time and in the manner prescribed by the board, the designated officer or employee of the board shall issue to the licensed landscape architect a certificate of renewal of his registration certificate for the term of one year. Failure to renew a certificate of registration by the expiration date established by the board shall result in an increase of the renewal fee by \$20. If failure to renew shall continue for more than 90 days after the date of expiration of the certificate of registration, the certificate may be revoked after notice and hearing as provided by this Act and an entry of the revocation made in the official records of the board. An applicant whose certificate is revoked under this section must pass an examination as prescribed by the board. The board shall set the fee for the renewal of the registration certificate in an amount that is reasonable and necessary to defray administrative costs. All renewal certificates shall carry the same registration number as the original certificate.

Expiration Dates of Certificates of Registration; Proration of Fee

Sec. 7A. The board by rule shall adopt a system under which certificates of registration expire on various dates during the year. The date for mailing notice of expiration and the period for renewal shall be adjusted if necessary. For the year in which the expiration date is changed, registration fees payable on August 31 shall be prorated on a monthly basis so that each registrant shall pay only that portion of the registration fee which is allocable to the number of months during which the registration is valid. On renewal of the registration on the new expiration date, the total of the registration fee is payable.

Revocation and Reissuance of Certificates

Sec. 8. (a) The board has the power to revoke the certificate of registration of any registrant who is charged with and found guilty of:

- (1) Violations of provisions of this Act;
- (2) The practice of any fraud or deceit in obtaining a certificate of registration;
- (3) Any gross negligence, incompetency, or misconduct in the practice of landscape architecture;
- (4) Holding himself out to the public or any member thereof as an engineer or making use of the words "engineer," "engineered," "professional engineer," "P.E.," or any other terms tending to create the impression that such registrant is authorized to practice engineering or any other profession unless he is licensed under provisions of Texas Engineering Practice Act¹ or the other applicable licensing law of this state.

(5) Holding himself out to the public or any member thereof as a surveyor or making use of the words "surveyor," "surveyed," "registered public surveyor," "R.P.S.," or any other terms tending to create the impression that such registrant is authorized to practice surveying or any other profession unless he is licensed under the provisions of the Registered Public Surveyors Act² or the other applicable licensing law of this state.

(b) In determining the truth of any such charges the board shall proceed upon sworn information furnished it by any reliable resident of this state; such information shall be in writing and shall be duly verified by the person familiar with the facts therein charged, and three copies of the same shall be filed with the secretary of the board. Upon receipt of such information the board, if it deems the information sufficient to support further action on its part, shall make an order setting the charges therein contained for hearing at a specified time and place, and the secretary of the board shall cause a copy of the board's order and of the information contained in the written charges to be served upon the accused at least 30 days before the date appointed in the order for the hearing. The accused may appear in person or by counsel or both, at the time and place named in the order and make his defense

to the same. The board shall have the power, through its chairman or secretary, to administer oaths and compel the attendance of witnesses before it as in civil cases in the district court, by subpoena issued over the signature of the secretary and the seal of the board.

Any person who may feel himself aggrieved by reason of the revocation of his certificate of registration of the board, as hereinabove authorized, shall have the right to file suit within 30 days of receiving notice of the board's order revoking his certificate or registration in the district court in the county of his residence or the county in which the alleged events relied upon, and grounds for revocation, took place, to annul or vacate the order of the board revoking the certificates of registration; said suit to be filed against the board as defendant, and service of process may be had upon its chairman or secretary. The only issues to be tried in such cause shall be whether such person has been guilty as originally found by the board, which issue shall be by trial de novo, as that term is commonly used in connection with an appeal from the justice of the peace court to the county court, and the substantial evidence rule shall not apply.

¹ Article 3271a.

² Article 5282a (repealed; see, now art. 5282c.

Restrictions on Advertising and Competitive Bidding

Sec. 8A. The board may not adopt rules restricting advertising or competitive bidding by licensees except to prohibit false, misleading, or deceptive practices by licensees.

Complaints

Sec. 8B. The board shall keep an information file about each complaint filed with the board relating to a licensee. If a written complaint is filed with the board relating to a licensee, the board, at least as frequently as quarterly, shall inform the complainant of the status of the complaint until the complaint is finally disposed of.

Consumer Information

Sec. 8C. (a) In each written contract in which a licensee under this Act agrees to perform landscape architecture in this state, the licensee shall include the mailing address and telephone number of the board and a statement that the board has jurisdiction over individuals licensed under this Act.

(b) The board shall establish a public information program for the purpose of informing the public about the practice and regulation of landscape architecture in this state. As part of the program, the board shall prescribe and distribute in a manner that it considers appropriate a standard complaint form and shall make available to the general public and other appropriate state agencies the information compiled as part of the program. The program shall include information to inform prospective applicants for licensing under this Act about the qualifications and requirements for licensing.

Violations and Penalties

Sec. 9. (a) A person who represents himself to be a landscape architect in this state without being registered or exempted in accordance with the provisions of this Act, or any person presenting or attempting to use as his own, the certificate of registration or the seal of another, or any person who shall give any false or forged evidence of any kind to the board or to any member thereof in obtaining or assisting in attaining for another a certificate of registration, or any person who shall violate any of the provisions of this Act, shall be fined not less than \$25 nor more than \$200. Each day of such violation shall be a separate offense.

(b) The attorney general or his assistants shall act as legal advisor of the board and shall render such legal assistance as may be necessary in enforcing and making effective the provisions of this Act, provided that this shall not relieve the local prosecuting officers of any of their duties under the law as such.

(c) The board may enforce this Act or rules adopted by the board under this Act in the manner provided for enforcement by Subsection (c), Section 5, Chapter 478, Acts of the 45th Legislature, Regular Session, 1937, as amended (Article 249a, Vernon's Texas Civil Statutes), and the rules adopted under that section.

Fees

Sec. 10. Every landscape architect shall pay an annual fee as set by the board as provided in Section 7 hereof. The fee shall be due and payable each year on the day set by the board.

All sums of money paid to the board under the provisions of this Act, shall be deposited in the treasury of the State of Texas, and placed in a special fund to be known as the Landscape Architects Fund, formerly known as the Texas State Board of Landscape Architect's and Irrigator's Fund, and may be used only for the administration of this Act.

[Acts 1969, 61st Leg., p. 1516, ch. 457, eff. Sept. 1, 1969. Amended by Acts 1973, 63rd Leg., p. 626, ch. 266, § 15, eff. June 11, 1973; Acts 1973, 63rd Leg., p. 1731, ch. 629, § 1, eff. Aug. 27, 1973; Acts 1977, 65th Leg., p. 1835, ch. 735, § 2.024, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 1388, ch. 619, § 8, eff. Sept. 1, 1979; Acts 1983, 68th Leg., p. 359, ch. 81, § 4(b), eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 1098, ch. 247, §§ 1, 2, eff. Sept. 1, 1983.]

Sections 2 and 3 of Acts 1973, 63rd Leg., p. 1731, ch. 629, provided:

"Sec. 2. A person involved in the business of landscape irrigation or yard sprinkler construction at the time this Act takes effect may, within six months after the effective date of this Act, obtain a landscape irrigator's certificate of registration under Section 1 of this Act without being required to take an examination, but the person must pay the required license fee.

"Sec. 3. The provisions in Section 1 of this Act that a person who is involved in the business of landscape irrigation or yard sprinkler construction must have a landscape irrigator's certificate of registration will not take effect until six months after the effective date of this Act."

Section 9 of the 1979 amendatory act provides as follows:

"The Texas State Board of Landscape Architects is consolidated with the Texas Board of Architectural Examiners. The functions of and the records and other property in the custody of the landscape architects board are transferred to the architectural examiners board. Except as provided by Subsection (b), Section 10 of this Act [see note under art. 249a], the offices of the members of the landscape architects board are abolished."

Art. 249d. Construction Contracts; Indemnification of Architects or Engineers; Covenants

Any covenant or promise, in or in connection with or collateral to any contract or agreement made and entered into by any owner, contractor, subcontractor or supplier relative to the construction, alteration, repair or maintenance of a building, structure, appurtenance, road, highway, bridge, dam, levee, or other improvement to or on real property, including moving, demolition and excavating connected therewith, whereby a registered architect or registered engineer or his agents, servants or employees is indemnified or held harmless by the contractor who is to perform the work from liability for bodily injury or death to persons or damage to property of any person or expenses in connection therewith caused by or resulting from defects in plans, designs or specifications prepared, approved or used by such architect or engineer or negligence of such architect or engineer in the rendition or conduct of professional duties called for or arising out of the contract or agreement and the plans, designs or

specifications which are a part thereof shall be deemed void as against public policy and wholly unenforceable; provided, however, that this Act shall not apply to a contract of insurance or workers' compensation agreement, nor to an owner of an interest in real property and persons employed solely by such owner, and this Act shall not prohibit nor render void or unenforceable any covenant or promise to indemnify or hold harmless such owner, and persons employed solely by such owner, or any covenant or promise to allocate, release, liquidate, limit, or exclude liability between an owner or other person for whose account a contract or agreement within the scope of this section is being performed on the one hand and a registered architect or registered engineer on the other hand, in connection with contracts and agreements of the class described above and further provided that this Act shall not apply to any contract or agreement whereby an architect or engineer or their agents, servants or employees is indemnified from liability for their negligent acts other than those described above or for the negligent acts of the contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

[Acts 1969, 61st Leg., p. 2393, ch. 805, § 1, eff. Sept. 1, 1969. Amended by Acts 1981, 67th Leg., p. 2162, ch. 504, § 1, eff. Aug. 31, 1981.]

TITLE 11

ARCHIVES

1. ARCHIVES OF THE GENERAL LAND OFFICE

Art.

- 250. Enumeration.
- 251. Effect Given to Archives.
- 252. Deeds, Etc.
- 253. Withdrawal.
- 253a. Railway Surveys.

2. OTHER PUBLIC ARCHIVES

- 254. Of State Department.
- 255. Archives of Republic.
- 256. Historical Archives.
- 257. Of Comptroller's Office.
- 258. Other Archives.
- 259. University Archives.
- 260. Loan of Archives.

1. ARCHIVES OF THE GENERAL LAND OFFICE

Art. 250. Enumeration

The following shall be deemed the records, books, and papers of the general land office and constitute a part of the archives of the same:

(1) All the records, books, titles, surveys, maps, papers and documents which in any manner pertain to the lands of the late Republic, or State of Texas, which have been, prior to the eighteenth day of April, A.D. 1876, delivered to the Land Commissioner in pursuance of, and in accordance with, the requirements of any law of the Republic or State of Texas, by any of the empresarios, political chiefs, alcaldes, regidores, commissioners, special or general, for extending titles.

(2) All books, papers, records, documents and archives pertaining to the lands of the Republic or State of Texas that have heretofore been delivered by the Commissioner of the Court of Claims to the Comptroller and by him turned over to the Land Commissioner in pursuance and by authority of law.

(3) All other books, records, papers and archives of the colony of Martin de Leon heretofore delivered by the Secretary of State, in accordance with law, to the Land Commissioner.

(4) The duly certified copy of the book or register of land certificates, usually known as the "Lost Book of Harris County," transmitted to the Land Commissioner by the clerk of the county court, in accordance with law.

(5) All other books, transfers, powers of attorney, field-notes, maps, plats, legal proceedings, official reports, original documents and other papers appertaining to the land of the Republic or State of Texas

that have been deposited or filed in the general land office in accordance with any law of the Republic or of this State.

(6) All owners of land between the Nueces and Rio Grande rivers, under grants or titles from the former government which grants or titles are such as are described in Section 4 of Article 13 of the present Constitution, and have been, previous to the adoption of his¹ Constitution, recorded in the respective counties where the land is situated, but have not yet been deposited or archived in the general land office of this State, be and they are hereby authorized and required to deposit and archive said grants or titles in said general land office. Such titles when so archived, shall be subject to all defenses and objections to which they would have been subject if not so archived; and said act of archiving shall invest said titles with no greater validity than they before had as titles recorded in the proper county; and the Land Commissioner is hereby authorized and required to receive the same as archives of said office.

[Acts 1925, S.B. 84.]

¹ So in enrolled bill. Probably should read "the."

Art. 251. Effect Given to Archives

Nothing in the preceding article shall be construed to give any of the said books, records or other papers named in said article any greater force or validity by reason of their being so recognized as archives of the general land office than was accorded them by the laws in force at the date of their execution and deposit in the general land office.

[Acts 1925, S.B. 84.]

Art. 252. Deeds, Etc.

Deeds and other instruments of writing which were executed or issued prior to the second day of March, A.D. 1836, upon stamped paper of the second or third seal, and which deeds or instruments of writing are not original documents in the general land office, nor expressly declared by law to be archives of the said office, are hereby declared to constitute no part of the archives of said office.

[Acts 1925, S.B. 84.]

Art. 253. Withdrawal

The owners of any land to which the deeds or other instruments of writing named in the preceding article relate, may withdraw the same from the general land office on making a written sworn application therefor, to the Land Commissioner, set-

ting forth the fact of such ownership; and, if the commissioner shall be satisfied that the person applying is in fact the owner of the land to which such deed or instrument of writing relates, he may deliver the same to such applicant, taking his receipt therefor, and describing in such receipt the deed or instrument of writing delivered, with a summary of its contents and the name of the original grantee of the land to which such deed or instrument of writing may relate or refer.

[Acts 1925, S.B. 84.]

Art. 253a. Railway Surveys

The Commissioner of the General Land Office is Authorized and required to procure, accept and file in the General Land Office the original papers relating to the survey of lands by virtue of certificates issued by the State of Texas to The Texas & Pacific Railway Company and its predecessors in title, including the maps, sketches, reports and all papers drawn by the surveyors in making the original as well as the corrected surveys of such lands, which papers, maps, sketches and reports are now in the custody of said railway company. Said Commissioner shall verify the authenticity of such papers, maps, sketches and reports. In the event said Commissioner cannot procure the original papers, maps, sketches and reports above mentioned, he is authorized to procure, accept and file, verified copies thereof, or if he can procure only a portion of the originals, he shall procure and accept such portion and take and file verified copies of those originals which he cannot procure. Thereafter said original papers or verified copies thereof so filed by the Commissioner shall become archives in the General Land Office and the same or certified copies thereof shall be admissible in evidence as are other papers, documents and records and certified copies thereof of such office.

[Acts 1930, 41st Leg., 5th C.S., p. 204, ch. 59, § 1.]

2. OTHER PUBLIC ARCHIVES

Art. 254. Of State Department

The Secretary of State is authorized to take possession of rooms in the basement of the capitol for the use of the State Department and the better preservation of archives.

[Acts 1925, S.B. 84.]

Art. 255. Archives of Republic

The entire archives of the Congress of the Republic of Texas, and of the several Legislatures of this State, arranged and filed according to law, together with the records, books and journals of said Congress and Legislatures, prepared in accordance with law, and heretofore, or hereafter, deposited in the office of the Secretary of State are declared to be archives of said office.

[Acts 1925, S.B. 84.]

Art. 256. Historical Archives

All books, pictures, papers, maps, documents, manuscripts, memoranda and data which relate to the history of Texas as a province, colony, Republic or State, which have been or may be delivered to the State Librarian by the Secretary of State, comptroller, Land Commissioner or by any head of any department, or by any person or officer, in pursuance of law, shall be deemed books and papers of the State Library and shall constitute a part of the archives of said State Library; and copies therefrom shall be made and certified by the State Librarian, or by the person serving as Archivist of the Texas State Library, upon application of any person interested, which certificate shall have the same force and effect as if made by the officer originally in custody of them.

[Acts 1925, S.B. 84.]

Art. 257. Of Comptroller's Office

All books, papers, records and archives, that were heretofore archives of the auditor's office, or of the office of the Commissioner of the Court of Claims, and which have heretofore, in pursuance of law, been delivered to the Comptroller, shall be deemed papers and records of the Comptroller's office, and shall constitute a part of the archives of his office.

[Acts 1925, S.B. 84.]

Art. 258. Other Archives

All books, papers, records, rolls, documents, returns, reports, lists and all other papers that have been, are now, or that may be, required by law to be kept, filed or deposited in any office of the executive departments of this State, shall constitute a part of the archives of the offices in which the same are so kept, filed or deposited.

[Acts 1925, S.B. 84.]

Art. 259. University Archives

The librarian of the University of Texas and the archivist of the Department of History of said University are hereby authorized to make certified copies of all public records in the custody of the University of Texas, and said certified copies shall be valid in law and shall have the same force and effect for all purposes as if certified to by the county clerk or other custodian as now provided for by law. In making the certificate to the said certified copies, either by the librarian or by the archivist of the Department of History, the said officer shall certify that the foregoing is a true and correct copy of said document, and after signing the said certificate shall swear to the same before any officer authorized to take oaths under the laws of this State.

[Acts 1925, S.B. 84.]

Art. 260. Loan of Archives

County Commissioners and other custodians of public records are hereby authorized, in their discretion, to lend to the Library of the University of

Texas, for such length of time and on such conditions as they may determine, such parts of their archives and records as have become mainly of historical value, taking a receipt therefor from the librarian of such University; and the librarian of

said University is hereby authorized to receipt for such records as may be transferred to the said Library, and to make copies thereof for historical study.

[Acts 1925, S.B. 84.]

TITLE 11A

ASSIGNMENTS, IN GENERAL [Repealed]

Art. 260-1. Repealed by Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, § 10-102, eff. June 30, 1966

Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, enacting the Uniform Commercial Code, repealed article 260-1 effective June 30, 1966. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721 was itself repealed by Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the

Business & Commerce Code effective September 1, 1967.

However, the latter Act specifically provided that the repeal did not affect the prior operation of the 1965 Act or any prior action taken under it.

See, now, Business and Commerce Code, § 9.101 et seq.

TITLE 12

ASSIGNMENTS FOR CREDITORS [Repealed]

Arts. 261 to 274. Repealed by Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, § 4, eff. Sept. 1, 1967

Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce

Code, repealed articles 261 to 274 effective September 1, 1967.

See, now, Business and Commerce Code, § 23.01 et seq.

TITLE 13

ATTACHMENT

Art.
275. Who May Issue.
276. What Facts Must Further Appear.
277. Not to Issue until Suit Begun.
278. May Issue on Debt Not Yet Due.
279. Plaintiff Must Give Bond.
279a. Exemption of State, Counties, Etc. from Bond.
280. Repealed.
281. Attachment in Tort or Unliquidated Demand.
282. Writ to Issue Instantly.
283 to 286. Repealed.
287. May Demand Indemnity.
288. Property Subject to Attachment.
289. Repealed.
290. Attachment of Personal Property.
291. Claimant's Bond and Affidavit.
292 to 299. Repealed.
300. Attachment Creates a Lien.
301. Judgment and Foreclosure.
302. Judgment When Property is Replevied.
303. Repealed.

Art. 275. Who May Issue

The judges and clerks of the district and county courts and justices of the peace may issue writs of original attachment, returnable to their respective courts, upon the plaintiff, his agent or attorney, making an affidavit stating:

(1) That the defendant is justly indebted to the plaintiff, and the amount of the demand; and

(2) That the defendant is not a resident of the State, or is a foreign corporation, or is acting as such; or

(3) That he is about to remove permanently out of the State, and has refused to pay or secure the debt due the plaintiff; or

(4) That he secretes himself so that the ordinary process of law can not be served on him; or

(5) That he has secreted his property for the purpose of defrauding his creditors; or

(6) That he is about to secrete his property for the purpose of defrauding his creditors; or

(7) That he is about to remove his property out of the State, without leaving sufficient remaining for the payment of his debts; or

(8) That he is about to remove his property, or a part thereof, out of the county where the suit is brought, with intent to defraud his creditors; or

(9) That he has disposed of his property, in whole or in part, with intent to defraud his creditors; or

(10) That he is about to dispose of his property with intent to defraud his creditors; or

(11) That he is about to convert his property, or a part thereof, into money, for the purpose of placing it beyond the reach of his creditors; or

(12) That the debt is due for property obtained under false pretenses.

[Acts 1925, S.B. 84.]

Art. 276. What Facts Must Further Appear

The affidavit shall further state that the attachment is not sued out for the purpose of injuring or harassing the defendant; and that the plaintiff will probably lose his debt unless such attachment is issued.

[Acts. 1925, S.B. 84.]

Art. 277. Not to Issue until Suit Begun

No such attachment shall issue until the suit has been duly instituted; but it may be issued in a proper cause either at the commencement of the suit or at any time during its progress.

[Acts 1925, S.B. 84.]

Art. 278. May Issue on Debt Not Yet Due

The writ of attachment above provided for may issue, although the plaintiff's debt or demand be not due, and the same proceedings shall be had thereon as in other cases, except that no final judgment shall be rendered against the defendant until such debt or demand shall become due.

[Acts 1925, S.B. 84.]

Art. 279. Plaintiff Must Give Bond

Before the issuance of any writ of attachment, the plaintiff must execute a bond, with two or more good and sufficient sureties, payable to the defendant in an amount to be fixed by the judge or by the justice of the peace issuing the attachment, conditioned that the plaintiff will prosecute his suit to effect, and will pay all such damages and costs as shall be adjudged against him for wrongfully suing out such attachment. Such bond shall be delivered to and approved by the officer issuing the writ, and shall, together with the affidavit, be filed with the papers of the cause.

[Acts 1925, S.B. 84. Amended by Acts 1965, 59th Leg., p. 1336, ch. 607, § 1.]

Art. 279a. Exemption of State, Counties, Etc. from Bond

Neither the State of Texas, nor any county, nor any state department, nor the head of any state department, nor the Federal Housing Administration, nor any National Mortgage Association, nor any National Mortgage Savings and Loan Insurance Corporation created and/or to be created by or under authority of any Act of the Congress of the United States of America as a National Relief Organization operating territorially on a state-wide basis, nor the Veterans Administration, nor the Administrator of Veterans Affairs, shall be required to give any bond incident to any suit filed by any such agency, official, and/or entity, for costs of court or for any appeal or writ of error taken out by it or either of them, nor any surety for the issuance of

any bond for the taking out of writs or attachment, sequestration, distress warrants, or writs of garnishment in any civil suit. Provided that no county or district attorney shall be exempted from the filing of bonds in the taking out of an extraordinary writ, unless said county or district attorney shall first obtain the approval by proper order of the Commissioners Court of the county in behalf of which such action is taken or the approval of the Attorney General in actions brought in behalf of the State.

[Acts 1935, 44th Leg., p. 670, ch. 283, § 1. Amended by Acts 1957, 55th Leg., p. 439, ch. 213, § 1.]

Art. 280. Repealed by Rules of Civil Procedure, Acts 1939, 46th Leg., p. 201, § 1

Art. 281. Attachment in Tort or Unliquidated Demand

Nothing in this title shall prevent the issuance of attachments in suits founded in tort or upon unliquidated demands against persons, co-partnerships, associations or corporations upon whom personal service cannot be obtained within this State. Where the demand is unliquidated, the amount of the bond to be made by the plaintiff shall be fixed by the judge or clerk of the court or by the justice of the peace issuing the attachment. The bond shall be made in the sum so fixed and upon the approval and filing of same the attachment shall issue as in other cases.

[Acts 1925, S.B. 84.]

Art. 282. Writ to Issue Instantly

Upon the execution of such affidavit and bond, it shall be the duty of the judge or clerk, or justice of the peace, as the case may be, immediately to issue a writ of attachment, directed to the sheriff or any constable of any county where property of the defendant is supposed to be, commanding him to attach so much of the property of the defendant as shall be sufficient to satisfy the demand of the plaintiff and the probable costs of the suit.

[Acts 1925, S.B. 84.]

Repealed in Part

Repealed in part by Rules of Civil Procedure, Acts 1939, 46th Leg., p. 201, ch. 25, § 1. See Rules of Civil Procedure, rule 593.

Arts. 283 to 286. Repealed by Rules of Civil Procedure, Acts 1939, 46th Leg., p. 201, § 1

Art. 287. May Demand Indemnity

Whenever an officer shall levy an attachment, it shall be at his own risk. Such officer may, for his own indemnification, require the plaintiff in attachment to execute and deliver to him a bond of indemnity to secure him if it should afterward appear that

the property levied upon by him does not belong to the defendant.

[Acts 1925, S.B. 84.]

Art. 288. Property Subject to Attachment

The writ of attachment may be levied upon such property, and none other, as is, or may be, by law subject to levy under the writ of execution.

[Acts 1925, S.B. 84.]

Art. 289. Repealed by Rules of Civil Procedure, Acts 1939, 46th Leg., p. 201, § 1

Art. 290. Attachment of Personal Property

When personal property is attached, the same shall remain in the hands of the officer attaching until final judgment, unless a claim be made thereto and bond be given to try the right to the same, or unless the same be replevied or be sold as provided by law.

[Acts 1925, S.B. 84.]

Art. 291. Claimant's Bond and Affidavit

Any person other than the defendant may claim the personal property so levied on, or any part thereof, upon making the affidavit and giving bond required by the provisions of the title relating to the trial of the right of property.

[Acts 1925, S.B. 84.]

Arts. 292 to 299. Repealed by Rules of Civil Procedure, Acts 1939, 46th Leg., p. 201, § 1

Art. 300. Attachment Creates a Lien

The execution of the writ of attachment upon any property of the defendant subject thereto, unless the writ should be quashed or otherwise vacated, shall create a lien from the date of such levy on the

real estate levied on and on such personal property as remains in the hands of the attaching officer, and on the proceeds of such personal property as may have been sold.

[Acts 1925, S.B. 84.]

Art. 301. Judgment and Foreclosure

Should the plaintiff recover in the suit, such attachment lien shall be foreclosed as in case of other liens, and the court shall direct the proceeds of the personal property sold to be applied to the satisfaction of the judgment, and the sale of personal property remaining in the hands of the officer and of the real estate levied on, to satisfy the judgment. When an attachment issued from a county or justice court has been levied upon land, no order or decree foreclosing the lien thereby acquired shall be necessary, but the judgment shall briefly recite the issuance and levy of such attachment, and such recital shall be sufficient to preserve such lien. The land so attached may be sold under execution after judgment, and the sale thereof shall vest in the purchaser all the estate of the defendant in attachment in such land, at the time of the levy of such writ of attachment.

[Acts 1925, S.B. 84.]

Art. 302. Judgment When Property is Replevied

When personal property has been levied on, as hereinbefore provided, the judgment shall also be against the defendant and his sureties on his replevy bond for the amount of the judgment, interest and costs, or for the value of the property replevied and interest, according to the terms of such replevy bond.

[Acts 1925, S.B. 84.]

Art. 303. Repealed by Rules of Civil Procedure, Acts 1939, 46th Leg., p. 201, § 1

TITLE 14

ATTORNEYS AT LAW

- Art.**
- 304. Board of Examiners.
 - 304a. Application of Sunset Act.
 - 305. Duties of Board.
 - 305a. Moral Character and Fitness of Applicants.
 - 305b. [Blank].
 - 305c. District Committee on Admissions
 - 306. Authority of Supreme Court.
 - 306a. Exemption from Examination; Membership in Legislature and Service as Judge as Equivalent of Prelegal Study.
 - 307. Repealed.
 - 307A. Licenses to Law Graduates in, or Formerly in, Military Service.
 - 307A-1. Licenses to Certain Former Legislators and War Veterans.
 - 307A-2. Licenses to Certain Graduates Entering Military Service; Application; Affidavit.
 - 307B. Military or Merchant Marine Service; Exemption from Examination in Subjects Passed Prior to.
 - 308. Foreign Attorneys.
 - 309. Oath of Attorney.
 - 310. Fees.
 - 311. Repealed.
 - 312. Misbehavior or Contempt.
 - 313. Disbarment.
 - 314. Complaint.
 - 315. Citation to Issue.
 - 316. Trial.
 - 317. Retention of Client's Money.
 - 318. Repealed.
 - 319. Officers not to Appear.
 - 320. Repealed.
 - 320a-1. State Bar Act.
 - 320b. Prepaid Legal Services Act.
 - 320c. Liability of Attorney for Costs in Civil Proceeding.

Art. 304. Board of Examiners

(a) The Board of Law Examiners shall consist of nine lawyers having the qualifications required of members of the Supreme Court. Members shall be biennially appointed by the Supreme Court and shall each hold office for two years and be subject to removal by the Supreme Court for incompetency or inattention to duty. Any appointment made shall be without regard to race, creed, sex, religion, or national origin.

(b) If a member of the Board has a financial interest, other than a remote financial interest, in a decision pending before the Board, the member is disqualified from participating in the decision.

(c) A person holding office as a member of the Board of Law Examiners on September 1, 1979, continues to hold office for the term for which the member was originally appointed. The terms of

office of all succeeding members expire September 30 of odd-numbered years.

(d) No Board member or employee of the Board shall be an employee or paid consultant of a trade association in the field of Board interest.

(e) A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes), may not act as the general counsel to the Board or serve as a member of the Board.

(f) The Board is subject to the open records law, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-17a, Vernon's Texas Civil Statutes), the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes).

Examination questions that may be used in the future, examinations other than the one taken by the person requesting it, and deliberations and records relating to the moral character and fitness of applicant shall be exempted from the open meetings law and the open records law. Such records, however, shall be disclosed to individual applicants upon written request, unless the person supplying the information requests that it not be disclosed; provided, however, that the Board shall not inquire whether the person objects to disclosure or inform him of his right to do so.

[Acts 1925, S.B. 84. Amended by Acts 1977, 65th Leg., p. 320, ch. 153, § 1, eff. May 13, 1977; Acts 1979, 66th Leg., p. 1253, ch. 594, § 1, eff. Sept. 1, 1979.]

Art. 304a. Application of Sunset Act

The Board of Law Examiners is subject to the Texas Sunset Act,¹ and unless continued in existence as provided by that Act the board is abolished effective September 1, 1991.

[Acts 1977, 65th Leg., p. 1834, ch. 735, § 2.018, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 1253, ch. 594, § 1, eff. Sept. 1, 1979.]

¹ Article 5429k.

Art. 305. Duties of Board

(a) Such Board, acting under instructions of the Supreme Court as hereinafter provided, shall pass upon the eligibility of all candidates for examination for license to practice law within this State, and examine such of these as may show themselves eligible therefor, as to their qualifications to practice law. Such Board shall not recommend any

person for license to practice law unless such person shall show to the Board, in the manner to be prescribed by the Supreme Court, that he is of such moral character and of such capacity and attainment that it would be proper for him to be licensed.

(b) If requested in writing by any applicant for a license who takes and fails an examination administered by the Board, the Board shall furnish to the applicant an oral or written analysis of the applicant's performance on the examination. An oral analysis may be recorded by the applicant.

[Acts 1925, S.B. 84. Amended by Acts 1979, 66th Leg., p. 1253, ch. 594, § 1, eff. Sept. 1, 1979.]

Art. 305a. Moral Character and Fitness of Applicants

(a) The Board may conduct an investigation of the moral character and fitness of an applicant for a license.

(b) The Board may contract with public or private entities for investigative services relating to the moral character and fitness of applicants for licenses.

(c) The Board may not recommend the denial of a license and the Supreme Court may not deny a license to an applicant on the ground of a deficiency in the applicant's moral character or fitness unless:

(1) the Board finds a clear and rational connection between a character trait of the applicant and the likelihood that the applicant would injure a client or obstruct the administration of justice if the applicant is licensed to practice law; or

(2) the Board finds a clear and rational connection between the applicant's present mental or emotional condition and the likelihood that the applicant will not discharge properly the applicant's responsibilities to a client, a court, or the legal profession if the applicant is licensed to practice law.

(d) Each person intending to apply for admission to the bar of this state shall file with the secretary of the Board a Declaration of Intention to Study Law. The declaration shall be filed on a form provided by the Board. Forms provided by the Board for the filing of a Declaration of Intention to Study Law shall clearly identify those conditions of character and fitness provided in Subsection (e) of this article that may be investigated by the Board and that may result in the denial of the declarant's application to sit for the bar examination. Within 180 days after the filing of the declaration the Board shall notify the declarant whether or not it has determined he has acceptable character and fitness. If the Board determines he does not have acceptable character and fitness, the notice shall be accompanied by an analysis of the character investigation which specifies the results of that investigation in detail. The Board shall limit its investigation of the moral character and fitness of an applicant to those areas clearly related to the applicant's moral character and present fitness to practice law.

(e) All candidates to take the bar examination must file an application to take the examination with the secretary of the Board. Applications shall be filed not less than 180 days prior to the first day of the examination in which the applicant wishes to participate. The requirements of the application shall be limited to an affidavit, duly verified, setting forth the following statements that since the filing of his or her original declaration:

(1) the applicant has not been formally charged of any violation of law, excluding cases which have been dismissed for reasons other than technical defects in the charging instrument or in which he has been found not guilty, minor traffic violations, records of arrests or convictions expunged by court order, pardoned offenses, and records of arrests for and convictions of Class C misdemeanors;

(2) the applicant is not mentally ill;

(3) the applicant has not been charged with fraud in any legal proceeding; and

(4) the applicant has not been involved in civil litigation or bankruptcy proceedings that reasonably bear on the applicant's fitness to practice law.

(f) Based on the investigation of the preceding conditions of character and fitness performed after the filing of a Declaration of Intention to Study Law, the filing of an affidavit attesting to the preceding statements on application to take the bar exam, and its investigation into the accuracy of the statements in, or truth of statements omitted from the affidavit required by Subsection (e) of this section, the Board shall assess the applicant's fitness and moral character. If the Board determines the applicant does not possess the requisite good moral character and fitness, the Board shall furnish to the applicant an analysis of the character investigation that specifies the results of that investigation in detail within 150 days after the filing of the application.

[Acts 1934, 43rd Leg., 4th C.S., p. 2, ch. 2, § 1. Amended by Acts 1979, 66th Leg., p. 1253, ch. 594, § 2, eff. Sept. 1, 1979.]

Former art. 305a was repealed by Acts 1979, 66th Leg., p. 1253, ch. 594, § 2, effective September 1, 1979.

Art. 305b. [Blank]

Art. 305c. District Committee on Admissions

(a) For the purpose of aiding the Board in determining the good moral character and the fitness of each declarant to become a member of the profession, there is created a District Committee on Admissions in each of the state bar districts to investigate qualifications for admission to the bar at the time of filing the Declaration of Intention to Study Law only.

(b) A district committee is composed of at least 15 members appointed by the Supreme Court.

(c) Three members of a district committee must be at the time of their appointments representatives of the general public who do not have, other than as consumers, financial interests in the practice of law,

three members must be at the time of their appointments lawyers who are licensed to practice law in the state, and the remaining members must be similarly qualified representatives of the general public or lawyers. In a bar district in which a law school approved by the Supreme Court is located, three members of the committee must be at the time of their appointments law students who are enrolled in a law school in the bar district that is approved by the Supreme Court.

(d) Except for the initial appointees, members of a district committee hold office for two-year terms expiring on January 21 of each odd-numbered year. The initial appointees serve for terms expiring on January 31, 1983.

(e) The Supreme Court shall appoint the chairman of each district committee.

(f) Five members of a district committee constitute a quorum.

(g) The district committee shall aid the Board in investigating the moral character and fitness of a person filing a Declaration of Intent to Study Law.

(h) The Supreme Court shall adopt rules requiring that persons filing Declaration of Intent to Study Law be treated uniformly and impartially by the district committees.

[Acts 1979, 66th Leg., p. 1253, ch. 594, § 2, eff. Sept. 1, 1979.]

Art. 306. Authority of Supreme Court

(a) The Supreme Court is hereby authorized to make such rules as in its judgment may be proper to govern eligibility for such examination and the manner of conducting the same, covering, among other points, proper guarantee to insure:

1. Good moral character on the part of each candidate for license;
2. Adequate pre-legal study and attainment;
3. Adequate study of the law for at least two years, covering the course of study prescribed by the Supreme Court, or the equivalent of such course;
4. The legal topics to be covered by such study and by the examination given;
5. The times and places for holding the examination, the manner of conducting same, and the grades to be made by the candidates to entitle them to be licensed;
6. Any other such matters consistent with this Act as shall be desirable in order to make the issuance of a license to practice law evidence of good character, and fair capacity and real attainment and proficiency in the knowledge of law.

The completion of prescribed study in an approved law school as herein defined shall satisfy the law study requirements for taking the aforesaid examination. An approved law school is hereby defined as one which is approved by the Supreme

Court for the period of time designated by such Court, and as maintaining the additional standards prescribed by the Court. No license to practice law in this state shall be issued by any court or authority except by the Supreme Court of this state, under the provisions of this title. The power granted to the Supreme Court by this Act shall not be delegated.

(b) The Supreme Court shall adopt rules necessary to administer its functions and to govern the administration of the Board's functions relating to the licensing of lawyers.

[Acts 1925, S.B. 84; Acts 1955, 54th Leg., p. 350, ch. 70, § 1. Amended by Acts 1979, 66th Leg., p. 1253, ch. 594, § 1, eff. Sept. 1, 1979.]

Art. 306a. Exemption from Examination; Membership in Legislature and Service as Judge as Equivalent of Prelegal Study

Sec. 1. The Supreme Court by general order may exempt from taking any examination as to prelegal or legal studies and attainments any attorney at law who has been duly licensed to practice law in a State of the United States and has not been disbarred or had his license to practice law suspended in any State where applicant has heretofore practiced law in such State for a period of seven (7) years and has been duly licensed to practice law before the Supreme Court of the United States and has resided in the State of Texas for a period of twenty-four (24) months immediately before he is issued a license to practice law in this State, but such attorneys must in all instances furnish evidence as to moral character required of candidates to take the bar examinations in this State. The provisions of this section shall apply only to those States which give to persons licensed to practice law in Texas the same or similar reciprocal privileges.

Sec. 2. (a) Membership in the Texas Legislature for twelve (12) consecutive years, or Membership in the Texas Legislature for four (4) consecutive years with a bachelor's degree or its equivalent and adequate study of the law for at least two (2) years at an approved law school, or Membership in the Texas Legislature for eight (8) consecutive years with a bachelor's degree or its equivalent, or service in both Houses of the Texas Legislature with a master's degree or its equivalent, prior to making application to take the Bar examination, shall be considered equivalent to the prelegal study and training and study of the law required under Article 306, Revised Civil Statutes, 1925, as amended, as a prerequisite to taking the regular examination for license to practice law and may be substituted in lieu thereof, provided the applicant meets all requirements of the Supreme Court relative to moral character; and any person complying with the above is declared to be eligible to take such examination for license to practice law. In such cases thirty (30) days' written notice of intention to take the Bar examination, directed and delivered to the Clerk of

the Supreme Court of Texas, shall be sufficient notice. This section shall apply only to persons who were members of the Texas Legislature prior to the convening of the 64th Regular Session of the Texas Legislature in January, 1975.

(b) Service as Judge of any court of record in the State of Texas for a period of ten (10) consecutive years, prior to making application to take the Bar examination, shall be considered equivalent to the prelegal study and training and study of the law required under Article 306, Revised Civil Statutes, 1925, as amended, as a prerequisite to taking the regular examination for license to practice law and may be substituted in lieu thereof, provided the applicant meets all requirements of the Supreme Court relative to moral character, and any person complying with the above is declared to be eligible to take such examination for license to practice law. In such cases thirty (30) days' written notice of intention to take the Bar examination, directed and delivered to the Clerk of the Supreme Court of Texas, shall be sufficient notice, provided that such notice must be filed prior to January 1, 1975. This subsection shall apply only to persons who were judges of courts of record in the State of Texas prior to January 1, 1974.

[Acts 1939, 46th Leg., p. 68. Amended by Acts 1965, 95th Leg., p. 1655, ch. 714, § 1; Acts 1973, 63rd Leg., p. 1617, ch. 581, § 1, eff. Aug. 27, 1973.]

Art. 307. Repealed by Acts 1935, 44th Leg., p. 438, ch. 176, § 1

Art. 307A. Licenses to Law Graduates in, or Formerly in, Military Service

During a national emergency as declared by Congress or the President of the United States, law licenses shall be granted, without requirement of passage of the State Bar Examinations, to all citizens of Texas who have graduated from a law school given unconditional approval on the official list of approved law schools filed by the Supreme Court of Texas with the Clerk of the Court and who have been honorably discharged or honorably released from the military service of the United States; provided, however, that a license shall not be granted under the foregoing provisions to any applicant who fails to meet the following requirements:

1. He shall meet the character requirements prescribed by the rules promulgated by the Supreme Court of Texas.
2. He must have been a resident of the State of Texas for at least one (1) year prior to graduation from law school.
3. He must have commenced his military service prior to the date set for the second State Bar Examinations next following the date of his graduation.

4. He must have served honorably and continuously on active duty for a period of time of not less than one (1) year.

5. He must make application for license within one (1) year after the date of his separation from the military service of the United States.

Military service shall include service in all branches of the Army, Navy, Air Force and other military forces of the United States, including auxiliary service.

[Acts 1943, 48th Leg., p. 397, ch. 268, § 1. Amended by Acts 1957, 55th Leg., p. 344, ch. 158, § 1.]

Art. 307A-1. Licenses to Certain Former Legislators and War Veterans

Law licenses shall be granted, without requirement of passage of the State Bar Examination, to any citizen of Texas (a) who has served a minimum of three (3) Sessions as a Member of the Texas Legislature, and (b) who is a veteran of World War I and World War II, and (c) who is a member of the Bar in a state bordering on Texas, and (d) who has been a resident of Texas for at least twenty (20) years.

[Acts 1957, 55th Leg., p. 344, ch. 158, § 2.]

Art. 307A-2. Licenses to Certain Graduates Entering Military Service; Application; Affidavit

Any person now serving on active duty in the military service of the United States and any person who enters active duty in the military service of the United States prior to November 1, 1957, and serves for a period of at least ninety (90) days and who has graduated from a law school given unconditional approval on the official list of approved law schools filed by the Supreme Court of Texas with the Clerk of the Court and who meets the character requirements prescribed by the rules promulgated by the Supreme Court of Texas and who has been a resident of the State of Texas for at least one (1) year prior to graduation from law school and who has commenced his military service prior to the date set for the second State Bar examination next following the date of his graduation may file application for a license with the Board of Law Examiners of this State. Upon filing of such an application, which shall be in the form of an affidavit by such applicant stating that he has met all requirements heretofore set out in this Section of this Act, and upon the filing of an affidavit signed by said applicant's commanding officer stating that such applicant has honorably and continuously served on active duty in the military service for a period of at least three (3) months such applicant shall be issued a law license.

[Acts 1957, 55th Leg., p. 344, ch. 158, § 3.]

Art. 307B. Military or Merchant Marine Service; Exemption from Examination in Subjects Passed Prior to

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

[Acts 1947, 50th Leg., p. 504, ch. 298, § 1. Amended by Acts 1961, 57th Leg., p. 1137, ch. 515, § 1.]

Art. 308. Foreign Attorneys

(a) The Board shall recommend to the Supreme Court that it license and the Supreme Court shall issue a license to an applicant if the applicant has practiced law for three years and has a license to practice law issued by another state or territory or by the District of Columbia, and the licensing standards of the other state or territory or the District of Columbia are equivalent to or exceed those of this state.

(b) If the licensing standards of the other state or territory or the District of Columbia are not equivalent to or do not exceed those of this state, the Board may require that the applicant take the examination for a license to practice law. All such immigrant attorneys shall be required to furnish satisfactory proof as to good moral character and fitness.

[Acts 1925, S.B. 84. Amended by Acts 1979, 66th Leg., p. 1253, ch. 594, § 1, eff. Sept. 1, 1979.]

Art. 309. Oath of Attorney

Every person admitted to practice law shall, before receiving license, take an oath that he will

support the Constitution of the United States and of this State; that he will honestly demean himself in the practice of law, and will discharge his duty to his client to the best of his ability; which oath shall be indorsed upon his license, subscribed by him and attested by the officer administering the same.

[Acts 1925, S.B. 84.]

Art. 310. Fees

(a) The fee for any examination given by the Board shall be fixed by the Supreme Court, not to exceed \$75 for each candidate, which shall be paid to the clerk of said court at the time the application for examination is made. The money thus obtained shall be used to pay all legitimate expenses incurred in holding the examination; and as compensation to the members of the Board, under such regulations as shall be determined by the Supreme Court. Provided that the compensation, not including reasonable and necessary actual expenses paid to any member of the Board, shall not exceed Fifteen Thousand Dollars (\$15,000.00) per annum.

(b) The fee for an investigation of the moral character and fitness of each candidate is set by the Supreme Court, not to exceed \$75. The candidate must pay the investigation fee to the Board at the time it is requested by the Board. If the fees collected from individuals for the investigation of moral character and fitness are in excess of the cost to the Board of conducting the investigation, the fees shall be proportionately decreased to insure that excessive fees are not collected by the Board.

(c) Fees received by the clerk or the Board shall be deposited in a fund established by the Supreme Court and may be used only to administer the functions of the Supreme Court and the Board relating to the licensing of lawyers as directed by the Court.

(d) The financial transactions of the board shall be audited annually by the State Auditor.

[Acts 1925, S.B. 84. Amended by Acts 1967, 60th Leg., p. 743, ch. 311, § 1, eff. May 27, 1967; Acts 1977, 65th Leg., p. 320, ch. 153, § 1, eff. May 13, 1977; Acts 1979, 66th Leg., p. 1253, ch. 594, § 1, eff. Sept. 1, 1979.]

Art. 311. Repealed by Acts 1979, 66th Leg., p. 1257, ch. 594, § 3, eff. Sept. 1, 1979

Art. 312. Misbehavior or Contempt

An attorney at law may be fined or imprisoned by any court for misbehavior or for contempt of such court. No attorney shall be suspended or stricken from the rolls for contempt unless it involve fraudulent or dishonorable misconduct or malpractice.

[Acts 1925, S.B. 84.]

Art. 313. Disbarment

Any attorney at law who shall be guilty of barratry or any fraudulent or dishonorable conduct or malpractice, may be suspended from practice, or his license may be revoked by the district court of the

county in which such attorney resides or where the act complained of occurred, regardless of the fact that such act may constitute an offense under the Penal Code of Texas, and regardless of whether he is being prosecuted or has been convicted for the violation of such penal provision.

[Acts 1925, S.B. 84.]

Art. 314. Complaint

The judge of any court, a practicing attorney, a county commissioner or justice of the peace may file with the clerk of the district court a sworn complaint of fraudulent or dishonorable conduct or malpractice on the part of any attorney at law.

[Acts 1925, S.B. 84.]

Repeal

In State ex rel. Chandler v. Dancer (Civ.App.1965) 391 S.W.2d 504, ref. n.r.e., the court held that this article and articles 315, 316 were repealed by the enactment of the State Bar Act (article 320a-1) and the promulgation of the State Bar Rules (Title 14 Appendix).

Art. 315. Citation to Issue

Upon the filing of such complaint, or upon its own observance of such conduct, such district court shall order the attorney to be cited to show cause why his license shall not be suspended or revoked. If the citation be ordered upon the observation of the court, the charge and the grounds thereof shall be set out distinctly in the order of the court. Such citation shall be served upon defendant at least five days before the trial day.

[Acts 1925, S.B. 84.]

Repeal

See italicized note following article 314.

Art. 316. Trial

Upon the return of said citation executed, if the defendant appear and deny the charge, the cause shall be docketed for trial and conducted in the name of the State of Texas against the defendant. The county or district attorney shall represent the State. A jury of twelve men shall be impaneled, unless waived by the defendant. If the attorney be found guilty, or if he fail to appear and deny the charge after being duly cited, the said court, by proper order entered on the minutes, may suspend his license for a time, or revoke it entirely, and may also give proper judgment for costs.

[Acts 1925, S.B. 84.]

Repeal

See italicized note following article 314.

Art. 317. Retention of Client's Money

Each attorney who receives or collects money for his client and refuses to pay over the same when demanded, may be proceeded against by motion of the party injured or his attorney before the district

court of the county in which such attorney usually resides or in which he resided when he collected or received the money; notice of which motion with a copy thereof shall be served on such party at least five days before the trial. In case the motion be sustained, judgment shall be rendered against the defendant, for the amount by him collected or received and not less than ten nor more than twenty per cent damages on the principal sum.

[Acts 1925, S.B. 84.]

Art. 318. Repealed by Rules of Civil Procedure, Acts 1939, 46th Leg., p. 201, § 1

Art. 319. Officers not to Appear

No judge or clerk of the Supreme Court, Courts of Appeals or Criminal Appeals, or District Court, or sheriff or deputy, or constable, shall be allowed to appear and plead as an attorney at law in any Court of record in this State. No county judge or county clerk who is licensed to practice law shall be allowed to appear and practice as an attorney at law in any County or Justice Court, except in cases where the Court over which such judge presides, or over which such clerk is clerk has neither original nor appellate jurisdiction. No county clerk who is licensed to practice law shall be allowed to appear and practice as an attorney at law in any District Court, Court of Appeals, Court of Criminal Appeals, or the Supreme Court unless the Court of which such clerk is clerk has neither original nor appellate jurisdiction.

[Acts 1925, S.B. 84. Amended by Acts 1951, 52nd Leg., p. 452, ch. 279, § 1; Acts 1981, 67th Leg., p. 762, ch. 291, § 3, eff. Sept. 1, 1981.]

Art. 320. Repealed by Rules of Civil Procedure, Acts 1939, 46th Leg., p. 201, § 1

Art. 320a-1. State Bar Act

Short Title

Sec. 1. This Act may be cited as the State Bar Act.

General Powers

Sec. 2. The State Bar of Texas established under the laws of this state is continued as a public corporation and an administrative agency of the judicial department of government. It is designated as the State Bar. This legislation is in aid of the judicial department's powers under the constitution to regulate the practice of law and not to the exclusion of those powers. The Supreme Court of Texas, on behalf of the judicial department, shall exercise administrative control over the State Bar under this Act.

Purposes

Sec. 3. The purposes of the State Bar shall be to aid the courts in carrying on and improving the administration of justice; to advance the quality of legal services to the public; to foster and maintain

on the part of those engaged in the practice of law high ideals and integrity, learning, competence in public service, and high standards of conduct; to provide proper professional services to the members of the State Bar; to encourage the formation and activities of the local bar associations; to provide forums for the discussion of subjects pertaining to the practice of law, the science of jurisprudence and law reform, and the relationship of the State Bar to the public and to publish information relating thereto; to the end that the public responsibilities of the legal profession may be more effectively discharged.

Seal; Suits and Contracts; Gifts

Sec. 4. The State Bar has an official seal which shall not be used for private purposes.

The State Bar may sue and be sued in its own name. For the purposes of carrying into effect and promoting objectives of this Act, the State Bar may enter into contracts and do all other acts incidental to the foregoing that are necessary or expedient for the administration of its affairs and the attainment of its purposes.

The State Bar may acquire by gift, bequest, devise, or otherwise any real or personal property or any interest in that property. The State Bar may acquire, hold, lease, encumber, and dispose of real and personal property in the exercise of its powers and the performance of its duties under this Act.

Property

Sec. 5. All property of the State Bar is declared to be held by the State Bar for the purposes expressed in Section 3 of this Act.

Indebtedness, Liability, or Obligation

Sec. 6. No indebtedness, liability, or obligation of the State Bar shall:

(1) create a debt or other liability of the state nor of any entity other than the State Bar or any successor public corporation;

(2) create any personal liability on the part of the members of the State Bar or the members of the board of directors or any authorized person issuing, executing, or delivering any evidence of the indebtedness, liability, or obligation;

(3) be created that cannot be paid from the receipts for the current year, except with the approval obtained by referendum of all members of the State Bar as provided in Section 8 of this Act.

Fiscal Powers

Sec. 7. (a) The executive director of the State Bar shall confer with the clerk of the Supreme Court and shall supervise the administrative staff of the State Bar in preparation of the annual budget.

The proposed budget shall be presented annually at a public hearing. Any member of the public may participate in the discussion of any item proposed to

be included in the budget. The executive director of the State Bar shall preside at the hearing, or if unable to do so, the executive director may authorize any employee of the administrative staff or any officer or director of the state bar to represent him or her.

No less than 30 days prior to the time the hearing is held, the proposed budget as well as the time and place of the budget hearing shall be disseminated to the membership of the State Bar and to the public.

After the public hearing, the proposed budget shall be submitted to the board of directors for their consideration. The budget which is adopted by the board of directors shall be submitted to the Supreme Court for final review and approval. By action of the board of directors at a regular or special meeting, the budget may be amended subject to approval by the Supreme Court.

(b) The state auditor shall audit the financial transactions of the State Bar during each fiscal year with the expense of the audit to be borne by the State Bar. The auditors' report shall be published in the *Bar Journal*.

Rulemaking Powers

Sec. 8. (a) From time to time, either as the Supreme Court considers necessary or pursuant to a resolution of the board of directors of the State Bar or pursuant to a petition signed by at least 10 percent of the registered members of the State Bar, the Supreme Court may prepare and propose and adopt rules and regulations or amendments to the rules or regulations for the operation, maintenance, and conduct of the State Bar and the discipline of its members.

(b) When the Supreme Court has prepared and proposed the rules, regulations, or amendments to the rules or regulations, as set out above in Subsection (a), it shall submit by mail a copy of each rule and regulation in ballot form to each registered member of the State Bar for a vote. At the end of 30 days from the time the ballots are mailed, the court shall count the ballots that have been returned, provided that no election shall be valid unless a minimum of 51 percent of the members registered shall have voted at the election at which the rules, regulations, or amendments are adopted; and each of the rules and regulations that has received a majority of the votes cast shall be by the court declared and adopted and shall be promulgated by the court and shall become immediately effective. The vote shall be open to inspection by any member of the bar or public. No rule or regulation shall be promulgated that has not received a majority of votes cast in the manner provided above.

Administrative Provisions

Sec. 9. (a) The governing body of the State Bar shall be its board of directors on whom shall rest the duty of enforcing the provisions of this Act. Board of directors' meetings shall be conducted in

compliance with the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes).

The board shall be composed of the officers of the State Bar, the president, president-elect, and immediate past president of the Texas Young Lawyers Association, not more than 30 members of the State Bar elected by the membership from their district as may be determined by the board, and six persons who are not licensed attorneys, who do not have, other than as consumers, a financial interest in the practice of law. Three of these six nonlawyer members shall be appointed by the Supreme Court of Texas and confirmed by the senate and the other three of the six nonlawyer members shall be appointed by the Supreme Court from a list of not less than 15 names to be submitted by the Governor of Texas, and these appointees shall be confirmed by the senate. The nonattorney members shall serve for staggered terms of the same duration as those of elected members of the board. An individual who has served more than half of a full term is not eligible again to be appointed to the board. In making the initial appointments, the Supreme Court of Texas shall appoint two of the persons for a term expiring in June, 1980, two of the persons for a term expiring in June, 1981, and two of the persons for a term expiring in June, 1982. Beginning with June, 1980, and annually thereafter, the Supreme Court shall appoint two nonlawyer directors for a term of the same duration as those of the elected members of the board, one of whom must be from a list of not less than five names submitted by the Governor of Texas. In making their appointments of these nonlawyer members, the Supreme Court and the governor shall endeavor to assure full and fair representation of the general public, including women, ethnic minorities, and retired persons. Any appointment made shall be without regard to race, creed, sex, religion, or national origin.

The officers of the State Bar shall consist of the president, president-elect, and immediate past president. The officers shall be elected in accordance with rules and regulations governing the election of State Bar officers and directors which the Supreme Court shall prepare and propose in accordance with Subsection (b) of Section 8 of this Act; provided, however, the election rules shall include a provision that permits any member's name to be printed on the ballot as a candidate for president-elect whenever a written petition, signed by at least one percent of the membership of the State Bar requesting the action, is filed with the executive director at least 30 days before the election ballots are to be mailed to the membership.

For purposes of electing directors or for the fulfillment of any other duty imposed on the State Bar by this Act or the State Bar Rules, the board shall from time to time reapportion the state into bar districts as conditions require, taking into account the purposes of the State Bar as defined in Section

3 of this Act. The reapportionment shall be subject to the Supreme Court's approval.

If any director should, as determined by the board of directors, become incapacitated from performing his duties as director, or if any director should be absent from any two consecutive regular meetings of the board of directors or from a total of four meetings, without cause deemed adequate by the board of directors, he may be removed by the board of directors at any regular meeting by resolution declaring his position vacant.

No board member or employee of the board shall be an employee or paid consultant of a trade association in the field of board interest.

(b) The executive director of the State Bar shall be elected by a majority vote of the board of directors and shall hold office during the pleasure of the board. The executive director may be elected as many times as the board of directors may choose. The executive director shall be responsible for the execution of the policies and directives of the board with reference to all activities of the State Bar, except the activities that may be made the responsibility of the general counsel by this Act or by the board. The executive director shall perform all duties usually required of a corporate secretary, including other duties as may be assigned to him or her by the board of directors. The executive director shall also act as the treasurer of the State Bar and shall receive from the clerk of the Supreme Court funds of the State Bar as provided by this Act. In this regard, the executive director shall be audited annually as provided in Subsection (b) of Section 7 of this Act. The executive director shall maintain the membership files and supervise the administrative staff of the State Bar in preparing the annual budget. He or she shall be required to execute a corporate surety bond in such amount as the board may direct, conditioned on faithful performance of his or her duties, the premium for which shall be paid by the State Bar. The executive director shall have no vote on matters presented to the board of directors.

(c) The general counsel of the State Bar shall be elected by a majority vote of the board of directors and shall hold office during the pleasure of the board. The general counsel may be reelected as many times as the board may choose. He or she shall be a member of the State Bar.

The duties of the general counsel shall include all of those duties usually expected of and performed by a general counsel. It shall be the duty of the general counsel to standardize throughout all grievance districts the procedure, method, and practice for the processing of grievance complaints. It shall also be the duty of the general counsel to receive and maintain on behalf of the State Bar the files and records of the grievance committees that pertain to discipline. The general counsel shall expedite and coordinate the State Bar's grievance duties which are made mandatory by this Act. The gener-

al counsel on request of any grievance committee may investigate and prosecute grievance actions as provided in Section 12 of this Act. The general counsel on request of any unauthorized practice of law committee or by a grievance committee may investigate and prosecute suits to enjoin members, nonlicensees, and nonmembers of the State Bar from the practice of law. The general counsel's duties shall also include those matters delegated from time to time by the board of directors of the State Bar.

The general counsel may not be a lobbyist registered with the secretary of state.

(d) The executive director and the general counsel of the State Bar shall be subject to the Texas conflict of interest law, Chapter 421, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9b, Vernon's Texas Civil Statutes).

(e) The executive director of the State Bar shall confer with the clerk of the Supreme Court as to the maintenance of correct membership files and in preparing the annual budget for review as provided in Subsection (a) of Section 7 of this Act. All membership fees shall be collected by the clerk of the Supreme Court and held by him or her until distributed to the State Bar for expenditure under the direction of the Supreme Court for the purpose of administering this Act.

The clerk of the Supreme Court, with the permission of the court, may employ a deputy to assist in discharging the duties imposed on him or her by this Act and any rules promulgated to administer this Act. The salary of the deputy shall be fixed by the board of directors and paid from the funds of the State Bar.

(f) All records of the State Bar, except for records pertaining to grievances and records pertaining to the Texas Board of Legal Specialization, shall be subject to the Texas open records law, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-17a, Vernon's Texas Civil Statutes).

Membership; Fees

Sec. 10. (a) All persons who are enrolled as members of the State Bar on the effective date of this Act and any person who after the effective date of this Act shall be licensed to practice law in this state, shall constitute and be members of the State Bar, and shall be subject to the provisions of this Act and the rules adopted by the Supreme Court of Texas. All persons not members of the State Bar are prohibited from practicing law in this state except that the Supreme Court may promulgate rules and regulations prescribing the procedure for limited practice of law by attorneys licensed in another jurisdiction, bona fide law students, or non-licensed graduate students who are attending or have attended a law school approved by the Supreme Court.

(b) Every person who after the effective date of this Act becomes licensed to practice law in this state shall enroll in the State Bar by registering his or her name with the clerk of the Supreme Court within 10 days of his or her admission to practice. Membership of the State Bar shall consist of four classes: active, inactive, emeritus, and associate.

Every licensed member of the State Bar is an active member until he or she requests to be enrolled as an inactive member.

The class of "inactive members" shall include those persons who are eligible for active membership but are not engaged in the practice of law in this state and have filed with the executive director and the clerk of the Supreme Court written notice requesting enrollment in the class of inactive members.

Inactive members are not entitled to hold office or vote in any election conducted by the State Bar or practice law. Those who are enrolled as inactive members at their request may on application and payment of fees required become active members.

The class of "emeritus members" shall include those persons who are either active or inactive members in good standing but who are at least 70 years of age and have filed a written notice requesting enrollment in the class of emeritus members. An emeritus member shall enjoy all the privileges of membership in the State Bar and shall not be required to pay membership dues for the years following the year in which he or she attains the age of 70.

The class of "associate members" may include those persons who are enrolled in law school in this state. Enrollment as an associate member shall be voluntary on the part of the enrollee. Associate members are not entitled to hold office or vote in any election conducted by the State Bar or practice law, except as provided by rule promulgated by the Supreme Court. Dues for associate members shall be set by the board of directors.

(c) The Supreme Court is empowered and it shall be its duty to prescribe fees for members of the State Bar to be paid to the clerk of the court until distributed to the executive director as provided in Subsection (e) of Section 9 of this Act and expended by the board of directors under the direction of the Supreme Court for the purposes of administering this Act. Fees, except those fixed by the board for associate members, shall be prescribed in accordance with Subsections (a) and (b) of Section 8 rule-making provisions of this Act. The fees shall be used exclusively for administering the public purposes provided by this Act.

Exclusive Jurisdiction of Supreme Court

Sec. 11. Rules and regulations governing the admission to the practice of law shall be within the exclusive jurisdiction of the Supreme Court. The officers and directors of the State Bar of Texas

have no authority to approve or disapprove of any rule or regulation which governs admissions to the practice of law nor to regulate or administer said admissions standards.

Discipline

Sec. 12. (a) Any attorney admitted to practice in this state and any attorney specially admitted by a court of this state for a particular proceeding is subject to the disciplinary jurisdiction of the Supreme Court of Texas and its administrative agent, the State Bar of Texas.

(b) In furtherance of the court's powers to supervise the conduct of attorneys at law, the following grievance procedures are established. The Supreme Court shall, in accordance with Section 8 of this Act, prepare, propose, and adopt rules and regulations for disciplining, suspending, disbarring, and accepting resignations of attorneys as it considers necessary in addition to the minimum standards and procedures provided in this Act.

(c) Disciplinary jurisdiction shall be divided into grievance districts. Each bar district shall have one or more grievance committee districts. The board of directors, with the advice of the director of each bar district, shall determine whether the State Bar's grievance duties can be performed effectively by one committee for the entire bar district or whether the same should be divided into more than one grievance committee district. When a bar district contains more than one grievance committee, all the grievance committees within the district shall have concurrent jurisdiction of any complaint docketed by any of the committees within the district. The committee which originally docketed a complaint may, with the consent of another committee within the district, transfer a complaint to the other committee. The district director, in order to equalize the dockets, or for other good cause, may transfer complaints from one committee to another within the district.

(d) Each grievance committee shall consist of as many members as are deemed necessary by the board of directors for the expeditious transaction of its business.

(e) The president shall on recommendation of the director or directors for the district appoint the members of the grievance committee. Each member of the committee shall be a resident of the grievance committee district for which he or she is appointed. One-third of the total membership of each grievance committee shall be representative of the general public who are not licensed attorneys and who do not have, other than as consumers, a financial interest in the practice of law.

Annually the committee shall select its own chairperson.

Powers of Grievance Committees

Sec. 13. (a) The grievance committee shall exercise the powers and perform the duties conferred on

it by this Act as well as any other powers and duties imposed by rules or regulations promulgated as provided herein by the Supreme Court.

The grievance committee shall consider and investigate any alleged ground for discipline or alleged incapacity of any attorney called to its attention or on its own motion and take action with respect thereto as shall be appropriate under the disciplinary rules in effect from time to time in this state.

(b) The committee shall maintain records of all matters processed and the disposition thereof. Committee records are confidential and are not subject to the open records law, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-17a, Vernon's Texas Civil Statutes). The final action of a committee resulting in a vote to publicly reprimand, suspend, or seek disbarment shall be made public; provided, however, that proceedings which result in a private reprimand shall remain confidential. Nothing shall prohibit the committee, with the consent of the accused attorney, from disclosing final action which clears the attorney of misconduct or which finds no jurisdiction or lack of probable cause to proceed. All records shall be forwarded to the general counsel and he shall maintain a permanent record of such actions, which will be public records for statistical purposes but which are subject to the provisions above concerning privacy.

(c) A "complaint" is defined as an allegation of attorney misconduct or attorney mental incompetency which, if established in fact, could subject the attorney to disciplinary action. Inquiries which do not allege an offense cognizable under the Code of Professional Responsibility or under this Act or which do not show probable cause of professional misconduct shall not be classified as complaints and are not within the disciplinary jurisdiction of the grievance committee.

(d) Every inquiry which the committee determines to be a complaint as defined in this Act shall be docketed by the grievance committee. When docketed, the committee shall notify the general counsel of the State Bar, the complainant, and the accused attorney that the complaint has been scheduled for action by the committee, and the committee shall report periodically to the general counsel its progress in the matter.

(e) Every complaint as defined in this Act shall be acted on expeditiously by the grievance committee and the action shall be reported to the general counsel, the complainant, and the accused attorney. If the committee fails to take action on a complaint within a reasonable time, the general counsel shall report the committee's inaction to the president of the State Bar and the director or directors for the bar district which encompasses the grievance committee.

When notified by the general counsel of a committee's inaction, the president of the State Bar, with the advice of the board director for the district

concerned, may transfer the complaint to another grievance committee in the bar district if there is one. The president may discharge a committee and appoint new members, if after consulting the board director for the district concerned the president determines that the committee should be reconstituted to assure the expeditious transaction of disciplinary business. Failure to report grievance matters to the general counsel shall be grounds for the discharge of a committee.

Grievance Oversight Committee

Sec. 14. There shall be created a grievance oversight committee which shall be responsible for reviewing the structure, function, and effectiveness of the grievance procedures which are implemented pursuant to this Act. It shall be composed of nine members to be appointed by the Supreme Court, six of whom shall be licensed members of the State Bar and three of whom shall not be licensed members of the State Bar of Texas. Of the six licensed members of the State Bar, three shall be members or former members of grievance committees. This committee shall report its findings annually to the Supreme Court, including any recommendations concerning needed changes in grievance procedures or structures.

The members of this committee shall serve staggered terms of three years each and the initial terms of office of the committee shall be as follows: three members for a term of one year, three members for a term of two years, and three members for a term of three years. The Supreme Court shall designate a chairperson of the committee who shall serve as chairperson for a period of one year. A majority of the total membership shall constitute a quorum of the committee. All necessary and actual expenses of the committee shall be provided for and paid out of the budget of the State Bar.

Disbarment Proceedings

Sec. 15. (a) The Supreme Court of Texas shall not adopt or promulgate any rule or regulation abrogating the right of trial by jury to either party to a disbarment action in the county of the residence of the accused attorney.

(b) Disbarment proceedings shall be instituted against a resident attorney in a district court located in the county of the attorney's residence; provided, however, that the accused attorney may make application for change of venue pursuant to Texas Rule of Civil Procedure 257. Nothing in this Act shall be construed to prohibit a grievance committee from investigating complaints of professional misconduct alleged to have occurred within the geographical area served by the committee, but any action must be filed in the county of that attorney's residence.

(c) All nonresident attorneys licensed by the Supreme Court are subject to the disciplinary rules and regulations governing resident members of the

State Bar; provided, however, that venue in disbarment proceedings against nonresident members of the State Bar shall be in a district court located in Travis County, Texas, or in any county where the alleged misconduct occurred.

Disciplinary Proceedings

Sec. 16. (a) No attorney shall be suspended from practice, except by the attorney's concurrence under an order of suspension entered by the grievance committee, until such attorney has been convicted of the charge or charges for disbarment pending against him or her in a court of competent jurisdiction. Provided, however, that on proof of conviction of an attorney in any trial court of competent jurisdiction of any felony involving moral turpitude or of any misdemeanor involving the theft, embezzlement, or fraudulent misappropriation of money or other property, the district court of the county of the residence of the convicted attorney shall enter an order suspending the attorney from the practice of law during the pendency of any appeals from the conviction. An attorney who has been given probation after the conviction, whether adjudicated or unadjudicated, shall be suspended from the practice of law during the probation. On proof of final conviction of any felony involving moral turpitude or any misdemeanor involving theft, embezzlement, or fraudulent misappropriation of money or other property, the district court of the county of the residence of the convicted attorney shall enter a judgment disbarring him or her.

Either the grievance committee for the bar district or the general counsel shall have the authority to seek the enforcement of this section.

(b) In any action seeking to disbar an attorney for acts made the basis of a conviction for a felony involving moral turpitude or a misdemeanor involving theft, embezzlement, a fraudulent misappropriation of money or other property, the record of conviction shall be conclusive evidence of the guilt of the attorney for the crime of which he or she was convicted.

(c) Nothing in this Act shall be construed to prevent an attorney from being prosecuted in a disciplinary action after conviction for a criminal act based either on the weight of the conviction or on conduct by the attorney which led to his or her conviction.

Committees and Sections

Sec. 17. The board shall create from time to time committees and sections as it considers advisable and necessary to carry out the purposes of this Act. Nothing in this Act shall prevent the appointment of nonlawyers to the State Bar committees.

Committee on Professional Ethics

Sec. 18. (a) A professional ethics committee consisting of nine members of the State Bar to be appointed by the Supreme Court for a term of three years each is established. The initial terms of of-

five of the committee shall be as follows: three members for terms of one year, three members for terms of two years, and three members for terms of three years. The Supreme Court shall designate a chairperson of the committee who shall serve as chairperson for a period of one year. A majority of the total membership shall constitute a quorum of the committee. All necessary and actual expenses of the committee shall be provided for and paid out of the budget of the State Bar. Nothing in this Act shall prevent the court from appointing members of the judicial department to the professional ethics committee.

(b) The standing committee on professional ethics shall:

(1) by the concurrence of a quorum of its members, express its opinion on the propriety of professional conduct, either on its own initiative or when requested to do so by a member of the State Bar of Texas, except that an opinion may not be issued on a question that is pending before a court of this state;

(2) the foregoing provision notwithstanding, the committee may meet in three member panels to express its opinion on behalf of the whole committee; provided, however, if the inquirer is dissatisfied with the panel's opinion, he or she may appeal it to the full committee for review;

(3) periodically publish its issued opinions to the legal profession in summary or complete form and on request provide copies of the opinions to members of the bar or public;

(4) on request advise or otherwise assist State Bar committees or local bar associations relating to the Code of Professional Responsibility;

(5) recommend appropriate amendments or clarifications of the Code of Professional Responsibility, if it considers them advisable; and

(6) adopt such rules as it considers appropriate relating to the procedures to be used in expressing opinions, effective when approved by the Supreme Court. Insofar as it is possible to do so, the committee shall disclose the rationale for its opinion and shall indicate whether it is based on ethical considerations or upon the disciplinary rules.

Opinions of the committee shall not be binding on the Supreme Court.

Unauthorized Practice of Law

Sec. 19. (a) For purposes of this Act, the practice of law embraces the preparation of pleadings and other papers incident to actions of special proceedings and the management of the actions and proceedings on behalf of clients before judges in courts as well as services rendered out of court, including the giving of advice or the rendering of any service requiring the use of legal skill or knowledge, such as preparing a will, contract, or other instrument, the legal effect of which under the facts and conclusions involved must be carefully deter-

mined. This definition is not exclusive and does not deprive the judicial branch of the power and authority both under this Act and the adjudicated cases to determine whether other services and acts not enumerated in this Act may constitute the practice of law.

(b) The Supreme Court shall appoint an unauthorized practice of law committee for the State Bar to consist of nine members, three of whom shall be nonlawyers. Except as provided in this Act, members of the committee shall serve for a term of three years beginning with the effective date of this Act. All members of the committee shall be eligible for reappointment. The court shall designate each year which member shall act as chairperson. A majority of the committee shall constitute a quorum. All necessary and actual expenses of the committee should be provided for and paid out of the budget of the State Bar.

The court in making the first appointment shall appoint three members to serve an initial term of one year, three members to serve an initial term of two years, and three members to serve an initial term of three years. Thereafter, each appointed member shall serve a term of three years.

The unauthorized practice of law committee shall keep the court and the State Bar informed with respect to the unauthorized practice of law by lay persons and lay agencies and the participation of attorneys therein and concerning methods for the prevention thereof. The committee shall seek the elimination of the unauthorized practice by action and methods as may be appropriate for that purpose, including the filing of suits in the name of the committee. Nothing in this Act shall prohibit the establishment of local Unauthorized Practice of Law committees to aid and assist this committee in carrying out its purpose.

Carry-Over Clause

Sec. 20. (a) All rules and regulations adopted and promulgated by the Supreme Court relating to the State Bar which are in force on the effective date of this Act shall constitute the rules governing the State Bar of Texas until and unless amended pursuant to Section 8 of this Act.

The foregoing provision notwithstanding, any rules and regulations which are in force on the effective date of this Act and which are in conflict with the provisions of this Act are repealed to the extent of the conflict.

(b) The officers and directors of the State Bar who have been elected and are serving on the effective date of this Act shall continue in office for the balance of their term.

(c) All dues and fees assessed and in effect on the effective date of this Act shall remain in force and effect until and unless amended pursuant to Section 8 of this Act.

(d) All bonds, notes, debentures, evidences of indebtedness, mortgages, deeds of trust, assignments, pledges, contracts, leases, agreements, or other contractual obligations owed to or by the State Bar of Texas on the effective date of this Act shall remain in force and effect in accordance with the terms of the obligation.

Application of Sunset Act

Sec. 21. The State Bar is subject to the Texas Sunset Act,¹ and unless continued in existence as provided by that Act the State Bar is abolished, and this Act expires effective September 1, 1991.

¹ Article 5429k.

[Acts 1939, 46th Leg., p. 64. Amended by Acts 1939, 46th Leg., p. 66, § 1; Acts 1949, 51st Leg., p. 1103, ch. 563, § 1; Acts 1965, 59th Leg., p. 1531, ch. 669, § 1, eff. June 18, 1965; Acts 1969, 61st Leg., p. 364, ch. 134, § 1, eff. May 6, 1969; Acts 1971, 62nd Leg., p. 2336, ch. 706, § 1, eff. Aug. 30, 1971; Acts 1975, 64th Leg., p. 120, ch. 56, § 1, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 1834, ch. 735, § 2.019, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 1081, ch. 510, § 1, eff. June 11, 1979.]

SUPREME COURT OF TEXAS

SENATE BILL 287

ORDER

Effective June 11, 1979.

On June 11, 1979, the Governor signed into law, effective immediately, Senate Bill 287 which had passed the Senate by a vote of thirty of its members to one, and had passed the House by a vote of one hundred nineteen of its members to twenty-two. This statute continued the State Bar of Texas "as a public corporation and an administrative agency of the Judicial Department of government." The Legislature in Section Two of the statute stated that:

"This legislation is in aid of the Judicial Department's powers under the Constitution to regulate the practice of law and not to the exclusion of those powers. The Supreme Court of Texas, on behalf of the Judicial Department, shall exercise administrative control over the State Bar under this Act."

The Legislature has thus recognized that this Court is the primary responsibility for the administration of justice in the constitutional separation of powers between the three governmental branches.

This Court recognizes the actions of the Legislative and Executive Departments in aid of this Court's responsibilities regarding the legal profession, in declining any attempt to place funds of the Judicial Branch under control of the Legislative or Executive Branch, and in enacting Senate Bill 287 of the 66th Texas Legislative Session. The Court agrees that a unified Bar is the best method of regulating the legal profession and in assisting this Court in the administration of justice.

It is, however, the duty of this Court in the exercise of its own inherent power to regulate and control the practice of law and to provide for the proper administration of justice. It is therefore ordered:

1. The State Bar Act, Acts 1979, 66th Leg. Reg. Sess., ch. 510, p. 1081, Article 320a-1 Vernon's Texas Statutes, as supplemented by this order and subsequent orders, and all prior orders of this Court not in conflict herewith, shall govern the State Bar of Texas;

2. All rules, regulations and supplemental orders of this Court relating thereto, including the Rules Governing the State Bar of Texas and the Code of Professional Responsibility, which on the effective date of this order are in force, and which are not in conflict with the State Bar Act, as amended, shall continue to be the rules, regulations and orders governing the State Bar;

3. All officers and directors of the State Bar of Texas who are serving on the effective date hereof shall continue in office for their terms of office and until their successors are elected or

appointed and qualified in accordance with the rules and regulations governing the State Bar of Texas;

4. All committees, sections and organizations of the State Bar in existence on the effective date of this order shall continue as they presently exist, until reconstituted in accordance with provisions of the State Bar Act as amended;

5. All dues and fees assessed and in effect on the effective date of this order, shall remain in full force and effect and the budget heretofore adopted for the Bar's fiscal year 1979-80 shall remain in full force and effect;

6. All persons who are enrolled as members of the State Bar on the date hereof and any person who, after the date hereof, shall be licensed to practice law in this State shall be members of the State Bar and subject to the rules and orders of this Court;

7. All persons not members of the State Bar are prohibited from practicing law in this State except for limited practice of law by attorneys licensed in other jurisdictions, law students and nonlicensed graduates of approved law schools in accordance with rules heretofore promulgated by this Court;

8. All property and contractual rights, titles, interests and obligations heretofore existing in the name of the State Bar of Texas are hereby continued and are confirmed;

9. The State Bar of Texas as a unified or integrated Bar is hereby continued and confirmed as an administrative agency of this Court and as a public corporation;

10. All complaints being investigated, all formal complaints voted by district grievance committees, all prosecutions begun and all appeals pending involving attorney misconduct, mental incompetency or the unauthorized practice of law shall proceed and shall not be abated or dismissed on account of the promulgation of this order or the passage of the State Bar Act.

This order is effective as of June 11, 1979, until further order of the Court.

IN CHAMBERS, on this the 19th day of June, 1979.

JOE R. GREENHILL
Chief Justice

ZOLLIE STEAKLEY
JACK POPE
SEARS MCGEE
JAMES G. DENTON
SAM D. JOHNSON
CHARLES W. BARROW
ROBERT M. CAMPBELL
FRANKLIN SPEARS
Justices

Art. 320b. Prepaid Legal Services Act

Short Title

Sec. 1. This Act may be cited as the Prepaid Legal Services Act.

Purpose

Sec. 2. The purpose of this Act is to provide for the regulation of prepaid legal services programs, in order to assure the quality and availability of the services offered by such programs.

Definitions

Sec. 3. As used in this Act:

(1) "Organization" means any professional association, trade association, labor union, or other non-profit organization or combination of persons, incorporated or otherwise;

(2) "Prepaid legal services program" or "program" means a plan by which a sponsoring organization offers legal services benefits to its members

or beneficiaries, which services are financed by direct financial charge in advance of need;

(3) "Bar" means the State Bar of Texas; and

(4) "Board" means the Board of Directors of the State Bar of Texas.

Excluded Programs

Sec. 4. The provisions of this Act do not apply to:

(1) the employment of counsel by an organization to represent its members free of direct financial charge to them; or

(2) legal services made available incidental to a contract of insurance in which the insurer has contracted to pay all or a substantial part of a judgment, if any, and the legal services are free of direct financial charge to the insured.

Approval of Program Required

Sec. 5. (a) No member of the Bar may provide legal services pursuant to any prepaid legal services program, unless the sponsoring organization first applies to and secures approval of the arrangement from the Board of Directors of the Bar.

(b) Any organization sponsoring a prepaid legal services program on the effective date of this Act shall apply to and secure approval of the Board for the continuance of the service within six months from that date.

(c) This Act shall be limited to five prepaid legal services programs between Classroom Teachers Associations and The State Bar of Texas which shall be deemed pilot programs.

Application

Sec. 6. Every application for approval of a prepaid legal services program shall demonstrate affirmatively:

(1) the security of the program funds held, and to be held, by the organization, as evidenced by a fidelity bond for those officers of the organization authorized to manage the funds;

(2) compliance of the program with the requirements of the Disciplinary Rules of the Code of Professional Responsibility;

(3) that any person eligible to receive legal services under the program may obtain the services from any attorney of his choice; and

(4) that prior to entry into the program, each member or beneficiary is given full information in writing concerning:

(A) the services offered by the program;

(B) the total annual cost of the program to an individual member or beneficiary; and

(C) the required compliance of the program with each provision of this section.

Action upon Application

Sec. 7. (a) If the Board finds that the application of a petitioning organization affirmatively demonstrates compliance with the requirements of Section 6 of this Act, it shall approve the application. If the Board finds a substantial failure of the application to comply with the requirements of Section 6, it shall disapprove the application and give written notice of the reasons for the disapproval.

(b) The Board shall either approve or disapprove an application within 60 days from the date it is filed.

Revocation of Approval

Sec. 8. (a) Upon written notice to the organization of the reasons for the revocation, the Board may revoke the approval of a program because of:

(1) failure to provide the services offered; or

(2) failure to maintain the requirements established by Section 6 for initial approval of the application.

(b) Upon revocation of approval of a program under authority of Subsection (a) of this section, the sponsoring organization shall return to its members or beneficiaries the unexpended funds of the prepaid legal services program, including the proceeds of a bond, if available, and shall certify to the Board the manner and amount of the redistribution of the funds. If necessary, the Board shall supervise the redistribution.

Insurance Laws

Sec. 9. No law pertaining to insurance may be construed to apply to any prepaid legal services program governed by this Act.

Bylaws and Rules

Sec. 10. (a) The Board may adopt such supplementary bylaws as deemed necessary relating to the enforcement and implementation of this Act.

(b) The Bar may adopt rules, not inconsistent with the provisions of this Act, regulating the participation of its members in group legal services programs and may require periodic reporting on such participation.

Fees

Sec. 11. The Board may assess reasonable fees of organizations applying for approval of a prepaid legal services program as are necessary for the enforcement of the provisions of this Act.

Severability

Sec. 12. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application,

and to this end the provisions of this Act are declared to be severable.

Effective Date

Sec. 13. This Act shall take effect January 1, 1974.

[Acts 1973, 63rd Leg., p. 1618, ch. 582, eff. Jan. 1, 1974.]

Art. 320c. Liability of Attorney for Costs in Civil Proceeding

Regardless of any law or rule to the contrary, an attorney who is not a party to a civil proceeding is not liable for payment of costs incurred by any party to the proceeding.

[Acts 1975, 64th Leg., p. 1335, ch. 498, § 1, eff. Sept. 1, 1975.]

TITLE 14—APPENDIX

A. STATE BAR RULES

Adopted by
MEMBERS OF THE STATE BAR OF TEXAS
and
Promulgated by
THE SUPREME COURT OF TEXAS
As Amended to May 9, 1984.

These Rules were originally prepared by the Lawyers' Advisory Committee and approved by the Supreme Court on February 22, 1940.

Articles 1 through 9 of the State Bar Rules were adopted and former articles 1 through 11 of the Rules Governing the State Bar were repealed by Order of the Texas Supreme Court dated March 14, 1983.

Article 10 of the State Bar Rules was adopted and article 12, §§ 1 to 7 and 9-36, as well as article 13, of the Rules Governing the State Bar were repealed by Order of the Texas Supreme Court dated February 29, 1984, effective March 1, 1984. The same order also restated and continued article 12, § 8, of the Rules Governing the State Bar (the Texas Code of Professional Responsibility) and promulgated it as article 10, § 9, of the State Bar Rules.

Article 11 of the State Bar Rules was adopted by order of the Texas Supreme Court dated May 9, 1984.

ARTICLE I. DEFINITIONS

ARTICLE II. GENERAL PROVISIONS

Sec.

1. Official Name.
2. Purposes of the Organization.
3. Purposes of These Rules.
4. Seal.
5. Principal Office of the State Bar.
6. Service of Process.
7. Fiscal Year.
8. Organizational Year.
9. Oath of Office.
10. Elections and Balloting.
11. Officers and Directors Holding Over.
12. Publication of New Rules and Amendments to Rules.
13. Spokesman for the Bar.
14. Procedure for Meetings.

ARTICLE III. MEMBERSHIP

1. Members.
2. Enrollment in the State Bar.
3. Membership Fees.
4. Membership Rolls and Membership Cards.
5. Default in Payment of Fees or Assessments.
6. Resignation From Membership Other Than In Face of Pending Disciplinary Action.
7. Return to Former Status.

ARTICLE IV. ADMINISTRATION

1. Board of Directors; Duties.
2. Meetings of the Board.
3. Composition of Board.
4. Chairperson of Board.
5. Qualification of Officers and Directors.
6. How Directors Shall be Elected.
7. Nominees for Office of Elected Director.
8. Director Vacancies and How Filled.
9. Executive Committee.
10. Officers.
11. President-Elect, Nomination and Election.
12. Term of Office of Officers.

Sec.

13. Vacancy in an Office.
14. Other Executive Positions.

ARTICLE V. FISCAL

1. Budget Committee.
2. Public Hearing on Budget.
3. Annual Budget.
4. Expenses.

ARTICLE VI. ADOPTING AND AMENDING THE STATE BAR RULES

ARTICLE VII. MEETINGS OF THE STATE BAR OF TEXAS

1. Annual Meeting.
2. Special Meetings.
3. Procedure as to Proposed Resolutions.

ARTICLE VIII. COMMITTEES, SECTIONS AND DIVISIONS

1. Creation, Membership, Officers, Vacancies.
2. Reports.

ARTICLE IX. TEXAS BAR JOURNAL

ARTICLE X. DISCIPLINE AND SUSPENSION OF MEMBERS

1. Administration; Supervision.
2. Definitions.
3. Disciplinary Districts.
4. Grievance Committees.
5. The Disciplinary Review Committee of the State Bar of Texas.
6. Disciplinary Counsel.
7. Grounds for Discipline.
8. Sanctions.
9. The Texas Code of Professional Responsibility.
10. Generally.
11. Service.
12. Subpoena Power; Discovery.

- Sec.
13. Examination of Witnesses Before District Judge; Procedure.
 14. Grievance Committee Judgment; Procedure For.
 15. Resignation in the Face of a Pending Disciplinary Proceeding.
 16. Additional Rules of Procedure.
 17. Venue; Residence.
 18. Requisites of Disciplinary Petition.
 19. Answer of Respondent.
 20. Resident Judge Disqualified.
 21. Preferred Setting.
 22. Conduct Constituting Threat of Harm to Clients.
 23. Judgment.
 24. Appeal; No Supersedeas.
 25. Exemption from Cost and Appeal Bond.
 26. Compulsory Discipline.
 27. Reciprocal Discipline.
 28. Reinstatement After Disbarment.
 29. Notice, Hearing, and Judgment.
 30. Suspension Due to Disability.
 31. Reinstatement After Suspension Due to Disability.
 32. Notice to Interested Persons of Attorney Cessation of Practice.
 33. Jurisdiction of Court over Affected Attorney's Practice.
 34. Access to Disciplinary Information.
 35. Dissemination of Disciplinary Information.
 36. Expenses and Fees.
 37. Immunity From Civil Suit.
 38. Maintenance of Funds or Other Property Held For Clients and Others.

ARTICLE XI. INTEREST EARNED ON CLIENT FUNDS HELD BY ATTORNEYS

1. Short Title.
2. Findings; Purpose.
3. Rules.
4. Provisions Relating to the Nonprofit Corporation.
5. Deposit of Certain Client Funds.
6. Depositions.
7. Attorney Liability.
8. Liability of Nonprofit Corporation.
9. Initial Distribution of Funds.

Preamble

These Rules are adopted in aid of the Court's inherent power to regulate the practice of law and nothing shall be construed as a modification or limitation thereof.

ARTICLE I. DEFINITIONS

The following words shall have the meaning set out below, unless a different meaning is apparent from the context:

1. "State Bar" means the State Bar of Texas.
2. "Clerk" means the clerk of the Supreme Court of Texas.
3. "Board" means the State Bar board of directors.
4. "Act" means the State Bar Act, Chapter 510, Acts of the 66th Legislature of Texas, Regular Session, 1979, being also Senate Bill No. 287 as passed by the 66th Legislature of Texas, Regular Session, 1979, and signed by the Governor on June

11, 1979, and being also Article 320a-1, Vernon's Texas Civil Statutes as revised and as it may be amended.

5. "Metropolitan County" includes any of the counties of Bexar, Dallas, Harris, Tarrant and Travis of the State of Texas, as well as any other county hereafter so designated by the board.

6. "Member in Good Standing" is a member of the State Bar who is not in default in payment of dues and who is not under suspension from practice.

7. "Registered Address" is the address of a member as shown on the membership rolls maintained by the clerk of the Supreme Court.

8. "Good Cause" for failure to attend a meeting exists if such failure was for a good reason or if there is justification or excuse for such failure.

9. "Court" is the Supreme Court of Texas.

10. "Properly Addressed" when used in reference to any mailing to a member of the State Bar, means addressed to the member at the last known address of such member as shown on the rolls of the State Bar at the time of such mailing.

11. "He" includes "she." The masculine gender includes the feminine gender.

12. "Ex Officio" means by virtue or because of an office. Unless otherwise provided, one serving as an ex officio member of a body shall be entitled to vote.

13. "Rules" means the State Bar Rules.

14. "Member" means a member of the State Bar of Texas.

ARTICLE II. GENERAL PROVISIONS

Sec. 1. Official Name

The official name of the State Bar is "State Bar of Texas."

Sec. 2. Purposes of the Organization

The purposes of the State Bar are those set out in the Act.

Sec. 3. Purposes of These Rules

These Rules are adopted for the operation, maintenance and conduct of the State Bar and for the disciplining of its members.

Sec. 4. Seal

The State Bar shall have a seal in the form of a five-pointed star, around the upper portion of which shall be written in capital letters, "STATE BAR OF TEXAS" and around the lower portion of which shall be written in capital letters, "CREATED IN 1939." The seal may be used only for official business of the State Bar, its sections and committees.

Sec. 5. Principal Office of the State Bar

The principal office of the State Bar shall be maintained in Austin, Travis County, Texas.

Sec. 6. Service of Process

Service of citation or other process may be had upon the State Bar by serving either the executive director or the general counsel.

Sec. 7. Fiscal Year

The fiscal year of the State Bar shall be as determined by the board.

Sec. 8. Organizational Year

The organizational year of the State Bar shall be from time of adjournment of the annual meeting of the State Bar one year to the time of adjournment of the annual meeting of the State Bar of the next year.

Sec. 9. Oath of Office

Officers and directors of the State Bar, before entering upon the duties of office, shall take the official oath or affirmation set out in Art. 16, Sec. I of the Constitution of the State of Texas.

Sec. 10. Elections and Balloting

Except as may otherwise be provided, elections shall be conducted under the supervision of the executive director.

Sec. 11. Officers and Directors Holding Over

Each officer and director shall continue to serve and perform the duties of his office until his successor has qualified.

Sec. 12. Publication of New Rules and Amendments to Rules

These Rules and any amendments thereto shall be published in a manner directed by the board.

Sec. 13. Spokesman for the Bar

The president of the State Bar or, in the absence of the president, the president-elect, shall be the public representative of the State Bar and shall enunciate the policies of the State Bar as promulgated by the board, except that the board or the president may delegate such authority under such conditions as the board may prescribe. The board may authorize sections and committees, and those properly authorized by such sections and committees, to publicly represent the views of a section or committee.

Sec. 14. Procedures for Meetings

(A) All proceedings at meetings of the State Bar, of the board, of the executive committee and of all other committees and sections shall be governed by Roberts' Rules of Order.

(B) Voting by those entitled to vote at all such meetings shall be in person. Voting by proxy shall not be allowed.

(C) The presence of a majority of those persons entitled to vote at all such meetings shall constitute a quorum, except that:

(1) At any meeting of the State Bar, one hundred (100) members shall constitute a quorum for the transaction of business; and

(2) At any meeting of a State Bar section or committee, a quorum may be less than a majority if the board has determined. Action shall be taken only upon a majority vote of those entitled to vote, a quorum being present.

ARTICLE III. MEMBERSHIP**Sec. 1. Members**

The members of the State Bar are those persons designated in the Act.

Sec. 2. Enrollment in the State Bar

(A) Each person who becomes licensed to practice law in Texas shall, no earlier than ten (10) days prior to and no later than ten (10) days following the date of admission, file with the clerk an enrollment form stating name, permanent place of residence, principal place of practice and such other information as may be required by the clerk and pay all fees and assessments then required, and this filing and payment shall constitute enrollment in the State Bar.

(B) Associate members, as authorized by the Act, may be enrolled under rules prescribed by the Court.

Sec. 3. Membership Fees

All membership fees shall be payable at the time of enrollment as a member of the State Bar and annually thereafter on the first day of the State Bar's fiscal year.

Sec. 4. Membership Rolls and Membership Cards

Upon enrollment, the clerk shall enter that person's name on the membership rolls and issue an appropriate membership card which shall be evidence of membership.

Sec. 5. Default in Payment of Fees or Assessments

If a member is in default of payment of membership fees or any assessment levied by the Court on the thirtieth day after the due date, the clerk shall forthwith notify the member of default. If the fees and assessments are not paid on or before sixty (60) days after the mailing of the notice of default, the defaulting member shall automatically be suspended from the practice of law. Any practice of law during such suspension shall constitute professional misconduct and subject the member to discipline.

Sec. 6. Resignation from Membership Other Than in Face of Pending Disciplinary Action

The Court may accept a member's voluntary resignation provided that the tender is in writing, addressed to the Court and is accompanied by:

(A) The member's affidavit that his purpose in resigning is not to avoid disciplinary action and that

he has no knowledge of any unresolved allegation of professional misconduct against him.

(B) A certificate by the general counsel that there are no disciplinary actions pending against such member and that such member is not at such time the subject of an investigation for professional misconduct.

Sec. 7. Return to Former Status

(A) When a member, who has been suspended for nonpayment of fees or assessments, removes such default by payment of fees or assessments then owing, plus an additional amount equivalent to one-half the delinquency, the suspension shall automatically be lifted and the member restored to former status. Return to former status shall be retroactive to inception of suspension, but shall not affect any proceeding for discipline of the member for professional misconduct.

(B) A person who has voluntarily resigned from membership shall be required to apply to the Board of Law Examiners and to comply with the rules of the Court pertaining to admission to the practice of law before resuming the practice of law.

(C) An inactive member may return to active status upon written application to the clerk and payment of fees for the current year.

ARTICLE IV. ADMINISTRATION

Sec. 1. Board of Directors; Duties

(A) The State Bar shall be governed by a board which shall enforce the Act and these Rules.

(B) The term of office for each elected and public director shall be three (3) years. The terms of such directors shall be staggered with one-third ($\frac{1}{3}$) of such directors elected or appointed each year.

(C) The regular term of office of an elected or public director shall commence on adjournment of the annual meeting of the State Bar next following election or appointment and continue until the adjournment of the third annual meeting next following election or appointment.

(D) The board shall take such action and adopt such regulations and policies, consistent with the Act or these Rules, as shall be necessary and proper for the administration and management of the affairs of the State Bar, for the protection of the property of the State Bar and for the preservation of good order.

Sec. 2. Meetings of the Board

The board shall meet regularly at least four (4) times annually, and may meet specially, at such times and places as the board shall determine. All meetings, however, shall be held within the State of Texas.

Sec. 3. Composition of Board

The board shall be composed of the officers of the State Bar, the president, president-elect, and imme-

diately past president of the Texas Young Lawyers Association, not more than thirty (30) members of the State Bar elected by the membership from their district as may be determined by the board, and six (6) persons who are not licensed attorneys, known as public directors, who do not have, other than as consumers, a financial interest in the practice of law.

Sec. 4. Chairperson of Board

The board shall elect annually from its membership, under such procedures as it shall prescribe, a chairperson to serve for the next succeeding organizational year. Such person shall be elected from the class of directors then serving the second year of their terms.

Sec. 5. Qualification of Officers and Directors

(A) No person may serve as an officer or director who,

(1) ... has not taken the official oath by the second regular board meeting next following the commencement of the term for which he was elected or appointed,

(2) ... as to an elected or ex officio director or an officer, is not an active member in good standing,

(3) ... as to an elected or ex officio director or an officer, has ever been suspended or disbarred from the practice of law,

(4) ... as to an elected director, does not maintain in the district from which elected, his principal place of practice,

(5) ... as to an elected director, has his principal place of practice in the same county as the last preceding director from that district, except for an elected director in a metropolitan county,

(6) ... as to an elected director, has previously served at least one and a half ($1\frac{1}{2}$) years of the immediately preceding director's term,

(7) ... is, or becomes, incapacitated from performing the duties of such office for all or a substantial portion of such term,

(8) ... as to a director, fails to attend without good cause, any two (2) consecutive regular meetings of the board or any four (4) meetings of the board,

(9) ... as to a public director, has failed confirmation by the senate of the State of Texas, or

(10) ... is an elected official paid by the State of Texas, except that such prohibition shall not apply to public directors.

(B) The board shall be the judge of the qualifications of officers and directors.

Sec. 6. How Directors Shall Be Elected

Elected directors shall be elected by a majority of the active and emeritus members of the State Bar voting who have their principal place of practice in the same Bar district as that of the candidate. If no candidate receives a majority, a run off shall be held at such time as the board shall prescribe between

the two candidates receiving the greatest number of votes.

Sec. 7. Nominees for Office of Elected Director

(A) An active member's name may be placed in nomination for the office of elected director by a written petition in form prescribed by the board and signed by the lesser of five percent (5%) of the active members whose principal place of practice is within the district to be represented by the nominee if elected, or one hundred (100) of such members, which petition must be received in the office of the executive director on or before March 15 of the year of election. The executive director shall promptly review the petition to verify the eligibility of the nominee. If from the petition it appears the nominee is eligible, that person's name shall be listed upon the ballot. If from the petition the executive director finds the nominee to be ineligible, that fact shall immediately be communicated to the nominee. Any nominee desiring to appeal the findings of the executive director shall forthwith notify the executive director, who shall forthwith convene the executive committee to hear and determine the matter. The executive committee shall have final authority to determine questions of eligibility of the nominee and the validity of the nominating petition and shall do so within ten (10) days of the notice to the executive director.

(B) The petitions may be in counterparts, and it shall be sufficient that the signatures on all the counterparts aggregate the required number of signatures.

(C) If no valid petition nominating an eligible person shall have been received by the executive director by March 15 in respect to a district in the year in which such district is to elect a director, or if all persons who have been nominated in the foregoing manner shall have died or become disqualified from serving at any time prior to the printing of the ballot in such election, then the president of the State Bar with the advice of the person then serving as elected director from that district shall name a qualified person to stand for election as director from that district.

(D) If an elected director fails to qualify, such position shall be deemed vacant.

Sec. 8. Director Vacancies and How Filled

(A) Death of a board member, judgment of incompetency, a board member's resignation or any failure to qualify shall create a vacancy. In case of a vacancy in an elected directorship, the president shall appoint a member whose principal place of practice is within the district in which the vacancy has occurred to serve until the next annual election of directors. Vacancies in ex officio directorships shall be filled by the person who succeeds to the office in the State Bar or in the Texas Young Lawyers Association to which such directorship is incident, except that the directorship incident to the office of immediate past president of the State Bar

or Texas Young Lawyers Association or immediate past chairperson of the board of the State Bar shall be filled by the most recent holder of such offices respectively who is willing to serve. Vacancies in public directorships shall be filled in the same manner and by the same authority designated by statute to fill such positions.

(B) Persons filling such vacancies shall meet the same requirements and shall qualify in the same manner as those assuming the office of director for the full term. A person succeeding to an ex officio or public director vacancy shall serve the balance of the term of the particular directorship vacated.

Sec. 9. Executive Committee

(A) The executive committee of the board shall consist of the president, president-elect, the chairperson of the board, the immediate past president of the State Bar, president of the Texas Young Lawyers Association and such other persons as the board may designate. The president shall be chairperson, and the board chairperson shall be the vice-chairperson of the executive committee and he shall preside in the chairperson's absence.

(B) The general purpose of the executive committee shall be to perform between meetings of the board such functions, consistent with the Act or these Rules, as the board may assign to it from time to time.

(C) The general counsel and the executive director of the State Bar shall be ex officio, non-voting members of the executive committee.

Sec. 10. Officers

(A) The officers of the State Bar shall be the president, the president-elect and the immediate past president.

(B) The president shall preside at all meetings of the State Bar, be the official representative and spokesperson for the State Bar in all public matters and have general responsibility for carrying out the policy of the State Bar.

(C) The president-elect shall preside at meetings of the State Bar in the absence of the president and otherwise assist the president, as the president shall request, in carrying out the responsibilities of the office of president.

Sec. 11. President-Elect, Nomination and Election

(A) At its regular January meeting each year the board of directors shall nominate by a majority vote two (2) or more members of the State Bar to stand for election to the office of president-elect for the ensuing year. Any other member shall also be privileged to stand for election to such office when a written petition in form prescribed by the board, signed by no fewer than one percent (1%) of the active members of the State Bar who are in good standing, is filed with the executive director or on before March 15 next preceding the election to be held for the office of president-elect for the ensuing

year. The names of all nominees shall be printed on the official ballot and published in the *Texas Bar Journal* and otherwise publicized by such practical means as the board shall determine.

(B) The ballot shall be mailed to each member of the State Bar entitled to vote at the same time as ballots for the election of elected directors are mailed. A combined ballot for the office of president-elect and for the office of director may be used in those bar districts in which an election for director is to be conducted. The person receiving the highest number of votes for the office of president-elect shall be declared to be elected to such office for the next ensuing term.

(C) The office of president shall be filled by the succession of the president-elect to such office at the expiration of the term for which such person was elected to serve as president-elect.

Sec. 12. Term of Office of Officers

The regular term of office for officers of the State Bar shall be from adjournment of the annual meeting for the year preceding the year of service and shall end with such adjournment the following year.

Sec. 13. Vacancy in an Office

(A) Death of an officer, judgment of incompetency, an officer's resignation or failure to qualify shall create a vacancy in the office.

(B) If a vacancy occurs in the office of president, it shall be filled by the succession of the president-elect to the office of president, in which case a special election shall be called by the board to fill the office of president-elect at such times and under such procedures as are prescribed by the board.

(C) If the vacancy occurs in the office of president-elect, a special election shall be held for the office of president-elect. In such event the procedures for a regular election shall be followed subject to such necessary changes as shall be required in order to meet the exigencies of the situation.

(D) Should the president-elect succeed to the office of president and have less than six (6) months to serve in the unexpired term, he shall in such event, serve the next full term to which he would have normally succeeded.

(E) In the event a simultaneous vacancy exists in the office of the president and president-elect, a special election shall be held for each office and in the meanwhile the chairperson of the board shall serve as interim president.

Sec. 14. Other Executive Positions

The executive director and general counsel shall be elected by the board and shall perform such duties as the board may prescribe.

ARTICLE V. FISCAL

Sec. 1. Budget Committee

There shall be a budget committee, comprised of the president of the State Bar, the president-elect, the chairperson of the board, and two (2) or more members of the board of directors appointed by the president. The president or his designee shall be chairperson of this committee.

Sec. 2. Public Hearing on Budget

A public hearing shall be held each year to consider the State Bar's proposed budget in accordance with the Act.

Sec. 3. Annual Budget

(A) The budget committee shall consult with the executive director and the general counsel with respect to the annual budget for the State Bar for the fiscal year next after the committee's appointment. The proposed budget shall be prepared and submitted to the board at its first quarterly meeting each calendar year, and shall be acted on by the board at such meeting. After adoption by the board, the budget shall be submitted to the Court for approval.

(B) The budget may be amended by majority vote of the board at any regular or special meeting in order to meet any unforeseen contingency, subject to the Court's approval.

Sec. 4. Expenses

The board may provide for the payment of necessary expenses incurred by the officers, directors, committee members, and employees of the State Bar in the discharge of their duties.

ARTICLE VI. ADOPTING AND AMENDING THE STATE BAR RULES

New rules for the governance of the State Bar, and amendments to these Rules shall be adopted and promulgated by the Court as provided in the Act.

ARTICLE VII. MEETINGS OF THE STATE BAR OF TEXAS

Sec. 1. Annual Meeting

The annual meeting of the State Bar shall be held during the month of June or July of each year at a time and place to be determined by the board.

Sec. 2. Special Meetings

(A) Special meetings of the State Bar shall be called by the president upon two-thirds ($\frac{2}{3}$) vote of the directors, or upon written petition of at least five hundred (500) members of the State Bar.

(B) The time and place of such meeting shall be in accordance with the call.

(C) Prior to any special meeting, the executive director shall mail to each member in good standing a notice of the time and place of the meeting and

purposes for which the meeting is to be held. The notices shall be mailed sufficiently in advance of such meeting date so as to afford reasonable notice of the meeting.

Sec. 3. Procedure as to Proposed Resolutions

The board shall adopt a procedure by which resolutions may be proposed for adoption by the State Bar and for their review as to form in advance of presentation to the general assembly at the annual meeting. A brief resume of this procedure shall be published in the *Texas Bar Journal* prior to the annual meeting.

ARTICLE VIII. COMMITTEES, SECTIONS AND DIVISIONS

Sec. 1. Creation, Membership, Officers; Vacancies

(A) The board may create or dissolve from time to time such State Bar and board committees, sections and divisions as it may deem advisable. Their organizational structure, purpose and bylaws shall be subject to approval of the board. Membership of committees shall be comprised of presidential appointees. Membership of sections shall be comprised of members of the State Bar who pay the section dues and are otherwise qualified under the bylaws of the section. Membership of divisions shall be determined by their respective bylaws.

(B) As soon as practicable after assuming office, and not later than the April board meeting of the calendar year in which he will assume the presidency, the president-elect shall prepare and present to the board for its advice and consent, a proposed roster of State Bar committees, committee chairpersons and committee members for his presidential year. The board at the April meeting shall approve the list of State Bar committees and the president-elect shall promptly notify the proposed chairpersons and members of their selection and obtain their consent to serve. Any necessary changes or additions in committee organization and personnel shall be reported by the president-elect to the retiring board at its June meeting and shall be finally approved by the incoming board at its first meeting of the new organizational year. Subsequent creation of special committees by the president and the appointment of the personnel thereof, shall be subject to approval by the executive committee or by the board at the earliest opportunity.

(C) Officers of sections and divisions for the ensuing year shall be elected according to the respective bylaws at their annual meeting coinciding with the annual meeting of the Bar.

(D) Vacancies occurring in membership of State Bar committees shall be filled by the president for the unexpired term and vacancies occurring in section committees shall be filled by the chairperson of the section, except that if a vacancy occurs in the position of chairperson, and there is no vice-chairperson to assume the position of chairperson, it

shall be filled by a majority vote of the section council. Vacancies in division committees shall be filled in accordance with the bylaws of the division.

Sec. 2. Reports

The sections and divisions and State Bar committees shall deliver to the president and executive director at least sixty (60) days before the annual meeting of the State Bar, annual reports and recommendations. Such reports and recommendations may be printed and sent to members of the State Bar before the annual meeting, but any section, division or committee may present at the annual meeting any additional report or recommendation. The president, president-elect, immediate past president and the board may also present reports and recommendations in the same manner.

ARTICLE IX. TEXAS BAR JOURNAL

A publication, under the name *Texas Bar Journal*, and devoted to legal matters and the affairs of the State Bar and its members may be published and circulated under the direction of the board.

ARTICLE X. DISCIPLINE AND SUSPENSION OF MEMBERS

Sec. 1. Administration; Supervision

Subject to the supervisory power of the Court, the responsibility for the administration and supervision of the disciplinary and disability system of the State Bar is vested in the board and the disciplinary review committee as provided for herein. Authority to adopt rules of procedure and administration for the operation of the review committee, grievance committees, and counsel, not inconsistent with these rules, shall be vested in the board.

Sec. 2. Definitions

In addition to the definitions in Article I, the following words shall have the meaning set out below, unless a different meaning is apparent from the context:

(A) "District" means disciplinary district.

(B) "Complaint" means those matters received by the State Bar which upon the face thereof, or which after screening or preliminary investigation, allege or involve professional misconduct or disability cognizable under this Article or the Texas Code of Professional Responsibility and which, if established in fact, could subject a member or any attorney specially admitted by a court of this state for a particular proceeding to discipline or suspension from practice.

(C) "Inquiry" means those matters received by the State Bar which, even if true, do not allege professional misconduct or disability.

(D) "Disciplinary Petition" means the pleading by which a disciplinary action is instituted by a grievance committee or counsel in district court.

(E) "Disciplinary Action" means the proceedings in court brought against an attorney alleging professional misconduct as well as suits for reinstatement or for suspension due to disability.

(F) "Disciplinary Proceeding" means the investigation and processing of either an inquiry or complaint prior to the filing of a disciplinary action.

(G) "Respondent" means an attorney who is the subject of a complaint or a disciplinary action.

(H) "Review Committee" means the disciplinary review committee of the State Bar of Texas.

(I) "Counsel" means the general counsel of the State Bar or any assistant general counsel acting under the direction of the general counsel.

Sec. 3. Disciplinary Districts

Disciplinary jurisdiction in this state shall be divided into disciplinary districts which shall be coextensive with bar districts. Grievance committee districts may be designated within a disciplinary district.

Sec. 4. Grievance Committees

(A) **Composition.** Each grievance committee shall consist of not less than six (6) members, two-thirds ($\frac{2}{3}$) of whom shall be members of the bar of this state and one-third ($\frac{1}{3}$) of whom shall be public members. Each member of the committee shall be a resident of the district for which he or she is appointed. Public members shall be representatives of the general public and shall not have, other than as consumers, a financial interest in the practice of law. The State Bar director or directors, including all public members of the board, from the committee's district shall be ex-officio, nonvoting members of the committee and shall not be counted for the purpose of determining a quorum.

The president and directors shall give precedence to grievance committee appointments and notice of the appointments shall be given to the appointees who shall complete and return such application and statements of information as may be required by the board. All members shall continue to hold office until their successors in office take office. It shall be the duty of each director to nominate prospective members of the grievance committee or committees for such director's district at or before the April meeting of the board. If a director fails to comply with this time limitation, then the president shall appoint the members of the committee.

(B) **Terms of Office.** One-third ($\frac{1}{3}$) of such committee members shall be appointed for an initial term of one (1) year, one-third ($\frac{1}{3}$) for an initial term of two (2) years and one-third ($\frac{1}{3}$) for an initial term of three (3) years. Thereafter all regular terms shall be three (3) years. A member whose term has expired may continue to serve until the qualification of a successor. A member who has served two consecutive terms may not be reappointed before the expiration of at least one (1) year following the second term, except for good cause.

It shall be the duty of the directors from the district to call promptly the first meeting of the grievance committee or committees in that district, to make arrangements for the administration of the oath of office to each member, and to preside until after the committee shall have elected its own chairman. If the director fails to convene the committee by the twentieth (20th) day of July then any member of the grievance committee may convene the committee.

(C) **Quorum.** One-third ($\frac{1}{3}$) of the members or three (3) members, whichever is greater, shall constitute a quorum; provided, however, that no adverse action against a member may be taken unless at least one-half ($\frac{1}{2}$) of the members of the committee are present. The committee shall act only with the concurrence of a majority of the members actually present and voting.

(D) **Powers and Duties.** Grievance committees shall have the following powers and duties:

(1) Conduct disciplinary proceedings regarding a lawyer having an office or residence within the committee's district or whose professional misconduct occurred in whole or in part within such district or in cases transferred to the committee;

(2) Review the recommendations of counsel following investigation for disposition of a disciplinary proceeding;

(3) Conduct investigatory hearings into charges of professional misconduct or disability when necessary;

(4) Negotiate with accused lawyers an appropriate sanction after a finding of just cause of professional misconduct or disability or authorize commencement of a disciplinary action when unable to agree on a sanction with an accused lawyer. "Just cause" means such cause as is found to exist upon a reasonable inquiry that would induce a reasonably intelligent and prudent person to believe that a lawyer has committed professional misconduct or suffers from a disability which requires suspension from the practice of law;

(5) Upon notice to the chairman of the review committee and counsel to conduct an investigation or, with approval of the chairman of the board, prosecution of a particular matter without regard to whether counsel has commenced or completed an investigation into the same matter;

(6) Promptly render the decision necessary to implement its powers and duties, including but not limited to determination of whether a lawyer has committed professional misconduct or suffers from a disability requiring suspension and whether sanctions are warranted.

(E) **Oath.** As soon as possible after appointment to a grievance committee, each newly-appointed member shall take the following oath to be administered by any person authorized by law to administer oaths, to wit:

"I do solemnly swear (or affirm) that I will faithfully execute the duties of the office of a member of a grievance committee of the State Bar of Texas, as required by the rules of the State Bar of Texas, and will, to the best of my ability, preserve, protect, and defend the Constitution and Laws of the United States and of this State; I furthermore solemnly swear (or affirm) that I shall keep secret, unless permitted to disclose the same in accordance with the rules of the State Bar or in the course of a judicial proceeding, all such matters and things as shall come to my knowledge rising out of or in connection with a grievance investigation or proceeding; and I furthermore solemnly swear (or affirm) that I have not directly nor indirectly paid, offered, or promised to pay, contributed any money, or valuable thing, or promised any public office or employment as a reward to secure my appointment. So help me, God."

(F) Disqualification of Members. If a matter shall arise before a committee wherein the committee considers one or more of its members disqualified to act, such member or members shall be excluded from further participation therein. If the chairman or majority of the remainder of the committee shall be of the opinion that one or more temporary members should be appointed to act in the disqualified member or members' stead, or if such appointment is necessary to constitute a quorum, the president on recommendation by the director or directors from the district shall make such appointment on request, to be effective only so far as concerns the matter in question. If the director or directors do not make a recommendation within ten (10) days after the request, the president shall make such appointment.

Sec. 5. The Disciplinary Review Committee of the State Bar of Texas

(A) Review Committee and Appointment. The disciplinary review committee is hereby created as a standing committee of the State Bar. Its members shall be appointed by the president with the advice and counsel of the board. The review committee shall not be abolished except by a four-fifths ($\frac{4}{5}$) vote of the board. The review committee shall consist of a lawyer member from each bar district plus eight (8) public members appointed as follows:

- (1) Six (6) lawyer members and three (3) public members appointed for an initial term of one (1) year; and
- (2) Six (6) lawyer members and three (3) public members appointed for an initial term of two (2) years; and
- (3) Five (5) lawyer members and two (2) public members appointed for an initial term of three (3) years

Subsequent terms of all members of the review committee shall be for three (3) years. No member shall succeed himself. Vacancies shall be filled by the president. No person may be a member of the

review committee and a member of the board simultaneously. The public members shall be representatives of the general public and shall not have, other than as consumers, any financial interest in the practice of law.

(B) Election of Officers. The members of the review committee shall annually elect lawyer members as chairman and vice-chairman. The chairman, and in his absence the vice-chairman, shall perform the duties normally associated with that office and shall preside over all meetings of the review committee.

(C) Quorum. Nine (9) members shall constitute a quorum, except that a panel of three (3) members may hear appeals and such other matters as may be specifically delegated to it by the board. The review committee and any of its panels shall act only with the concurrence of a majority of those members present and voting.

(D) Compensation and Expenses. Members shall receive no compensation for their services but may be reimbursed for travel and other expenses incidental to the performance of their duties.

(E) Recusal of Review Committee Members. Review committee members shall refrain from taking part in any proceeding in which a judge, similarly situated, would be required to recuse himself or herself.

(F) Powers and Duties. The review committee shall exercise the following powers and duties:

- (1) Propose rules of procedure and administration for its own operation and that of grievance committees and counsel for promulgation by the board not inconsistent with these rules, including authorization for the review committee to operate in panels with specific responsibilities;
 - (2) Periodically review the operation of the State Bar disciplinary system with the board;
 - (3) Recommend to the president the removal of any member of a grievance committee for good cause;
 - (4) Review appeals by counsel or by a complainant, with approval of counsel, and remand matters to the grievance committee when there is clear and convincing evidence that the decision of the grievance committee is erroneous;
 - (5) Transfer disciplinary proceedings from one committee to another within the same district or, where the committee within the district fails or refuses to hear the disciplinary proceeding, to a committee in an adjoining district.
- (G) Meetings.** The review committee shall meet at least quarterly. Routine business including appointments, removals, and transfers may be handled by mail or conference call.

Sec. 6. Disciplinary Counsel

(A) Appointment. The general counsel of the State Bar of Texas shall serve as disciplinary counsel.

(B) **Powers and Duties.** Counsel shall have the following powers and duties:

(1) Review and screen all information coming to the attention of the State Bar relating to conduct by a lawyer, and make appropriate recommendations to a grievance committee except that a grievance committee may delegate to counsel the power to reject matters not constituting a complaint;

(2) Investigate complaints and present same to the appropriate grievance committee;

(3) Recommend to a grievance committee the dismissal, transfer, appropriate negotiated sanction, or prosecution with respect to each complaint;

(4) Unless other counsel is provided by the board, represent the State Bar in disciplinary actions;

(5) Supervise staff needed for the performance of the functions of counsel's office;

(6) Promptly notify the complainant and the respondent of the disposition of each complaint;

(7) Notify each jurisdiction in which a lawyer is admitted of suspension due to disability, reinstatement, or any public discipline imposed in this state;

(8) When a lawyer is convicted of a serious crime as defined in Section 26 or placed on probation in connection with a serious crime by a court of competent jurisdiction in this state, forward a certified copy of the judgment of conviction to the disciplinary agency in each jurisdiction in which the lawyer is admitted;

(9) Maintain permanent records of discipline and disability matters and compile statistics to aid in the administration of the system;

(10) Establish and maintain regional offices of counsel as authorized by the board in order to expedite the processing of disciplinary matters;

(11) When requested by a grievance committee, provide the committee with copies of all inquiries regarding lawyers with respect to whom the committee has power to conduct disciplinary proceedings;

(12) Delegate any of the foregoing powers and duties to the appropriate grievance committee.

Sec. 7. Grounds for Discipline

Discipline may be imposed for professional misconduct which includes:

(1) Acts or omissions by a lawyer, individually or in concert with another person or persons, which violate the Texas Code of Professional Responsibility, whether or not the acts or omissions occurred in the course of a lawyer-client relationship;

(2) Conduct which results in lawyer discipline in another jurisdiction;

(3) Violation of any disciplinary or disability order or judgment;

(4) Failure to furnish information requested by counsel, a grievance committee, or the review committee or to assert the grounds for failure to do so;

(5) Engaging in conduct which constitutes barratry as defined by the law of this state;

(6) Failure to comply with Section 32 of this Article;

(7) Engaging in the practice of law while in a status of suspension for failure to timely pay fees and assessments pursuant to Article III, Section 5 of these rules or while in an inactive status pursuant to Article III, Section 7 of these rules;

(8) Conviction of a serious crime or being placed on probation in connection with a serious crime, with or without an adjudication of guilt, as provided in Section 26.

For purposes of this Article, professional misconduct constitutes grounds for disciplinary action regardless of whether the act or acts in question constitute a criminal offense and regardless of whether the accused member is being prosecuted for, has been convicted of, or has been acquitted of any crime.

This Article and the Texas Code of Professional Responsibility are cumulative of all laws of the State of Texas relating to the professional conduct of lawyers and to the practice of law.

Sec. 8. Sanctions

Professional misconduct shall be grounds for one or more of the following sanctions:

(1) Disbarment by a district court or by agreement with a grievance committee, in which case the lawyer shall not be eligible for reinstatement for five (5) years;

(2) Suspension by a district court or by agreement with a grievance committee for an appropriate fixed period of time not in excess of three (3) years;

(3) Immediate interim suspension imposed by a district court pending final determination of discipline;

(4) Reprimand by a district court, which reprimand will be publicized;

(5) Reprimand by a grievance committee, which reprimand may be publicized or kept private by agreement with the grievance committee;

(6) Restitution to persons financially injured and reimbursement to the Client Security Fund;

(7) Assessment of the costs of the disciplinary action including costs of court and attorney fees.

CODE OF PROFESSIONAL RESPONSIBILITY

Sec. 9. The Texas Code of Professional Responsibility

Order of the Supreme Court dated December 20, 1971, amended Articles XII and XIII by promulgating a new Code of Professional Responsibility in Section 8 of Article XII, consisting of nine Canons of Ethics, and the Disciplinary Rules thereunder, to replace the forty-three canons appearing in Article XIII, Section 3, and by making other changes in these articles in conformity therewith.

The order also provided: "IT IS FURTHER ORDERED by the Court that the Code of Professional Responsibility herein promulgated as new Section 8, Article XII, Rules Governing the State Bar of Texas, applies only to conduct occurring after the date of this Order, and conduct occurring before the date of this Order is governed by old Sections 8 and 9 of Article XII and Article XIII (Canons of Ethics), Rules Governing the State Bar of Texas, existing before the date of this Order, which rules are continued in effect for this purpose, as if the new Sections 8 and 9 of Article XII, Rules Governing the State Bar of Texas, were not in force. For the purpose of this Order conduct is committed after the effective date of this Order, if any element of such conduct occurs after the effective date."

Order of the Supreme Court dated July 21, 1982, effective September 1, 1982, amended Disciplinary Rules 2-101, 2-102, 2-103, and 2-104 and deleted Disciplinary Rule 2-105.

Order of the Supreme Court dated February 29, 1984, effective March 1, 1984, restated, continued, and promulgated the Code of Professional Responsibility (which formerly appeared as article 12, § 8, of the Rules Governing the State Bar) as article 10, § 9, of the State Bar Rules.

The Ethical Considerations preceding the Disciplinary Rules were adopted by the State Bar Board of Directors on January 22, 1972.

Ethical Considerations 2-3, 2-9, and 2-10 were amended and Ethical Consideration 2-14 was deleted by the Board of Directors of the State Bar of Texas on March 26, 1982.

a. Code of Professional Responsibility Canon

1. A Lawyer Should Assist in Maintaining the Integrity and Competence of the Legal Profession.

Ethical Considerations

EC

1-1 to 1-6.

Disciplinary Rules

DR

1-101. Maintaining Integrity and Competence of the Legal Profession.

1-102. Misconduct.

1-103. Disclosure of Information to Authorities.

2. A Lawyer Should Assist the Legal Profession in Fulfilling Its Duty to Make Legal Counsel Available.

Ethical Considerations

EC

2-1.

2-2 to 2-5. Recognition of Legal Problems.

2-6 to 2-8. Selection of a Lawyer: Advertising.

2-9 to 2-15. Selection of a Lawyer: Professional Notices and Listings.

2-16. Financial Ability to Employ Counsel: Generally.

2-17 to 2-23. Financial Ability to Employ Counsel: Persons Able to Pay Reasonable Fees.

2-24, 2-25. Financial Ability to Employ Counsel: Persons Unable to Pay Reasonable Fees.

2-26 to 2-32. Acceptance and Retention of Employment.

Disciplinary Rules

DR

2-101. Publicity and Advertising.

2-102. Trade names.

2-103. Recommendation of Professional Employment.

2-104. Claims of Expertise.

2-105. Deleted.

2-106. Fees for Legal Services.

2-107. Division of Fees Among Lawyers.

2-108. Agreements Restricting the Practice of a Lawyer.

2-109. Acceptance of Employment.

2-110. Withdrawal from Employment.

3. A Lawyer Should Assist in Preventing the Unauthorized Practice of Law.

Ethical Considerations

EC

3-1 to 3-9.

Disciplinary Rules

DR

3-101. Aiding Unauthorized Practice of Law.

3-102. Dividing Legal Fees with a Non-Lawyer.

3-103. Forming a Partnership with a Non-Lawyer.

4. A Lawyer Should Preserve the Confidences and Secrets of a Client.

Ethical Considerations

EC

4-1 to 4-6.

Disciplinary Rules

DR

4-101. Preservation of Confidences and Secrets of a Client.

Canon

5. A Lawyer Should Exercise Independent Professional Judgment on Behalf of a Client.

Ethical Considerations

EC

5-1.

5-2 to 5-13. Interests of a Lawyer That May Affect His Judgment.

5-14 to 5-20. Interests of Multiple Clients.

5-21 to 5-24. Desires of Third Persons.

Disciplinary Rules

DR

5-101. Refusing Employment When the Interests of the Lawyer May Impair His Independent Professional Judgment.

5-102. Withdrawal as Counsel When the Lawyer Becomes a Witness.

5-103. Avoiding Acquisition of Interest in Litigation.

5-104. Limiting Business Relations with a Client.

5-105. Refusing to Accept or Continue Employment if the Interests of Another Client May Impair the Independent Professional Judgment of the Lawyer.

5-106. Settling Similar Claims of Clients.

5-107. Avoiding Influence by Others Than the Client.

6. A Lawyer Should Represent a Client Competently.

Ethical Considerations

EC

6-1 to 6-6.

Disciplinary Rules

DR

6-101. Failing to Act Competently.

6-102. Limiting Liability to Client.

7. A Lawyer Should Represent a Client Zealously Within the Bounds of the Law.

Ethical Considerations

EC

7-1 to 7-3.

7-4 to 7-18. Duty of the Lawyer to a Client.

7-19 to 7-39. Duty of the Lawyer to the Adversary System of Justice.

Disciplinary Rules

DR

7-101. Representing a Client Zealously.

7-102. Representing a Client Within the Bounds of the Law.

7-103. Performing the Duty of Public Prosecutor or Other Government Lawyer.

7-104. Communicating With One of Adverse Interest.

7-105. Threatening Criminal Prosecution.

7-106. Trial Conduct.

7-107. Trial Publicity.

7-108. Communication with or Investigation of Jurors.

7-109. Contact with Witnesses.

7-110. Contact with Officials.

8. A Lawyer Should Assist in Improving the Legal System

Ethical Considerations

EC

8-1 to 8-9.

Disciplinary Rules

DR

8-101. Action as a Public Official.

8-102. Statements Concerning Judges and Other Adjudicatory Officers.

Canon

9. A Lawyer Should Avoid Even the Appearance of Professional Impropriety.

Ethical Considerations

EC

9-1 to 9-6.

Disciplinary Rules

DR

9-101. Avoiding Even the Appearance of Impropriety.

9-102. Preserving Identity of Funds and Property of a Client.

b. Definitions.

a. The following Code of Professional Responsibility shall govern the conduct of members of the State Bar.

Canon 1

A Lawyer Should Assist in Maintaining the Integrity and Competence of the Legal Profession

ETHICAL CONSIDERATIONS

EC 1-1. A basic tenet of the professional responsibility of lawyers is that every person in our society should have ready access to the independent professional services of a lawyer of integrity and competence. Maintaining the integrity and improving the competence of the bar to meet the highest standards is the ethical responsibility of every lawyer.

EC 1-2. The public should be protected from those who are not qualified to be lawyers by reason of a deficiency in education or moral standards or of other relevant factors but who nevertheless seek to practice law. To assure the maintenance of high moral and educational standards of the legal profession, lawyers should affirmatively assist courts and other appropriate bodies in promulgating, enforcing, and improving requirements for admission to the bar. In like manner, the bar has a positive obligation to aid in the continued improvement of all phases of pre-admission and post-admission legal education.

EC 1-3. Before recommending an applicant for admission, a lawyer should satisfy himself that the applicant is of good moral character. Although a lawyer should not become a self-appointed investigator or judge of applicants for admission, he should report to proper officials all unfavorable information he possesses relating to the character or other qualifications of an applicant.

EC 1-4. The integrity of the profession can be maintained only if conduct of lawyers in violation of the Disciplinary Rules is brought to the attention of the proper officials. A lawyer should reveal voluntarily to those officials all unprivileged knowledge of conduct of lawyers which he believes clearly to be in violation of the Disciplinary Rules. A lawyer should, upon request, serve on and assist committees and boards having responsibility for the administration of the Disciplinary Rules.

EC 1-5. A lawyer should maintain high standards of professional conduct and should encourage fellow lawyers to do likewise. He should be temperate and dignified, and he should refrain from all illegal and morally reprehensible conduct. Because of his position in society, even minor violations of law by a lawyer may tend to lessen public confidence in the legal profession. Obedience to law exemplifies respect for law. To lawyers especially, respect for the law should be more than a platitude.

EC 1-6. An applicant for admission to the bar or a lawyer may be unqualified, temporarily or permanently, for other than moral and educational reasons, such as mental or emotional instability. Lawyers should be diligent in taking steps to see that during a period of disqualification such person is not granted a license or, if licensed, is not permitted to practice. In like manner, when the disqualification has terminated, members of the bar should assist such person in being licensed, or, if licensed, in being restored to his full right to practice.

DISCIPLINARY RULES

DR 1-101. Maintaining Integrity and Competence of the Legal Profession

(A) A lawyer is subject to discipline if he has made a materially false statement in, or if he has deliberately failed to disclose a material fact requested in connection with, his application for admission to the bar.

(B) A lawyer shall not further the application for admission to the bar of another person known by him to be unqualified in respect to character, education, or other relevant attribute.

DR 1-102. Misconduct

(A) A lawyer shall not:

- (1) Violate a Disciplinary Rule.
- (2) Circumvent a Disciplinary Rule through actions of another.
- (3) Engage in illegal conduct involving moral turpitude.
- (4) Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.
- (5) Engage in conduct that is prejudicial to the administration of justice.
- (6) Engage in any other conduct that adversely reflects on his fitness to practice law.

DR 1-103. Disclosure of Information to Authorities

(A) A lawyer possessing unprivileged knowledge of a violation of DR 1-102 shall report such knowledge to a tribunal or other authority empowered to investigate or act upon such violation.

(B) A lawyer possessing unprivileged knowledge or evidence concerning another lawyer or a judge shall reveal fully such knowledge or evidence upon proper request of a tribunal or other authority

empowered to investigate or act upon the conduct of lawyers or judges.

Canon 2

A Lawyer Should Assist the Legal Profession in Fulfilling its Duty to Make Legal Counsel Available

ETHICAL CONSIDERATIONS

EC 2-1. The need of members of the public for legal services is met only if they recognize their legal problems, appreciate the importance of seeking assistance, and are able to obtain the services of acceptable legal counsel. Hence, importance functions of the legal profession are to educate laymen to recognize their legal problems, to facilitate the process of intelligent selection of lawyers, and to assist in making legal services fully available.

Recognition of Legal Problems

EC 2-2. The legal profession should assist laymen to recognize legal problems because such problems may not be self-revealing and often are not timely noticed. Therefore, lawyers acting under proper auspices should encourage and participate in educational and public relations programs concerning our legal system with particular reference to legal problems that frequently arise. Such educational programs should be motivated by a desire to benefit the public rather than to obtain publicity or employment for particular lawyers. Examples of permissible activities include preparation of institutional advertisements and professional articles for lay publications and participation in seminars, lectures, and civic programs. But a lawyer who participates in such activities should shun personal publicity.

EC 2-3. Whether a lawyer acts properly in volunteering advice to a layman to seek legal services depends upon the circumstances. The giving of advice that one should take legal action would well be in fulfillment of the duty of the legal profession to assist laymen in recognizing legal problems. The advice is proper only if motivated by a desire to protect one who does not recognize that he may have legal problems or who is ignorant of his legal rights or obligations. Hence, the advice is improper if motivated by a desire to obtain personal benefit, secure personal publicity, or cause litigation to be brought merely to harass or injure another.

EC 2-4. Since motivation is subjective and often difficult to judge, the motives of a lawyer who volunteers advice likely to produce legal controversy may well be suspect if he receives professional employment or other benefits as a result. A lawyer who volunteers advice that one should obtain the services of a lawyer generally should not himself accept employment, compensation, or other benefit in connection with that matter. However, it is not improper for a lawyer to volunteer such advice and render resulting legal services to close friends, relatives, former clients (in regard to matters germane to former employment), and regular clients.

EC 2-5

EC 2-5. A lawyer who writes or speaks for the purpose of educating members of the public to recognize their legal problems should carefully refrain from giving or appearing to give a general solution applicable to all apparently similar individual problems, since slight changes in fact situations may require a material variance in the applicable advice; otherwise, the public may be misled and misadvised. Talks and writings by lawyers for laymen should caution them not to attempt to solve individual problems upon the basis of the information contained therein.

Selection of a Lawyer: Advertising

EC 2-6. Formerly a potential client usually knew the reputations of local lawyers for competency and integrity and therefore could select a practitioner in whom he had confidence. This traditional selection process worked well because it was initiated by the client and the choice was an informed one.

EC 2-7. Changed conditions, however, have seriously restricted the effectiveness of the traditional selection process. Often the reputations of lawyers are not sufficiently known to enable laymen to make intelligent choices. The law has become increasingly complex and specialized. Few lawyers are willing and competent to deal with every kind of legal matter, and many laymen have difficulty in determining the competence of lawyers to render different types of legal services. The selection of legal counsel is particularly difficult for transients, persons moving into new areas, persons of limited education or means, and others who have little or no contact with lawyers.

EC 2-8. Selection of a lawyer by a layman often is the result of the advice and recommendation of third parties—relatives, friends, acquaintances, business associates, or other lawyers. A layman is best served if the recommendation is disinterested and informed. In order that the recommendation be disinterested, a lawyer should not seek to influence another to recommend his employment. A lawyer should not compensate another person for recommending him, for influencing a prospective client to employ him, or to encourage future recommendations.

Selection of a Lawyer: Professional Notices and Listings

EC 2-9. Competitive advertising which is extravagant, artful, and self-laudatory could mislead the layman. Furthermore, it would inevitably produce unrealistic expectations in particular cases and bring about distrust of the law and lawyers. Thus, public confidence in our legal system would be impaired by such advertisements of professional services. The attorney-client relationship is personal and unique and should not be established as the result of pressures and deceptions. History has demonstrated that public confidence in the legal system is best preserved by strict, self-imposed controls over, rather than by unlimited, advertising.

EC 2-10. Methods of advertising that are subject to the objections stated above should be and are

prohibited. However, the Disciplinary Rules recognize the value of giving assistance in the selection process through forms of advertising that furnish identification of a lawyer while avoiding such objections. In order to facilitate the process of informed selection of a lawyer by potential consumers of legal services, a lawyer may publish or broadcast the information enumerated herein in any advertising media, including printed media, radio or television. Printed media means mail; newspapers; magazines; classified telephone directories; city, county and suburban directories; legal directories and law lists.

- (1) Name, including the name of the law firm and its licensed attorneys;
- (2) Office addresses and telephone numbers;
- (3) Age, or date and place of birth;
- (4) Date and place of admission to the Bar of any state and to federal courts;
- (5) Universities, colleges, and law school attended, with date of graduation and degrees;
- (6) Membership in international, national, federal, state, local, and speciality bar associations;
- (7) Other professional licenses (e.g., CPA, MD);
- (8) Statement by name of prepaid or group legal services program in which the lawyer participates;
- (9) Foreign language ability;
- (10) Whether credit cards or other credit arrangements are accepted;
- (11) Office and telephone answering service hours;
- (12) Information concerning the opening of a new law office, the change of address or location of an office, and the acquisition of new associates or partners;
- (13) Fee for initial consultation, provided that if the time for the consultation is to be limited, any such limitation on the time shall be stated in the advertisement;
- (14) A statement that a schedule of fees or an estimate of fees to be charged for specific services will be available on request;
- (15) Contingent fee rates, subject to DR 2-106(C), provided that the statement discloses whether percentages are computed before or after deduction of court costs and expenses;
- (16) Hourly rate, provided that the statement discloses that the total fee charged will depend upon the number of hours which must be devoted to the particular matter to be handled for each client, and that the client is entitled without obligation to an estimate of the fee likely to be charged;
- (17) Fixed fees for specific legal services;
- (18) A listing in a legal directory may include names and addresses of references, and, with their consent, names of clients regularly represented.

EC 2-11. The name under which a lawyer conducts his practice may be a factor in the selection

process. The use of a trade name or an assumed name could mislead laymen concerning the identity, responsibility, and status of those practicing thereunder. Accordingly, a lawyer in private practice should practice only under his own name, the name of a lawyer employing him, a partnership name composed of the name of one or more of the lawyers practicing in a partnership, or, if permitted by law, in the name of a professional legal corporation, which should be clearly designated as such. For many years some law firms have used a firm name retaining one or more names of deceased or retired partners and such practice is not improper if the firm is a bona fide successor of a firm in which the deceased or retired person was a member, if the use of the name is authorized by law or by contract, and if the public is not misled thereby. However, the name of a partner who withdraws from a firm but continues to practice law should be omitted from the firm name in order to avoid misleading the public.

EC 2-12. A lawyer occupying a judicial, legislative, or public executive or administrative position who has the right to practice law concurrently may allow his name to remain in the name of the firm if he actively continues to practice law as a member thereof. Otherwise, his name should be removed from the firm name, and he should not be identified as a past or present member of the firm; and he should not hold himself out as being a practicing lawyer.

EC 2-13. In order to avoid the possibility of misleading persons with whom he deals, a lawyer should be scrupulous in the representation of his professional status. He should not hold himself out as being a partner or associate of a law firm if he is not one in fact, and thus should not hold himself out as a partner or associate if he only shares offices with another lawyer.

EC 2-14. Deleted March 26, 1982.

EC 2-15. The legal profession has developed lawyer referral systems designed to aid individuals who are able to pay fees but need assistance in locating lawyers competent to handle their particular problems. Use of a lawyer referral system enables a layman to avoid an uninformed selection of a lawyer because such a system makes possible the employment of competent lawyers who have indicated an interest in the subject matter involved. Lawyers should support the principle of lawyer referral systems and should encourage the evolution of other ethical plans which aid in the selection of qualified counsel.

Financial Ability to Employ Counsel: Generally

EC 2-16. The legal profession cannot remain a viable force in fulfilling its role in our society unless its members receive adequate compensation for services rendered, and reasonable fees should be charged in appropriate cases to clients able to pay them. Nevertheless, persons unable to pay all or a portion of a reasonable fee should be able to obtain necessary legal services, and lawyers should sup-

port and participate in ethical activities designed to achieve that objective.

Financial Ability to Employ Counsel: Persons Able to Pay Reasonable Fees

EC 2-17. The determination of a proper fee requires consideration of the interests of both client and lawyer. A lawyer should not charge more than a reasonable fee, for excessive cost of legal service would deter laymen from utilizing the legal system in protection of their rights. Furthermore, an excessive charge abuses the professional relationship between lawyer and client. On the other hand, adequate compensation is necessary in order to enable the lawyer to serve his client effectively and to preserve the integrity and independence of the profession.

EC 2-18. The determination of the reasonableness of a fee requires consideration of all relevant circumstances, including those stated in the Disciplinary Rules. The fees of a lawyer will vary according to many factors, including the time required, his experience, ability, and reputation, the nature of the employment, the responsibility involved, and the results obtained. Suggested fee schedules and economic reports of state and local bar associations provide some guidance on the subject of reasonable fees. It is a commendable and long-standing tradition of the bar that special consideration is given in the fixing of any fee for services rendered a brother lawyer or a member of his immediate family.

EC 2-19. As soon as feasible after a lawyer has been employed, it is desirable that he reach a clear agreement with his client as to the basis of the fee charges to be made. Such a course will not only prevent later misunderstanding but will also work for good relations between the lawyer and the client. It is usually beneficial to reduce to writing the understanding of the parties regarding the fee, particularly when it is contingent. A lawyer should be mindful that many persons who desire to employ him may have had little or no experience with fee charges of lawyers, and for this reason he should explain fully to such persons the reasons for the particular fee arrangement he proposes.

EC 2-20. Contingent fee arrangements in civil cases have long been commonly accepted in the United States in proceedings to enforce claims. The historical bases of their acceptance are that (1) they often, and in a variety of circumstances, provide the only practical means by which one having a claim against another can economically afford, finance, and obtain the services of a competent lawyer to prosecute his claim, and (2) a successful prosecution of the claim produces a *res* out of which the fee can be paid. Although a lawyer generally should decline to accept employment on a contingent fee basis by one who is able to pay a reasonable fixed fee, it is not necessarily improper for a lawyer, where justified by the particular circumstances of a case, to enter into a contingent fee contract in a civil case with any client who, after being fully informed of all relevant factors, desires that arrangement.

EC 2-20

Because of the human relationships involved and the unique character of the proceedings, contingent fee arrangements in domestic relation cases are rarely justified. In administrative agency proceedings contingent fee contracts should be governed by the same considerations as in other civil cases. Public policy properly condemns contingent fee arrangements in criminal cases, largely on the ground that legal services in criminal cases do not produce a *res* with which to pay the fee.

EC 2-21. A lawyer should not accept compensation or any thing of value incident to his employment or services from one other than his client without the knowledge and consent of his client after full disclosure.

EC 2-22. Without the consent of his client, a lawyer should not associate in a particular matter another lawyer outside his firm. A fee may be properly divided between lawyers properly associated if the division is in proportion to the services performed and the responsibility assumed by each lawyer, or is with a forwarding attorney, and if the total fee is reasonable.

EC 2-23. A lawyer should be zealous in his efforts to avoid controversies over fees with clients and should attempt to resolve amicably any differences on the subject. He should not sue a client for a fee unless necessary to prevent fraud or gross imposition by the client.

Financial Ability to Employ Counsel: Persons Unable to Pay Reasonable Fees

EC 2-24. A layman whose financial ability is not sufficient to permit payment of any fee cannot obtain legal services, other than in cases where a contingent fee is appropriate, unless the services are provided for him. Even a person of moderate means may be unable to pay a reasonable fee which is large because of the complexity, novelty, or difficulty of the problem or similar factors.

EC 2-25. Historically, the need for legal services of those unable to pay reasonable fees has been met in part by lawyers who donated their services or accepted court appointments on behalf of such individuals. The basic responsibility for providing legal services for those unable to pay ultimately rests upon the individual lawyer, and personal involvement in the problems of the disadvantaged can be one of the most rewarding experiences in the life of a lawyer. Every lawyer, regardless of professional prominence or professional workload, should find time to participate in serving the disadvantaged. The rendition of free legal services to those unable to pay reasonable fees continues to be an obligation of each lawyer, but the efforts of individual lawyers are often not enough to meet the need. Thus it has been necessary for the profession to institute additional programs to provide legal services. Accordingly, legal aid offices, lawyer referral services, and other related programs have been developed, and others will be developed, by the profession. Every lawyer should support all proper efforts to meet this need for legal services.

Acceptance and Retention of Employment

EC 2-26. A lawyer is under no obligation to act as adviser or advocate for every person who may wish to become his client; but in furtherance of the objective of the bar to make legal services fully available, a lawyer should not lightly decline proffered employment. The fulfillment of this objective requires acceptance by a lawyer of his share of tendered employment which may be unattractive both to him and the bar generally.

EC 2-27. History is replete with instances of distinguished and sacrificial services by lawyers who have represented unpopular clients and causes. Regardless of his personal feelings, a lawyer should not decline representation because a client or a cause is unpopular or community reaction is adverse.

EC 2-28. The personal preference of a lawyer to avoid adversary alignment against judges, other lawyers, public officials, or influential members of the community does not justify his rejection of tendered employment.

EC 2-29. When a lawyer is appointed by a court or requested by a bar association to undertake representation of a person unable to obtain counsel, whether for financial or other reasons, he should not seek to be excused from undertaking the representation except for compelling reasons. Compelling reasons do not include such factors as the repugnance of the subject matter of the proceeding, the identity or position of a person involved in the case, the belief of the lawyer that the defendant in a criminal proceeding is guilty, or the belief of the lawyer regarding the merits of the civil case.

EC 2-30. Employment should not be accepted by a lawyer when he is unable to render competent service or when he knows or it is obvious that the person seeking to employ him desires to institute or maintain an action merely for the purpose of harassing or maliciously injuring another. Likewise, a lawyer should decline employment if the intensity of his personal feeling, as distinguished from a community attitude, may impair his effective representation of a prospective client. If a lawyer knows a client has previously obtained counsel, he should not accept employment in the matter unless the other counsel approves or withdraws, or the client terminates the prior employment.

EC 2-31. Full availability of legal counsel requires both that persons be able to obtain counsel and that lawyers who undertake representation complete the work involved. Trial counsel for a convicted defendant should continue to represent his client by advising whether to take an appeal and, if the appeal is prosecuted, by representing him through the appeal unless new counsel is substituted or withdrawal is permitted by the appropriate court.

EC 2-32. A decision by a lawyer to withdraw should be made only on the basis of compelling circumstances, and in a matter pending before a tribunal he must comply with the rules of the tribunal regarding withdrawal. A lawyer should not

withdraw without considering carefully and endeavoring to minimize the possible adverse effect on the rights of his client and the possibility of prejudice to his client as a result of his withdrawal. Even when he justifiably withdraws, a lawyer should protect the welfare of his client by giving due notice of his withdrawal, suggesting employment of other counsel, delivering to the client all papers and property to which the client is entitled, cooperating with counsel subsequently employed, and otherwise endeavoring to minimize the possibility of harm. Further, he should refund to the client any compensation not earned during the employment.

DISCIPLINARY RULES

DR 2-101. Publicity and Advertising

(A) A lawyer shall not make, on behalf of himself, his partner, associate, or any other lawyer, any false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it:

- (1) Contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading;
- (2) Contains a statement of opinion as to the quality of legal services;
- (3) Contains a representation or implication regarding the quality of legal services which is not susceptible to reasonable verification by the public;
- (4) Contains predictions of future success;
- (5) Contains statistical data which is not susceptible to reasonable verification by the public;
- (6) Contains other information based on past performance which is not susceptible to reasonable verification by the public;
- (7) Contains a testimonial about or endorsement of a lawyer;
- (8) Is intended or is likely to create an unjustified expectation about results the lawyer can achieve.

(B) A lawyer who publishes, advertises, or broadcasts with regard to any area of the law in which he practices must, with respect to each area of the law so advertised, publish or broadcast the name of the lawyer, licensed to practice law in Texas, who shall be responsible for the performance of the legal service in the area of law so advertised.

(C) Each lawyer whose name is either published, advertised, or broadcast pursuant to DR 2-101(B):

- (1) Who has been awarded a Certificate of Special Competence by the Texas Board of Legal Specialization in the area so advertised must state with respect to each area, "Board Certified, (area of specialization) — Texas Board of Legal Specialization."
- (2) Who has not been awarded a Certificate of Special Competence by the Texas Board of Legal Specialization in the area so advertised must state

with respect to each area, "Not certified by the Texas Board of Legal Specialization". Where the area so advertised has not been designated as an area in which a lawyer may be awarded a Certificate of Special Competence by the Texas Board of Legal Specialization, the lawyer may also state, "No designation has been made by the Texas Board of Legal Specialization for a Certificate of Special Competence in this area." Such statements must be displayed conspicuously so as to be easily seen or understood by any consumer.

(D) A lawyer shall not compensate or give anything of value to representatives of the press, radio, television, or other communication media in anticipation of or in return for publicity in a news item, except that the provisions of this paragraph shall not prohibit payment of the cost of lawyer advertising permitted under this rule.

(E) A lawyer who makes or causes to be made any form of written, recorded or broadcast public communication shall retain a copy of same for a period of four (4) years from the date such communication is first made or caused to be made.

DR 2-102. Tradenames

(A) A lawyer in private practice shall not practice under a trade name, a name that is misleading as to the identity of the lawyer or lawyers practicing under such name, or a firm name containing names other than those of one or more of the lawyers in the firm, except that the names of a professional corporation or professional association may contain "P.C." or "P.A." or similar symbols indicating the nature of the organization, and if otherwise lawful a firm may use as, or continue to include in, its name the name or names of one or more deceased or retired members of the firm or of a predecessor firm in a continuing line of succession. Nothing herein shall prohibit a married woman from practicing under her maiden name.

(B) A lawyer shall not hold himself out as having a partnership with one or more other lawyers unless they are in fact partners.

(C) A partnership shall not be formed or continued between or among lawyers licensed in different jurisdictions unless all enumerations of the members and associates of the firm make clear the jurisdictional limits of the members and associates of the firm not licensed to practice in all listed jurisdictions; however, the same firm name may be used in each jurisdiction.

DR 2-103. Recommendation of Professional Employment

(A) A lawyer shall not recommend employment, as a private practitioner, of himself, his partner, or associate to a non-lawyer who has not sought his advice regarding employment of a lawyer, except as follows:

- (1) A lawyer may advertise in the public media within the limits of DR 2-101, so long as the

DR 2-103

advertising communication does not take place in person or by telephone.

(2) A lawyer may recommend employment of himself or other attorneys in person to groups of individuals, so long as there is no potential for intimidation or overreaching by such personal contact.

(3) A lawyer may recommend himself or other attorneys to a prospective client, if such individual is a close friend, relative, former client or one whom the lawyer reasonably believes to be a client.

(4) A lawyer may recommend himself or other attorneys to a prospective client if such lawyer is acting on behalf of a bona fide, nonprofit organization that pursues litigation as a vehicle for effective political expression, and provided further, that incidental attorneys fees, if any, are paid to and inure to the benefit of the nonprofit organization.

(B) If success in asserting rights or defenses of his client in litigation in the nature of a class action is dependent upon the joinder of others, a lawyer may accept, but shall not seek employment from those contacted for the purpose of obtaining the joinder.

(C) A lawyer shall not compensate or give anything of value to a person or organization to recommend or secure his employment by a client, or as a reward for having made a recommendation resulting in his employment by a client; except that a lawyer may advertise in the public media within the limits of DR 2-101, so long as the advertising communication does not take place in person or by telephone.

(D) A lawyer shall not initiate contact with, or send a written communication to, a prospective client for the purpose of obtaining professional employment if:

(1) The lawyer knows or reasonably should know the person could not exercise reasonable judgment in employing a lawyer; or

(2) The person has made known to the lawyer a desire not to receive communications from the lawyer; or

(3) The communication involves coercion, duress, or harassment; or

(4) The communication contains any information prohibited by DR 2-101.

(E) A lawyer shall not knowingly assist a person or organization that recommends, furnishes, or pays for legal services to promote the use of his services or those of his partners or associates. However, he may cooperate in a dignified manner with the legal service activities of any of the following, provided that his independent professional judgment is exercised in behalf of his client without interference or control by any organization or other person.

(1) A legal aid office, public defender office, or legal services organization:

(a) Operated or sponsored by a duly accredited law school.

(b) Operated or sponsored by a bona fide non-profit community organization.

(c) Operated or sponsored by a governmental agency.

(d) Operated, sponsored, or approved by a bar association representative of the general bar of the geographical area in which the association exists.

(2) A military legal assistance office.

(3) A lawyer referral service operated, sponsored, or approved by a bar association representative of the general bar of the geographical area in which the association exists.

(4) A bar association representative of the general bar of the geographical area in which the association exists.

(5) Any bona fide organization that recommends, furnishes or pays for legal services to its members or beneficiaries provided the following conditions are satisfied:

(a) Such organization, including any affiliate, is so organized and operated that no profit is derived by it from the rendition of legal services by lawyers, and that, if the organization is organized for profit, the legal services are not rendered by lawyers employed, directed, supervised or selected by it except in connection with matters where such organization bears ultimate liability of its member or beneficiary.

(b) Neither the lawyer, nor his partner, nor associate, nor any other lawyer affiliated with him or his firm, nor any non-lawyer, shall have initiated or promoted such organization for the primary purpose of providing financial or other benefit to such lawyer, partner, associate or affiliated lawyer.

(c) Such organization is not operated for the purpose of procuring legal work or financial benefit for any lawyer as a private practitioner outside of the legal services program of the organization.

(d) The member or beneficiary to whom the legal services are furnished, and not such organization, is recognized as the client of the lawyer in the matter.

(e) Any member or beneficiary who is entitled to have legal services furnished or paid for by the organization may, if such member or beneficiary so desires, select counsel other than that furnished, selected or approved by the organization for the particular matter involved; and the legal service plan of such organization provides appropriate relief for any member or beneficiary who asserts a claim that representation by counsel furnished, selected or approved would be unethical, improper or inadequate under the circumstances of the matter involved and the plan provides an appropriate procedure for seeking such relief.

(F) A lawyer shall not accept employment when he knows or it is obvious that the person who seeks his services does so as a result of conduct prohibited under any Disciplinary Rule.

DR 2-104. Claims of Expertise

A lawyer shall not hold himself out publicly as a specialist, except as permitted under DR 2-101 or as follows:

(1) A lawyer admitted to practice before the United States Patent Office may use the designation "Patents," "Patent Attorney," or "Patent Lawyer," or any combination of those terms. A lawyer engaged in the trademark practice may use the designation "Trademark," "Trademark Attorney," or "Trademark Lawyer," or any combination of those terms. A lawyer engaged in patent and trademark practice may hold himself out as specializing in "Intellectual Property Law," "Patents, or Trademarks and Related Matters," or "Patent, Trademark, Copyright Law and Unfair Competition" or any of those terms.

(2) A lawyer may permit his name to be listed in lawyer referral service offices according to the areas of law in which he will accept referrals.

(3) A lawyer available to practice in a particular area of law or legal service may distribute to other lawyers and publish in legal directories a dignified announcement of such availability, but the announcement shall not contain a representation of special competence or experience.

DR 2-105. Deleted by order of July 21, 1982, eff. Sept. 1, 1982

DR 2-106. Fees for Legal Services

(A) A lawyer shall not enter into an agreement for, charge, or collect an illegal or clearly excessive fee.

(B) A fee is clearly excessive when, after a review of the facts, a lawyer of ordinary prudence would be left with a definite and firm conviction that the fee is in excess of a reasonable fee. Factors to be considered as guides in determining the reasonableness of a fee include the following:

(1) The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly.

(2) The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer.

(3) The fee customarily charged in the locality for similar legal services.

(4) The amount involved and the results obtained.

(5) The time limitations imposed by the client or by the circumstances.

(6) The nature and length of the professional relationship with the client.

(7) The experience, reputation, and ability of the lawyer or lawyers performing the services.

(8) Whether the fee is fixed or contingent.

(C) A lawyer shall not enter into an arrangement for, charge, or collect a contingent fee for representing a defendant in a criminal case.

DR 2-107. Division of Fees Among Lawyers

(A) A lawyer shall not divide a fee for legal services with another lawyer who is not a partner in or associate of his law firm or law office, unless:

(1) The client consents to employment of the other lawyer after a full disclosure that a division of fees will be made.

(2) The division is made in proportion to the services performed and responsibility assumed by each, or is made with a forwarding lawyer.

(3) The total fee of the lawyers does not clearly exceed reasonable compensation for all legal services they rendered the client.

(B) This Disciplinary Rule does not prohibit payment to a former partner or associate pursuant to a separation or retirement agreement.

DR 2-108. Agreements Restricting the Practice of a Lawyer

(A) A lawyer shall not be a party to or participate in a partnership or employment agreement with another lawyer that restricts the right of a lawyer to practice law after the termination of a relationship created by the agreement, except as a condition to payment of retirement benefits.

(B) In connection with the settlement of a controversy or suit, a lawyer shall not enter into an agreement that restricts his right to practice law.

DR 2-109. Acceptance of Employment

(A) A lawyer shall not accept employment on behalf of a person if he knows or it is obvious that such person wishes to:

(1) Bring a legal action, conduct a defense, or assert a position in litigation, or otherwise have steps taken for him, merely for the purpose of harassing or maliciously injuring any person.

(2) Present a claim or defense in litigation that is not warranted under existing law, unless it can be supported by good faith argument for an extension, modification, or reversal of existing law.

DR 2-110. Withdrawal from Employment

(A) In general.

(1) If permission for withdrawal from employment is required by the rules of a tribunal, a lawyer shall not withdraw from employment in a proceeding before that tribunal without its permission.

(2) In any event, a lawyer shall not withdraw from employment until he has taken reasonable steps to avoid foreseeable prejudice to the rights of his client, including giving due notice to his client, allowing time for employment of other counsel, delivering to the client all papers and property to which the client is entitled, and complying with applicable laws and rules.

DR 2-110

(3) A lawyer who withdraws from employment shall refund promptly any part of a fee paid in advance that has not been earned.

(B) **Mandatory withdrawal.**

A lawyer representing a client before a tribunal, with its permission if required by its rules, shall withdraw from employment, and a lawyer representing a client in other matters shall withdraw from employment, if:

(1) He knows or it is obvious that his client is bringing the legal action, conducting the defense, or asserting a position in the litigation, or is otherwise having steps taken for him, merely for the purpose of harassing or maliciously injuring any person.

(2) He knows or it is obvious that his continued employment will result in violation of a Disciplinary Rule.

(3) His mental or physical condition renders it unreasonably difficult for him to carry out the employment effectively.

(4) He is discharged by his client.

(C) **Permissive withdrawal.**

If DR 2-110(B) is not applicable, a lawyer may not request permission to withdraw in matters pending before a tribunal, and may not withdraw in other matters, unless such request or such withdrawal is because:

(1) His client:

(a) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law.

(b) Personally seeks to pursue an illegal course of conduct.

(c) Insists that the lawyer pursue a course of conduct that is illegal or that is prohibited under the Disciplinary Rules.

(d) By other conduct renders it unreasonably difficult for the lawyer to carry out his employment effectively.

(e) Insists, in a matter not pending before a tribunal, that the lawyer engage in conduct that is contrary to the judgment and advice of the lawyer but not prohibited under the Disciplinary Rules.

(f) Deliberately disregards an agreement or obligation to the lawyer as to expenses or fees.

(2) His continued employment is likely to result in a violation of a Disciplinary Rule.

(3) His inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal.

(4) His mental or physical condition renders it difficult for him to carry out the employment effectively.

(5) His client knowingly and freely assents to termination of his employment.

(6) He believes in good faith, in a proceeding pending before a tribunal, that the tribunal will find the existence of other good cause for withdrawal.

Canon 3

A Lawyer Should Assist in Preventing the Unauthorized Practice of Law

ETHICAL CONSIDERATIONS

EC 3-1. The prohibition against the practice of law by a layman is grounded in the need of the public for integrity and competence of those who undertake to render legal services. Because of the fiduciary and personal character of the lawyer-client relationship and the inherently complex nature of our legal system, the public can better be assured of the requisite responsibility and competence if the practice of law is confined to those who are subject to the requirements and regulations imposed upon members of the legal profession.

EC 3-2. The sensitive variations in the considerations that bear on legal determinations often make it difficult even for a lawyer to exercise appropriate professional judgment, and it is therefore essential that the personal nature of the relationship of client and lawyer be preserved. Competent professional judgment is the product of a trained familiarity with law and legal processes, a disciplined, analytical approach to legal problems, and a firm ethical commitment.

EC 3-3. A non-lawyer who undertakes to handle legal matters is not governed as to integrity or legal competence by the same rules that govern the conduct of a lawyer. A lawyer is not only subject to that regulation but also is committed to high standards of ethical conduct. The public interest is best served in legal matters by a regulated profession committed to such standards. The Disciplinary Rules protect the public in that they prohibit a lawyer from seeking employment by improper overtures, from acting in cases of divided loyalties, and from submitting to the control of others in the exercise of his judgment. Moreover, a person who entrusts legal matters to a lawyer is protected by the attorney-client privilege and by the duty of the lawyer to hold inviolate the confidences and secrets of his client.

EC 3-4. A layman who seeks legal services often is not in a position to judge whether he will receive proper professional attention. The entrustment of a legal matter may well involve the confidences, the reputation, the property, the freedom, or even the life of the client. Proper protection of members of the public demands that no person be permitted to act in the confidential and demanding capacity of a lawyer unless he is subject to the regulations of the legal profession.

EC 3-5. It is neither necessary nor desirable to attempt the formulation of a single, specific definition of what constitutes the practice of law. Func-

tionally, the practice of law relates to the rendition of services for others that call for the professional judgment of a lawyer. The essence of the professional judgment of the lawyer is his educated ability to relate the general body and philosophy of law to a specific legal problem of a client; and thus, the public interest will be better served if only lawyers are permitted to act in matters involving professional judgment. Where this professional judgment is not involved, non-lawyers, such as court clerks, police officers, abstracters, and many governmental employees, may engage in occupations that require a special knowledge of law in certain areas. But the services of a lawyer are essential in the public interest whenever the exercise of professional legal judgment is required.

EC 3-6. A lawyer often delegates tasks to clerks, secretaries, and other lay persons. Such delegation is proper if the lawyer maintains a direct relationship with his client, supervises the delegated work, and has complete professional responsibility for the work product. This delegation enables a lawyer to render legal service more economically and efficiently.

EC 3-7. The prohibition against a non-lawyer practicing law does not prevent a layman from representing himself, for then he is ordinarily exposing only himself to possible injury. The purpose of the legal profession is to make educated legal representation available to the public; but anyone who does not wish to avail himself of such representation is not required to do so. Even so, the legal profession should help members of the public to recognize legal problems and to understand why it may be unwise for them to act for themselves in matters having legal consequences.

EC 3-8. Since a lawyer should not aid or encourage a layman to practice law, he should not practice law in association with a layman or otherwise share legal fees with a layman. This does not mean, however, that the pecuniary value of the interest of a deceased lawyer in his firm or practice may not be paid to his estate or specified persons such as his widow or heirs. In like manner, profit-sharing retirement plans of a lawyer or law firm which include non-lawyer office employees are not improper. These limited exceptions to the rule against sharing legal fees with laymen are permissible since they do not aid or encourage laymen to practice law.

EC 3-9. Regulation of the practice of law is accomplished principally by the respective states. Authority to engage in the practice of law conferred in any jurisdiction is not per se a grant of the right to practice elsewhere, and it is improper for a lawyer to engage in practice where he is not permitted by law or by court order to do so. However, the demands of business and the mobility of our society pose distinct problems in the regulation of the practice of law by the states. In furtherance of the public interest, the legal profession should discourage regulation that unreasonably imposes territorial limitations upon the right of a lawyer to handle the

legal affairs of his client or upon the opportunity of a client to obtain the services of a lawyer of his choice in all matters including the presentation of a contested matter in a tribunal before which the lawyer is not permanently admitted to practice.

DISCIPLINARY RULES

DR 3-101. Aiding Unauthorized Practice of Law

(A) A lawyer shall not aid a non-lawyer in the unauthorized practice of law.

(B) A lawyer shall not practice law in a jurisdiction where to do so would be in violation of regulations of the profession in that jurisdiction.

DR 3-102. Dividing Legal Fees with a Non-Lawyer

(A) A lawyer or law firm shall not share legal fees with a non-lawyer, except that:

(1) An agreement by a lawyer with his firm, partner, or associate may provide for the payment of money, over a reasonable period of time after his death, to his estate or to one or more specified persons.

(2) A lawyer who undertakes to complete unfinished legal business of a deceased lawyer may pay to the estate of the deceased lawyer that proportion of the total compensation which fairly represents the services rendered by the deceased lawyer.

(3) A lawyer or law firm may include non-lawyer employees in a retirement plan, even though the plan is based in whole or in part on a profit-sharing arrangement.

DR 3-103. Forming a Partnership with a Non-Lawyer

(A) A lawyer shall not form a partnership with a non-lawyer if any of the activities of the partnership consist of the practice of law.

Canon 4

A Lawyer Should Preserve the Confidences and Secrets of a Client

ETHICAL CONSIDERATIONS

EC 4-1. Both the fiduciary relationship existing between lawyer and client and the proper functioning of the legal system require the preservation by the lawyer of confidences and secrets of one who has employed or sought to employ him. A client must feel free to discuss whatever he wishes with his lawyer and a lawyer must be equally free to obtain information beyond that volunteered by his client. A lawyer should be fully informed of all the facts of the matter he is handling in order for his client to obtain the full advantage of our legal system. It is for the lawyer in the exercise of his independent professional judgment to separate the relevant and important from the irrelevant and unimportant. The observance of the ethical obligation

EC 4-1

of a lawyer to hold inviolate the confidences and secrets of his client not only facilitates the full development of facts essential to proper representation of the client but also encourages laymen to seek early legal assistance.

EC 4-2. The obligation to protect confidences and secrets obviously does not preclude a lawyer from revealing information when his client consents after full disclosure, when necessary to perform his professional employment, when permitted by Disciplinary Rules, or when required by law. Unless the client otherwise directs, a lawyer may disclose the affairs of his client to partners or associates of his firm. It is a matter of common knowledge that the normal operation of a law office exposes confidential professional information to non-lawyer employees of the office, particularly secretaries and those having access to the files; and this obligates a lawyer to exercise care in selecting and training his employees so that the sanctity of all confidences and secrets of his clients may be preserved. If the obligation extends to two or more clients as to the same information, a lawyer should obtain the permission of all before revealing the information. A lawyer must always be sensitive to the rights and wishes of his client and act scrupulously in the making of decisions which may involve the disclosure of information obtained in his professional relationship. Thus, in the absence of consent of his client after full disclosure, a lawyer should not associate another lawyer in the handling of a matter; nor should he, in the absence of consent, seek counsel from another lawyer if there is a reasonable possibility that the identity of the client or his confidences or secrets would be revealed to such lawyer. Both social amenities and professional duty should cause a lawyer to shun indiscreet conversations concerning his clients.

EC 4-3. Unless the client otherwise directs, it is not improper for a lawyer to give limited information from his files to an outside agency necessary for statistical, bookkeeping, accounting, data processing, banking, printing, or other legitimate purposes, provided he exercises due care in the selection of the agency and warns the agency that the information must be kept confidential.

EC 4-4. The attorney-client privilege is more limited than the ethical obligation of a lawyer to guard the confidences and secrets of his client. This ethical precept, unlike the evidentiary privilege, exists without regard to the nature or source of information or the fact that others share the knowledge. A lawyer should endeavor to act in a manner which preserves the evidentiary privilege; for example, he should avoid professional discussions in the presence of persons to whom the privilege does not extend. A lawyer owes an obligation to advise the client of the attorney-client privilege and timely to assert the privilege unless it is waived by the client.

EC 4-5. A lawyer should not use information acquired in the course of the representation of a client to the disadvantage of the client and a lawyer

should not use, except with the consent of his client after full disclosure, such information for his own purposes. Likewise, a lawyer should be diligent in his efforts to prevent the misuse of such information by his employees and associates. Care should be exercised by a lawyer to prevent the disclosure of the confidences and secrets of one client to another, and no employment should be accepted that might require such disclosure.

EC 4-6. The obligation of a lawyer to preserve the confidences and secrets of his client continues after the termination of his employment. Thus a lawyer should not attempt to sell a law practice as a going business because, among other reasons, to do so would involve the disclosure of confidences and secrets. A lawyer should also provide for the protection of the confidences and secrets of his client following the termination of the practice of the lawyer, whether termination is due to death, disability, or retirement. For example, a lawyer might provide for the personal papers of the client to be returned to him and for the papers of the lawyer to be delivered to another lawyer or to be destroyed. In determining the method of disposition, the instructions and wishes of the client should be a dominant consideration.

DISCIPLINARY RULES

DR 4-101. Preservation of Confidences and Secrets of a Client

(A) "Confidence" refers to information protected by the attorney-client privilege under applicable law, and "secret" refers to other information gained in the professional relationship that the client has requested be held inviolate or the disclosure of which would be embarrassing or would be likely to be detrimental to the client.

(B) Except when permitted under DR 4-101(C), a lawyer shall not knowingly:

- (1) Reveal a confidence or secret of his client.
- (2) Use a confidence or secret of his client to the disadvantage of the client.
- (3) Use a confidence or secret of his client for the advantage of himself or of a third person, unless the client consents after full disclosure.

(C) A lawyer may reveal:

- (1) Confidences or secrets with the consent of the client or clients affected, but only after a full disclosure to them.
- (2) Confidences or secrets when permitted under Disciplinary Rules or required by law or court order.
- (3) The intention of his client to commit a crime and the information necessary to prevent the crime.
- (4) Confidences or secrets necessary to establish or collect his fee or to defend himself or his employees or associates against an accusation of wrongful conduct.

(D) A lawyer shall exercise reasonable care to prevent his employees, associates, and others whose services are utilized by him from disclosing or using confidences or secrets of a client, except that a lawyer may reveal the information allowed by DR 4-101(C) through an employee.

Canon 5

A Lawyer Should Exercise Independent Professional Judgment on Behalf of a Client

ETHICAL CONSIDERATIONS

EC 5-1. The professional judgment of a lawyer should be exercised, within the bounds of the law, solely for the benefit of his client and free of compromising influences and loyalties. Neither his personal interests, the interests of other clients, nor the desires of third persons should be permitted to dilute his loyalty to his client.

Interests of a Lawyer That May Affect His Judgment

EC 5-2. A lawyer should not accept proffered employment if his personal interests or desires will, or there is a reasonable probability that they will, affect adversely the advice to be given or services to be rendered the prospective client. After accepting employment, a lawyer carefully should refrain from acquiring a property right or assuming a position that would tend to make his judgment less protective of the interests of his client.

EC 5-3. The self-interest of a lawyer resulting from his ownership of property in which his client also has an interest or which may affect property of his client may interfere with the exercise of free judgment on behalf of his client. If such interference would occur with respect to a prospective client, a lawyer should decline employment proffered by him. After accepting employment, a lawyer should not acquire property rights that would adversely affect his professional judgment in the representation of his client. Even if the property interests of a lawyer do not presently interfere with the exercise of his independent judgment, but the likelihood of interference can reasonably be foreseen by him, a lawyer should explain the situation to his client and should decline employment or withdraw unless the client consents to the continuance of the relationship after full disclosure. A lawyer should not seek to persuade his client to permit him to invest in an undertaking of his client nor make improper use of his professional relationship to influence his client to invest in an enterprise in which the lawyer is interested.

EC 5-4. If, in the course of his representation of a client, a lawyer is permitted to receive from his client a beneficial ownership in publication rights relating to the subject matter of the employment, he may be tempted to subordinate the interests of his client to his own anticipated pecuniary gain. For example, a lawyer in a criminal case who obtains from his client television, radio, motion picture,

newspaper, magazine, book, or other publication rights with respect to the case may be influenced, consciously or unconsciously, to a course of conduct that will enhance the value of his publication rights to the prejudice of his client. To prevent these potentially differing interests, such arrangements should be scrupulously avoided prior to the termination of all aspects of the matter giving rise to the employment, even though his employment has previously ended.

EC 5-5. A lawyer should not suggest to his client that a gift be made to himself or for his benefit. If a lawyer accepts a gift from his client, he is peculiarly susceptible to the charge that he unduly influenced or overreached the client. If a client voluntarily offers to make a gift to his lawyer, the lawyer may accept the gift, but before doing so, he should urge that his client secure disinterested advice from an independent, competent person who is cognizant of all the circumstances. Other than in exceptional circumstances, a lawyer should insist that an instrument in which his client desires to name him beneficially be prepared by another lawyer selected by the client.

EC 5-6. A lawyer should not consciously influence a client to name him as executor, trustee, or lawyer in an instrument. In those cases where a client wishes to name his lawyer as such, care should be taken by the lawyer to avoid even the appearance of impropriety.

EC 5-7. The possibility of an adverse effect upon the exercise of free judgment by a lawyer on behalf of his client during litigation generally makes it undesirable for the lawyer to acquire a proprietary interest in the cause of his client or otherwise to become financially interested in the outcome of the litigation. However, it is not improper for a lawyer to protect his right to collect a fee for his services by the assertion of legally permissible liens, even though by doing so he may acquire an interest in the outcome of litigation. Although a contingent fee arrangement gives a lawyer a financial interest in the outcome of litigation, a reasonable contingent fee is permissible in civil cases because it may be the only means by which a layman can obtain the services of a lawyer of his choice. But a lawyer, because he is in a better position to evaluate a cause of action, should enter into a contingent fee arrangement only in those instances where the arrangement will be beneficial to the client.

EC 5-8. A financial interest in the outcome of litigation also results if monetary advances are made by the lawyer to his client. Although this assistance generally is not encouraged, there are instances when it is not improper to make loans to a client. For example, the advancing or guaranteeing of payment of the costs and expenses of litigation by a lawyer may be the only way a client can enforce his cause of action, but the ultimate liability for such costs and expenses should be that of the client.

EC 5-9

EC 5-9. Occasionally a lawyer is called upon to decide in a particular case whether he will be a witness or an advocate. If a lawyer is both counsel and witness, he becomes more easily impeachable for interest and thus may be a less effective witness. Conversely, the opposing counsel may be handicapped in challenging the credibility of the lawyer when the lawyer also appears as an advocate in the case. An advocate who becomes a witness is in the unseemly and ineffective position of arguing his own credibility. The roles of an advocate and of a witness are inconsistent; the function of an advocate is to advance or argue the cause of another, while that of a witness is to state facts objectively.

EC 5-10. Problems incident to the lawyer-witness relationship arise at different stages; they relate either to whether a lawyer should accept employment or should withdraw from employment. Regardless of when the problem arises, his decision is to be governed by the same basic considerations. It is not objectionable for a lawyer who is a potential witness to be an advocate if it is unlikely that he will be called as a witness because his testimony would be merely cumulative or if his testimony will relate only to an uncontested issue. In the exceptional situation where it will be manifestly unfair to the client for the lawyer to refuse employment or to withdraw when he will likely be a witness on a contested issue, he may serve as advocate even though he may be a witness. In making such decision, he should determine the personal or financial sacrifice of the client that may result from his refusal of employment or withdrawal therefrom, the materiality of his testimony, and the effectiveness of his representation in view of his personal involvement. In weighing these factors, it should be clear that refusal or withdrawal will impose an unreasonable hardship upon the client before the lawyer accepts or continues the employment. Where the question arises, doubts should be resolved in favor of the lawyer testifying and against his becoming or continuing as an advocate.

EC 5-11. A lawyer should not permit his personal interests to influence his advice relative to a suggestion by his client that additional counsel be employed. In like manner, his personal interests should not deter him from suggesting that additional counsel be employed; on the contrary, he should be alert to the desirability of recommending additional counsel when, in his judgment, the proper representation of his client requires it. However, a lawyer should advise his client not to employ additional counsel suggested by the client if the lawyer believes that such employment would be a disservice to the client, and he should disclose the reasons for his belief.

EC 5-12. Inability of co-counsel to agree on a matter vital to the representation of their client requires that their disagreement be submitted by them jointly to their client for his resolution, and the decision of the client shall control the action to be taken.

EC 5-13. A lawyer should not maintain membership in or be influenced by any organization of employees that undertakes to prescribe, direct, or suggest when or how he should fulfill his professional obligations to a person or organization that employs him as a lawyer. Although it is not necessarily improper for a lawyer employed by a corporation or similar entity to be a member of an organization of employees, he should be vigilant to safeguard his fidelity as a lawyer to his employer, free from outside influences.

Interests of Multiple Clients

EC 5-14. Maintaining the independence of professional judgment required of a lawyer precludes his acceptance or continuation of employment that will adversely affect his judgment on behalf of or dilute his loyalty to a client. This problem arises whenever a lawyer is asked to represent two or more clients who may have differing interests, whether such interests be conflicting, inconsistent, diverse, or otherwise discordant.

EC 5-15. If a lawyer is requested to undertake or to continue representation of multiple clients having potentially differing interests, he must weigh carefully the possibility that his judgment may be impaired or his loyalty divided if he accepts or continues the employment. He should resolve all doubts against the propriety of the representation. A lawyer should never represent in litigation multiple clients with differing interests; and there are few situations in which he would be justified in representing in litigation multiple clients with potentially differing interests. If a lawyer accepted such employment and the interests did become actually differing, he would have to withdraw from employment with likelihood of resulting hardship on the clients; and for this reason it is preferable that he refuse the employment initially. On the other hand, there are many instances in which a lawyer may properly serve multiple clients having potentially differing interests in matters not involving litigation. If the interests vary only slightly, it is generally likely that the lawyer will not be subjected to an adverse influence and that he can retain his independent judgment on behalf of each client; and if the interests become differing, withdrawal is less likely to have a disruptive effect upon the causes of his clients.

EC 5-16. In those instances in which a lawyer is justified in representing two or more clients having differing interests, it is nevertheless essential that each client be given the opportunity to evaluate his need for representation free of any potential conflict and to obtain other counsel if he so desires. Thus before a lawyer may represent multiple clients, he should explain fully to each client the implications of the common representation and should accept or continue employment only if the clients consent. If there are present other circumstances that might cause any of the multiple clients to question the undivided loyalty of the lawyer, he

should also advise all of the clients of those circumstances.

EC 5-17. Typically recurring situations involving potentially differing interests are those in which a lawyer is asked to represent co-defendants in a criminal case, co-plaintiffs in a personal injury case, an insured and his insurer, and beneficiaries of the estate of a decedent. Whether a lawyer can fairly and adequately protect the interests of multiple clients in these and similar situations depends upon an analysis of each case. In certain circumstances, there may exist little chance of the judgment of the lawyer being adversely affected by the slight possibility that the interests will become actually differing; in other circumstances, the chance of adverse effect upon his judgment is not unlikely.

EC 5-18. A lawyer employed or retained by a corporation or similar entity owes his allegiance to the entity and not a stockholder, director, officer, employee, representative, or other person connected with the entity. In advising the entity, a lawyer should keep paramount its interests and his professional judgment should not be influenced by the personal desires of any person or organization. Occasionally a lawyer for an entity is requested by a stockholder, director, officer, employee, representative, or other person connected with the entity to represent him in an individual capacity; in such case the lawyer may serve the individual only if the lawyer is convinced that differing interests are not present.

EC 5-19. A lawyer may represent several clients whose interests are not actually or potentially differing. Nevertheless, he should explain any circumstances that might cause a client to question his undivided loyalty. Regardless of the belief of a lawyer that he may properly represent multiple clients, he must defer to a client who holds the contrary belief and withdraw from representation of that client.

EC 5-20. A lawyer is often asked to serve as an impartial arbitrator or mediator in matters which involve present or former clients. He may serve in either capacity if he first discloses such present or former relationships. After a lawyer has undertaken to act as an impartial arbitrator or mediator, he should not thereafter represent in the dispute any of the parties involved.

Desires of Third Persons

EC 5-21. The obligation of a lawyer to exercise professional judgment solely on behalf of his client requires that he disregard the desires of others that might impair his free judgment. The desires of a third person will seldom adversely affect a lawyer unless that person is in a position to exert strong economic, political, or social pressures upon the lawyer. These influences are often subtle, and a lawyer must be alert to their existence. A lawyer subjected to outside pressures should make full disclosure of them to his client; and if he or his client believes that the effectiveness of his representation has been or will be impaired thereby, the

lawyer should take proper steps to withdraw from representation of his client.

EC 5-22. Economic, political, or social pressures by third persons are less likely to impinge upon the independent judgment of a lawyer in a matter in which he is compensated directly by his client and his professional work is exclusively with his client. On the other hand, if a lawyer is compensated from a source other than his client, he may feel a sense of responsibility to someone other than his client.

EC 5-23. A person or organization that pays or furnishes lawyers to represent others possesses a potential power to exert strong pressures against the independent judgment of those lawyers. Some employers may be interested in furthering their own economic, political, or social goals without regard to the professional responsibility of the lawyer to his individual client. Others may be far more concerned with establishment or extension of legal principles than in the immediate protection of the rights of the lawyer's individual client. On some occasions, decisions on priority of work may be made by the employer rather than the lawyer with the result that prosecution of work already undertaken for clients is postponed to their detriment. Similarly, an employer may seek, consciously or unconsciously, to further its own economic interests through the actions of the lawyers employed by it. Since a lawyer must always be free to exercise his professional judgment without regard to the interests or motives of a third person, the lawyer who is employed by one to represent another must constantly guard against erosion of his professional freedom.

EC 5-24. To assist a lawyer in preserving his professional independence, a number of courses are available to him. For example, a lawyer should not practice with or in the form of a professional legal corporation, even though the corporate form is permitted by law, if any director, officer, or stockholder of it is a non-lawyer. Although a lawyer may be employed by a business corporation with non-lawyers serving as directors or officers, and they necessarily have the right to make decisions of business policy, a lawyer must decline to accept direction of his professional judgment from any layman. Various types of legal aid offices are administered by boards of directors composed of lawyers and laymen. A lawyer should not accept employment from such an organization unless the board sets only broad policies and there is no interference in the relationship of the lawyer and the individual client he serves. Where a lawyer is employed by an organization, a written agreement that defines the relationship between him and the organization and provides for his independence is desirable since it may serve to prevent misunderstanding as to their respective roles. Although other innovations in the means of supplying legal counsel may develop, the responsibility of the lawyer to maintain his professional independence remains constant, and the legal profession must insure that changing circumstances

EC 5-24

do not result in loss of the professional independence of the lawyer.

DISCIPLINARY RULES

DR 5-101. Refusing Employment When the Interests of the Lawyer May Impair His Independent Professional Judgment

(A) Except with the consent of his client after full disclosure, a lawyer shall not accept employment if the exercise of his professional judgment on behalf of his client will be or reasonably may be affected by his own financial, business, property, or personal interests.

(B) A lawyer shall not accept employment in contemplated or pending litigation if he knows or it is obvious that he or a lawyer in his firm ought to be called as a witness, except that he may undertake the employment and he or a lawyer in his firm may testify:

(1) If the testimony will relate solely to an uncontested matter.

(2) If the testimony will relate solely to a matter of formality and there is no reason to believe that substantial evidence will be offered in opposition to the testimony.

(3) If the testimony will relate solely to the nature and value of legal services rendered in the case by the lawyer or his firm to the client.

(4) As to any matter, if refusal would work a substantial hardship on the client because of the distinctive value of the lawyer or his firm as counsel in the particular case.

DR 5-102. Withdrawal as Counsel When the Lawyer Becomes a Witness

(A) If, after undertaking employment in contemplated or pending litigation, a lawyer learns or it is obvious that he or a lawyer in his firm ought to be called as a witness on behalf of his client, he shall withdraw from the conduct of the trial and his firm, if any, shall not continue representation in the trial, except that he may continue the representation and he or a lawyer in his firm may testify in the circumstances enumerated in DR 5-101(B)(1) through (4).

(B) If, after undertaking employment in contemplated or pending litigation, a lawyer learns or it is obvious that he or a lawyer in his firm may be called as a witness other than on behalf of his client, he may continue the representation until it is apparent that his testimony is or may be prejudicial to his client.

DR 5-103. Avoiding Acquisition of Interest in Litigation

(A) A lawyer shall not acquire a proprietary interest in the cause of action or subject matter of litigation he is conducting for a client, except that he may:

(1) Acquire a lien granted by law to secure his fee or expenses.

(2) Contract with a client for a reasonable contingent fee in a civil case.

DR 5-104. Limiting Business Relations with a Client

(A) A lawyer shall not enter into a business transaction with a client if they have differing interests therein and if the client expects the lawyer to exercise his professional judgment therein for the protection of the client, unless the client has consented after full disclosure.

(B) Prior to conclusion of all aspects of the matter giving rise to his employment, a lawyer shall not enter into any arrangement or understanding with a client or a prospective client by which he acquires an interest in publication rights with respect to the subject matter of his employment or proposed employment.

DR 5-105. Refusing to Accept or Continue Employment if the Interests of Another Client May Impair the Independent Professional Judgment of the Lawyer

(A) A lawyer shall decline proffered employment if the exercise of his independent professional judgment in behalf of a client will be or is likely to be adversely affected by the acceptance of the proffered employment, except to the extent permitted under DR 5-105(C).

(B) A lawyer shall not continue multiple employment if the exercise of his independent professional judgment in behalf of a client will be or is likely to be adversely affected by his representation of another client, except to the extent permitted under DR 5-105(C).

(C) In the situations covered by DR 5-105(A) and (B), a lawyer may represent multiple clients if it is obvious that he can adequately represent the interest of each and if each consents to the representation after full disclosure of the possible effect of such representation on the exercise of his independent professional judgment on behalf of each.

(D) If a lawyer is required to decline employment or to withdraw from employment under DR 5-105, no partner or associate of his or his firm may accept or continue such employment.

DR 5-106. Settling Similar Claims of Clients

(A) A lawyer who represents two or more clients shall not make or participate in the making of an aggregate settlement of the claims of or against his clients, unless each client has consented to the settlement after being advised of the existence and nature of all the claims involved in the proposed settlement, of the total amount of the settlement, and of the participation of each person in the settlement.

DR 5-107. Avoiding Influence by Others Than the Client

(A) Except with the consent of his client after full disclosure, a lawyer shall not:

(1) Accept compensation for his legal services from one other than his client.

(2) Accept from one other than his client any thing of value related to his representation of or his employment by his client.

(B) A lawyer shall not permit a person who recommends, employs, or pays him to render legal services for another to direct or regulate his professional judgment in rendering such legal services.

(C) A lawyer shall not practice with or in the form of a professional corporation or association authorized to practice law for a profit, if:

(1) A non-lawyer owns any interest therein, except that a fiduciary representative of the estate of a lawyer may hold the stock or interest of the lawyer for a reasonable time during administration;

(2) A non-lawyer is a corporate director or officer thereof; or

(3) A non-lawyer has the right to direct or control the professional judgment of a lawyer.

Canon 6

A Lawyer Should Represent a Client Competently

ETHICAL CONSIDERATIONS

EC 6-1. Because of his vital role in the legal process, a lawyer should act with competence and proper care in representing clients. He should strive to become and remain proficient in his practice and should accept employment only in matters which he is or intends to become competent to handle.

EC 6-2. A lawyer is aided in attaining and maintaining competence by keeping abreast of current legal literature and developments, participating in continuing legal education programs, concentrating in particular areas of the law, and by utilizing other available means. He has the additional ethical obligation to assist in improving the legal profession, and he may do so by participating in bar activities intended to advance the quality and standards of members of the profession. Of particular importance is the careful training of his younger associates and the giving of sound guidance to all lawyers who consult him. In short, a lawyer should strive at all levels to aid the legal profession in advancing the highest possible standards of integrity and competence and to meet those standards himself.

EC 6-3. While the licensing of a lawyer is evidence that he has met the standards then prevailing for admission to the bar, a lawyer generally should not accept employment in any area of the law in which he is not qualified. However, he may accept such employment if in good faith he expects to become qualified through study and investigation, as long as such preparation would not result in unreasonable delay or expense to his client. Proper preparation and representation may require the as-

sociation by the lawyer of professionals in other disciplines. A lawyer offered employment in a matter in which he is not and does not expect to become so qualified should either decline the employment or, with the consent of his client, accept the employment and associate a lawyer who is competent in the matter.

EC 6-4. Having undertaken representation, a lawyer should use proper care to safeguard the interests of his client. If a lawyer has accepted employment in a matter beyond his competence but in which he expected to become competent, he should diligently undertake the work and study necessary to qualify himself. In addition to being qualified to handle a particular matter, his obligation to his client requires him to prepare adequately for and give appropriate attention to his legal work.

EC 6-5. A lawyer should have pride in his professional endeavors. His obligation to act competently calls for higher motivation than that arising from fear of civil liability or disciplinary penalty.

EC 6-6. A lawyer should not seek, by contract or other means, to limit his individual liability to his client for his malpractice. A lawyer who handles the affairs of his client properly has no need to attempt to limit his liability for his professional activities and one who does not handle the affairs of his client properly should not be permitted to do so. A lawyer who is a stockholder in or is associated with a professional legal corporation may, however, limit his liability for malpractice of his associates in the corporation, but only to the extent permitted by law.

DISCIPLINARY RULES

DR 6-101. Failing to Act Competently

(A) A lawyer shall not:

(1) Handle a legal matter which he knows or should know he is not competent to handle.

(2) Handle a legal matter without preparation adequate in the circumstances.

(3) Willfully or intentionally neglect a legal matter entrusted to him.

DR 6-102. Limiting Liability to Client

(A) A lawyer shall not attempt in advance to exonerate himself from or limit his liability to this client for his malpractice.

Canon 7

A Lawyer Should Represent a Client Zealously Within the Bounds of the Law

ETHICAL CONSIDERATIONS

EC 7-1. The duty of a lawyer, both to his client and to the legal system, is to represent his client zealously within the bounds of the law, which includes Disciplinary Rules and enforceable professional regulations. The professional responsibility of a lawyer derives from his membership in a pro-

EC 7-1

profession which has the duty of assisting members of the public to secure and protect available legal rights and benefits. In our government of laws and not of men, each member of our society is entitled to have his conduct judged and regulated in accordance with the law; to seek any lawful objective through legally permissible means; and to present for adjudication any lawful claim, issue, or defense.

EC 7-2. The bounds of the law in a given case are often difficult to ascertain. The language of legislative enactments and judicial opinions may be uncertain as applied to varying factual situations. The limits and specific meaning of apparently relevant law may be made doubtful by changing or developing constitutional interpretations, inadequately expressed statutes or judicial opinions, and changing public and judicial attitudes. Certainty of law ranges from well-settled rules through areas of conflicting authority to areas without precedent.

EC 7-3. Where the bounds of law are uncertain, the action of a lawyer may depend on whether he is serving as advocate or adviser. A lawyer may serve simultaneously as both advocate and adviser, but the two roles are essentially different. In asserting a position on behalf of his client, an advocate for the most part deals with past conduct and must take the facts as he finds them. By contrast, a lawyer serving as adviser primarily assists his client in determining the course of future conduct and relationships. While serving as advocate, a lawyer should resolve in favor of his client doubts as to the bounds of the law. In serving a client as adviser, a lawyer in appropriate circumstances should give his professional opinion as to what the ultimate decisions of the courts would likely be as to the applicable law.

Duty of the Lawyer to a Client

EC 7-4. The advocate may urge any permissible construction of the law favorable to his client, without regard to his professional opinion as to the likelihood that the construction will ultimately prevail. His conduct is within the bounds of the law, and therefore permissible, if the position taken is supported by the law or is supportable by a good faith argument for an extension, modification, or reversal of the law. However, a lawyer is not justified in asserting a position in litigation that is frivolous.

EC 7-5. A lawyer as adviser furthers the interest of his client by giving his professional opinion as to what he believes would likely be the ultimate decision of the courts on the matter at hand and by informing his client of the practical effect of such decision. He may continue in the representation of his client even though his client has elected to pursue a course of conduct contrary to the advice of the lawyer so long as he does not thereby knowingly assist the client to engage in illegal conduct or to take a frivolous legal position. A lawyer should never encourage or aid his client to commit criminal acts or counsel his client on how to violate the law and avoid punishment therefor.

EC 7-6. Whether the proposed action of a lawyer is within the bounds of the law may be a perplexing question when his client is contemplating a course of conduct having legal consequences that vary according to the client's intent, motive, or desires at the time of the action. Often a lawyer is asked to assist his client in developing evidence relevant to the state of mind of the client at a particular time. He may properly assist his client in the development and preservation of evidence of existing motive, intent, or desire; obviously, he may not do anything furthering the creation or preservation of false evidence. In many cases a lawyer may not be certain as to the state of mind of his client, and in those situations he should resolve reasonable doubts in favor of his client.

EC 7-7. In certain areas of legal representation not affecting the merits of the cause or substantially prejudicing the rights of a client, a lawyer is entitled to make the decisions on his own. But otherwise the authority to make decisions is exclusively that of the client and, if made within the framework of the law, such decisions are binding on his lawyer. As typical examples in civil cases, it is for the client to decide whether he will accept a settlement offer or whether he will waive his right to plead an affirmative defense. A defense lawyer in a criminal case has the duty to advise his client fully on whether a particular plea to a charge appears to be desirable and as to the prospects of success on appeal, but it is for the client to decide what plea should be entered and whether an appeal should be taken.

EC 7-8. A lawyer should exert his best efforts to insure that decisions of his client are made only after the client has been informed of relevant considerations. A lawyer ought to initiate this decision-making process if the client does not do so. Advice of a lawyer to his client need not be confined to purely legal considerations. A lawyer should advise his client of the possible effect of each legal alternative. A lawyer should bring to bear upon this decision-making process the fullness of his experience as well as his objective viewpoint. In assisting his client to reach a proper decision, it is often desirable for a lawyer to point out those factors which may lead to a decision that is morally just as well as legally permissible. He may emphasize the possibility of harsh consequences that might result from assertion of legally permissible positions. In the final analysis, however, the lawyer should always remember that the decision whether to forego legally available objectives or methods because of non-legal factors is ultimately for the client and not for himself. In the event that the client in a non-adjudicatory matter insists upon a course of conduct that is contrary to the judgment and advice of the lawyer but not prohibited by Disciplinary Rules, the lawyer may withdraw from the employment.

EC 7-9. In the exercise of his professional judgment on those decisions which are for his determina-

tion in the handling of a legal matter, a lawyer should always act in a manner consistent with the best interests of his client. However, when an action in the best interest of his client seems to him to be unjust, he may ask his client for permission to forego such action.

EC 7-10. The duty of a lawyer to represent his client with zeal does not militate against his concurrent obligation to treat with consideration all persons involved in the legal process and to avoid the infliction of needless harm.

EC 7-11. The responsibilities of a lawyer may vary according to the intelligence, experience, mental condition or age of a client, the obligation of a public officer, or the nature of a particular proceeding. Examples include the representation of an illiterate or an incompetent, service as a public prosecutor or other government lawyer, and appearances before administrative and legislative bodies.

EC 7-12. Any mental or physical condition of a client that renders him incapable of making a considered judgment on his own behalf casts additional responsibilities upon his lawyer. Where an incompetent is acting through a guardian or other legal representative, a lawyer must look to such representative for those decisions which are normally the prerogative of the client to make. If a client under disability has no legal representative, his lawyer may be compelled in court proceedings to make decisions on behalf of the client. If the client is capable of understanding the matter in question or of contributing to the advancement of his interests, regardless of whether he is legally disqualified from performing certain acts, the lawyer should obtain from him all possible aid. If the disability of a client and the lack of a legal representative compel the lawyer to make decisions for his client, the lawyer should consider all circumstances then prevailing and act with care to safeguard and advance the interests of his client. But obviously a lawyer cannot perform any act or make any decision which the law requires his client to perform or make, either acting for himself if competent, or by a duly constituted representative if legally incompetent.

EC 7-13. The responsibility of a public prosecutor differs from that of the usual advocate; his duty is to seek justice, not merely to convict. This special duty exists because: (1) the prosecutor represents the sovereign and therefore should use restraint in the discretionary exercise of governmental powers, such as in the selection of cases to prosecute; (2) during trial the prosecutor is not only an advocate but he also may make decisions normally made by an individual client, and those affecting the public interest should be fair to all; and (3) in our system of criminal justice the accused is to be given the benefit of all reasonable doubts. With respect to evidence and witnesses, the prosecutor has responsibilities different from those of a lawyer in private practice: the prosecutor should make timely disclosure to the defense of available evidence, known to him, that tends to negate the guilt of the accused,

mitigate the degree of the offense, or reduce the punishment. Further, a prosecutor should not intentionally avoid pursuit of evidence merely because he believes it will damage the prosecution's case or aid the accused.

EC 7-14. A government lawyer who has discretionary power relative to litigation should refrain from instituting or continuing litigation that is obviously unfair. A government lawyer not having such discretionary power who believes there is lack of merit in a controversy submitted to him should so advise his superiors and recommend the avoidance of unfair litigation. A government lawyer in a civil action or administrative proceeding has the responsibility to seek justice and to develop a full and fair record, and he should not use his position or the economic power of the government to harass parties or to bring about unjust settlements or results.

EC 7-15. The nature and purpose of proceedings before administrative agencies vary widely. The proceedings may be legislative or quasi-judicial, or a combination of both. They may be *ex parte* in character, in which event they may originate either at the instance of the agency or upon motion of an interested party. The scope of an inquiry may be purely investigative or it may be truly adversary looking toward the adjudication of specific rights of a party or of classes of parties. The foregoing are but examples of some of the types of proceedings conducted by administrative agencies. A lawyer appearing before an administrative agency, regardless of the nature of the proceeding it is conducting, has the continuing duty to advance the cause of his client within the bounds of the law. Where the applicable rules of the agency impose specific obligations upon a lawyer, it is his duty to comply therewith, unless the lawyer has a legitimate basis for challenging the validity thereof. In all appearances before administrative agencies, a lawyer should identify himself, his client if identity of his client is not privileged, and the representative nature of his appearance. It is not improper, however, for a lawyer to seek from an agency information available to the public without identifying his client.

EC 7-16. The primary business of a legislative body is to enact laws rather than to adjudicate controversies, although on occasion the activities of a legislative body may take on the characteristics of an adversary proceeding, particularly in investigative and impeachment matters. The role of a lawyer supporting or opposing proposed legislation normally is quite different from his role in representing a person under investigation or on trial by a legislative body. When a lawyer appears in connection with proposed legislation, he seeks to affect the lawmaking process, but when he appears on behalf of a client in investigatory or impeachment proceedings, he is concerned with the protection of the rights of his client. In either event, he should identify himself and his client, if identity of his

EC 7-16

client is not privileged, and should comply with applicable laws and legislative rules.

EC 7-17. The obligation of loyalty to his client applies only to a lawyer in the discharge of his professional duties and implies no obligation to adopt a personal viewpoint favorable to the interests or desires of his client. While a lawyer must act always with circumspection in order that his conduct will not adversely affect the rights of a client in a matter he is then handling, he may take positions on public issues and espouse legal reforms he favors without regard to the individual views of any client.

EC 7-18. The legal system in its broadest sense functions best when persons in need of legal advice or assistance are represented by their own counsel. For this reason a lawyer should not communicate on the subject matter of the representation of his client with a person he knows to be represented in the matter by a lawyer, unless pursuant to law or rule of court or unless he has the consent of the lawyer for that person. If one is not represented by counsel, a lawyer representing another may have to deal directly with the unrepresented person; in such an instance, a lawyer should not undertake to give advice to the person who is attempting to represent himself, except that he may advise him to obtain a lawyer.

Duty of the Lawyer to the Adversary System of Justice

EC 7-19. Our legal system provides for the adjudication of disputes governed by the rules of substantive evidentiary, and procedural law. An adversary presentation counters the natural human tendency to judge too swiftly in terms of the familiar that which is not yet fully known; the advocate, by his zealous preparation and presentation of facts and law, enables the tribunal to come to the hearing with an open and neutral mind and to render impartial judgments. The duty of a lawyer to his client and his duty to the legal system are the same: to represent his client zealously within the bounds of the law.

EC 7-20. In order to function properly, our adjudicative process requires an informed, impartial tribunal capable of administering justice promptly and efficiently according to procedures that command public confidence and respect. Not only must there be competent, adverse presentation of evidence and issues, but a tribunal must be aided by rules appropriate to an effective and dignified process. The procedures under which tribunals operate in our adversary system have been prescribed largely by legislative enactments, court rules and decisions, and administrative rules. Through the years certain concepts of proper professional conduct have become rules of law applicable to the adversary adjudicative process. Many of these concepts are the bases for standards of professional conduct set forth in the Disciplinary Rules.

EC 7-21. The civil adjudicative process is primarily designed for the settlement of disputes between

parties, while the criminal process is designed for the protection of society as a whole. Threatening to use, or using, the criminal process to coerce adjustment of private civil claims or controversies is a subversion of that process; further, the person against whom the criminal process is so misused may be deterred from asserting his legal rights and thus the usefulness of the civil process in settling private disputes is impaired. As in all cases of abuse of judicial process, the improper use of criminal process tends to diminish public confidence in our legal system.

EC 7-22. Respect for judicial rulings is essential to the proper administration of justice; however, a litigant or his lawyer may, in good faith and within the framework of the law, take steps to test the correctness of a ruling of a tribunal.

EC 7-23. The complexity of law often makes it difficult for a tribunal to be fully informed unless the pertinent law is presented by the lawyers in the cause. A tribunal that is fully informed on the applicable law is better able to make a fair and accurate determination of the matter before it. The adversary system contemplates that each lawyer will present and argue the existing law in the light most favorable to his client. Where a lawyer knows of legal authority in the controlling jurisdiction directly adverse to the position of his client, he should inform the tribunal of its existence unless his adversary has done so; but, having made such disclosure, he may challenge its soundness in whole or in part.

EC 7-24. In order to bring about just and informed decisions, evidentiary and procedural rules have been established by tribunals to permit the inclusion of relevant evidence and argument and the exclusion of all other considerations. The expression by a lawyer of his personal opinion as to the justness of a cause, as to the credibility of a witness, as to the culpability of a civil litigant, or as to the guilt or innocence of an accused is not a proper subject for argument to the trier of fact. It is improper as to factual matters because admissible evidence possessed by a lawyer should be presented only as sworn testimony. It is improper as to all other matters because, were the rule otherwise, the silence of a lawyer on a given occasion could be construed unfavorably to his client. However, a lawyer may argue, on his analysis of the evidence, for any position or conclusion with respect to any of the foregoing matters.

EC 7-25. Rules of evidence and procedure are designed to lead to just decisions and are part of the framework of the law. Thus while a lawyer may take steps in good faith and within the framework of the law to test the validity of rules, he is not justified in consciously violating such rules and he should be diligent in his efforts to guard against his unintentional violation of them. As examples, a lawyer should subscribe to or verify only those pleadings that he believes are in compliance with applicable law and rules; a lawyer should not make any prefatory statement before a tribunal in regard

to the purported facts of the case on trial unless he believes that his statement will be supported by admissible evidence; a lawyer should not ask a witness a question solely for the purpose of harassing or embarrassing him; and a lawyer should not by subterfuge put before a jury matters which it cannot properly consider.

EC 7-26. The law and Disciplinary Rules prohibit the use of fraudulent, false, or perjured testimony or evidence. A lawyer who knowingly participates in introduction of such testimony or evidence is subject to discipline. A lawyer should, however, present any admissible evidence his client desires to have presented unless he knows, or from facts within his knowledge should know, that such testimony or evidence is false, fraudulent, or perjured.

EC 7-27. Because it interferes with the proper administration of justice, a lawyer should not suppress evidence that he or his client has a legal obligation to reveal or produce. In like manner, a lawyer should not advise or cause a person to secrete himself or to leave the jurisdiction of a tribunal for the purpose of making him unavailable as a witness therein.

EC 7-28. Witnesses should always testify truthfully and should be free from any financial inducements that might tempt them to do otherwise. A lawyer should not pay or agree to pay a non-expert witness an amount in excess of reimbursement for expenses and financial loss incident to his being a witness; however, a lawyer may pay or agree to pay an expert witness a reasonable fee for his services as an expert. But in no event should a lawyer pay or agree to pay a contingent fee to any witness. A lawyer should exercise reasonable diligence to see that his client and lay associates conform to these standards.

EC 7-29. To safeguard the impartiality that is essential to the judicial process, veniremen and jurors should be protected against extraneous influences. When impartiality is present, public confidence in the judicial system is enhanced. There should be no extrajudicial communication with veniremen prior to trial or with jurors during trial by or on behalf of a lawyer connected with the case. Furthermore, a lawyer who is not connected with the case should not communicate with or cause another to communicate with a venireman or a juror about the case. After the trial, communication by a lawyer with jurors is permitted so long as he refrains from asking questions or making comments that tend to harass or embarrass the juror or to influence actions of the juror in future cases. Were a lawyer to be prohibited from communicating after trial with a juror, he could not ascertain if the verdict might be subject to legal challenge, in which event the invalidity of a verdict might go undetected. When an extrajudicial communication by a lawyer with a juror is permitted by law, it should be made considerably and with deference to the personal feelings of the juror.

EC 7-30. Vexatious or harassing investigations of veniremen or jurors seriously impair the effectiveness of our jury system. For this reason a lawyer or anyone on his behalf who conducts an investigation of veniremen or jurors should act with circumspection and restraint.

EC 7-31. Communications with or investigations of members of families of veniremen or jurors by a lawyer or by anyone on his behalf are subject to the restrictions imposed upon the lawyer with respect to his communications with or investigations of veniremen and jurors.

EC 7-32. Because of his duty to aid in preserving the integrity of the jury system, a lawyer who learns of improper conduct by or towards a venireman, a juror, or a member of the family of either should make a prompt report to the court regarding such conduct.

EC 7-33. A goal of our legal system is that each party shall have his case, criminal or civil, adjudicated by an impartial tribunal. The attainment of this goal may be defeated by dissemination of news or comments which tend to influence judge or jury. Such news or comments may prevent prospective jurors from being impartial at the outset of the trial and may also interfere with the obligation of jurors to base their verdict solely upon the evidence admitted in the trial. The release by a lawyer of out-of-court statements regarding an anticipated or pending trial may improperly affect the impartiality of the tribunal. For these reasons, standards for permissible and prohibited conduct of a lawyer with respect to trial publicity have been established.

EC 7-34. The impartiality of a public servant in our legal system may be impaired by the receipt of gifts or loans. A lawyer, therefore, is never justified in making a gift or a loan to a judge, a hearing officer, or an official or employee of a tribunal if the gift or loan is likely to, or may appear to others to be likely to, influence his judgment or obtain some benefit for the lawyer or his client. Likewise, campaign contributions should be handled discreetly so as to avoid the appearance of impropriety.

EC 7-35. All litigants and lawyers should have access to tribunals on an equal basis. Generally, in adversary proceedings a lawyer should not communicate with a judge relative to a matter pending before, or which is to be brought before, a tribunal over which he presides in circumstances which might have the effect or give the appearance of granting undue advantage to one party. For example, a lawyer should not communicate with a tribunal by a writing unless a copy thereof is promptly delivered to opposing counsel or to the adverse party if he is not represented by a lawyer. Ordinarily an oral communication by a lawyer with a judge or hearing officer should be made only upon adequate notice to opposing counsel, or, if there is none, to the opposing party. A lawyer should not condone or lend himself to private importunities by another with a judge or hearing officer on behalf of himself or his client.

EC 7-36

EC 7-36. Judicial hearings ought to be conducted through dignified and orderly procedures designed to protect the rights of all parties. Although a lawyer has the duty to represent his client zealously, he should not engage in any conduct that offends the dignity and decorum of proceedings. While maintaining his independence, a lawyer should be respectful, courteous, and above-board in his relations with a judge or hearing officer before whom he appears. He should avoid undue solicitude for the comfort or convenience of judge or jury and should avoid any other conduct calculated to gain special consideration.

EC 7-37. In adversary proceedings, clients are litigants and though ill feeling may exist between clients, such ill feeling should not influence a lawyer in his conduct, attitude, and demeanor towards opposing lawyers. A lawyer should not make unfair or derogatory personal reference to opposing counsel. Haranguing and offensive tactics by lawyers interfere with the orderly administration of justice and have no proper place in our legal system.

EC 7-38. A lawyer should be courteous to opposing counsel and should accede to reasonable requests regarding court proceedings, settings, continuances, waiver of procedural formalities, and similar matters which do not prejudice the rights of his client. He should follow local customs of courtesy or practice, unless he gives timely notice to opposing counsel of his intention not to do so. A lawyer should be punctual in fulfilling all professional commitments.

EC 7-39. In the final analysis, proper functioning of the adversary system depends upon cooperation between lawyers and tribunals in utilizing procedures which will preserve the impartiality of the tribunal and make their decisional processes prompt and just, without impinging upon the obligation of the lawyer to represent his client zealously within the framework of the law.

DISCIPLINARY RULES

DR 7-101. Representing a Client Zealously

(A) A lawyer shall not intentionally:

(1) Fail to seek the lawful objectives of his client through reasonably available means permitted by law and the Disciplinary Rules, except as provided by DR 7-101(B). A lawyer does not violate this Disciplinary Rule, however, by acceding to reasonable requests of opposing counsel which do not prejudice the rights of his client, by being punctual in fulfilling all professional commitments, by avoiding offensive tactics, or by treating with courtesy and consideration all persons involved in the legal process.

(2) Fail to carry out a contract of employment entered into with a client for professional services, but he may withdraw as permitted under DR 2-110, DR 5-102, and DR 5-105.

(3) Prejudice or damage his client during the course of the professional relationship, except as required under DR 7-102(B).

(B) In his representation of a client, a lawyer may:

(1) Where permissible, exercise his professional judgment to waive or fail to assert a right or position of his client.

(2) Refuse to aid or participate in conduct that he believes to be unlawful, even though there is some support for an argument that the conduct is legal.

DR 7-102. Representing a Client Within the Bounds of the Law

(A) In his representation of a client, a lawyer shall not:

(1) File a suit, assert a position, conduct a defense, delay a trial, or take other action on behalf of his client when he knows or when it is obvious that such action would serve merely to harass or maliciously injure another.

(2) Knowingly advance a claim or defense that is unwarranted under existing law, except that he may advance such claim or defense if it can be supported by good faith argument for an extension, modification, or reversal of existing law.

(3) Conceal or knowingly fail to disclose that which he is required by law to reveal.

(4) Knowingly use perjured testimony or false evidence.

(5) Knowingly make a false statement of law or fact.

(6) Participate in the creation or preservation of evidence when he knows or it is obvious that the evidence is false.

(7) Counsel or assist his client in conduct that the lawyer knows to be illegal or fraudulent.

(8) Knowingly engage in other illegal conduct or conduct contrary to a Disciplinary Rule.

(B) A lawyer who receives information clearly establishing that:

(1) His client has, in the course of the representation, perpetrated a fraud upon a person or tribunal shall promptly call upon his client to rectify the same, and if his client refuses or is unable to do so he shall reveal the fraud to the affected person or tribunal.

(2) A person other than his client has perpetrated a fraud upon a tribunal shall promptly reveal the fraud to the tribunal.

DR 7-103. Performing the Duty of Public Prosecutor or Other Government Lawyer

(A) A public prosecutor or other government lawyer shall not institute or cause to be instituted criminal charges when he knows or it is obvious that the charges are not supported by probable cause.

(B) A public prosecutor or other government lawyer in criminal litigation shall make timely disclosure to counsel for the defendant, or to the defend-

ant if he has no counsel, of the existence of evidence, known to the prosecutor or other government lawyer, that tends to negate the guilt of the accused, mitigate the degree of the offense, or reduce the punishment.

DR 7-104. Communicating With One of Adverse Interest

(A) During the course of his representation of a client a lawyer shall not:

(1) Communicate or cause another to communicate on the subject of the representation with a party he knows to be represented by a lawyer in that matter unless he has the prior consent of the lawyer representing such other party or is authorized by law to do so.

(2) Give advice to a person who is not represented by a lawyer, other than the advice to secure counsel, if the interests of such person are or have a reasonable possibility of being in conflict with the interests of his client.

DR 7-105. Threatening Criminal Prosecution

(A) A lawyer shall not present, participate in presenting, or threaten to present criminal charges solely to obtain an advantage in a civil matter.

DR 7-106. Trial Conduct

(A) A lawyer shall not disregard or advise his client to disregard a standing rule of a tribunal or a ruling of a tribunal made in the course of a proceeding, but he may take appropriate steps in good faith to test the validity of such rule or ruling.

(B) In presenting a matter to a tribunal, a lawyer shall disclose:

(1) Legal authority in the controlling jurisdiction known to him to be directly adverse to the position of his client and which is not disclosed by opposing counsel.

(2) Unless privileged or irrelevant, the identities of the clients he represents and of the persons who employed him.

(C) In appearing in his professional capacity before a tribunal, a lawyer shall not:

(1) State or allude to any matter that he has no reasonable basis to believe is relevant to the case or that will not be supported by admissible evidence.

(2) Ask any question that he has no reasonable basis to believe is relevant to the case and that is intended to degrade a witness or other person.

(3) Assert his personal knowledge of the facts in issue, except when testifying as a witness.

(4) Assert his personal opinion as to the justice of a cause, as to the credibility of a witness, as to the culpability of a civil litigant, or as to the guilt or innocence of an accused; but he may argue, on his analysis of the evidence, for any position or conclusion with respect to the matters stated herein.

(5) Fail to comply with known local customs of courtesy or practice of the bar or a particular

tribunal without giving to opposing counsel timely notice of his intent not to comply.

(6) Engage in undignified or discourteous conduct which is degrading to a tribunal.

(7) Intentionally or habitually violate any established rule of procedure or of evidence.

DR 7-107. Trial Publicity

(A) A Lawyer participating in or associated with the investigation of a criminal matter shall not make or participate in making an extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication and that does more than state without elaboration:

(1) Information contained in a public record.

(2) That the investigation is in progress.

(3) The general scope of the investigation including a description of the offense and, if permitted by law, the identity of the victim.

(4) A request for assistance in apprehending a suspect or assistance in other matters and the information necessary thereto.

(5) A warning to the public of any dangers.

(B) A lawyer or law firm associated with the prosecution or defense of a criminal matter shall not, from the time of the filing of a complaint, information, or indictment, the issuance of an arrest warrant, or arrest until the commencement of the trial or disposition without trial, make or participate in making an extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication and that relates to:

(1) The character, reputation, or prior criminal record (including arrests, indictments, or other charges of crime) of the accused.

(2) The possibility of a plea of guilty to the offense charged or to a lesser offense.

(3) The existence or contents of any confession, admission, or statement given by the accused or his refusal or failure to make a statement.

(4) The performance or results of any examinations or tests or the refusal or failure of the accused to submit to examinations or tests.

(5) The identity, testimony, or credibility of a prospective witness.

(6) Any opinion as to the guilt or innocence of the accused, the evidence, or the merits of the case.

(C) DR 7-107(B) does not preclude a lawyer during such period from announcing:

(1) The name, age, residence, occupation, and family status of the accused.

(2) If the accused has not been apprehended, any information necessary to aid in his apprehension or to warn the public of any dangers he may present.

(3) A request for assistance in obtaining evidence.

(4) The identity of the victim of the crime.

(5) The fact, time, and place of arrest, resistance, pursuit, and use of weapons.

DR 7-107

(6) The identity of investigating and arresting officers or agencies and the length of the investigation.

(7) At the time of seizure, a description of the physical evidence seized, other than a confession, admission, or statement.

(8) The nature, substance, or text of the charge.

(9) Quotations from or references to public records of the court in the case.

(10) The scheduling or result of any step in the judicial proceedings.

(11) That the accused denies the charges made against him.

(D) During the selection of a jury or the trial of a criminal matter, a lawyer or law firm associated with the prosecution or defense of a criminal matter shall not make or participate in making an extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication and that relates to the trial, parties, or issues in the trial or other matters that are reasonably likely to interfere with a fair trial, except that he may quote from or refer without comment to public records of the court in the case.

(E) After the completion of a trial or disposition without trial of a criminal matter and prior to the imposition of sentence, a lawyer or law firm associated with the prosecution or defense shall not make or participate in making an extrajudicial statement that a reasonable person would expect to be disseminated by public communication and that is reasonably likely to affect the imposition of sentence.

(F) The foregoing provisions of DR 1-107 also apply to professional disciplinary proceedings and juvenile disciplinary proceedings when pertinent and consistent with other law applicable to such proceedings.

(G) A lawyer or law firm associated with a civil action shall not during its investigation or litigation make or participate in making an extrajudicial statement, other than a quotation from or reference to public records, that a reasonable person would expect to be disseminated by means of public communication and that relates to:

(1) Evidence regarding the occurrence or transaction involved.

(2) The character, credibility, or criminal record of a party, witness, or prospective witness.

(3) The performance or results of any examinations or tests or the refusal or failure of a party to submit to such.

(4) His opinion as to the merits of the claims or defenses of a party, except as required by law or administrative rule.

(5) Any other matter reasonably likely to interfere with a fair trial of the action.

(H) During the pendency of an administrative proceeding, a lawyer or law firm associated therewith shall not make or participate in making a

statement, other than a quotation from or reference to public records, that a reasonable person would expect to be disseminated by means of public communication if it is made outside the official course of the proceeding and relates to:

(1) Evidence regarding the occurrence or transaction involved.

(2) The character, credibility, or criminal record of a party, witness, or prospective witness.

(3) Physical evidence or the performance or results of any examinations or tests or the refusal or failure of a party to submit to such.

(4) His opinion as to the merits of the claims, defenses, or positions of an interested person.

(5) Any other matter reasonably likely to interfere with a fair hearing.

(I) The foregoing provisions of DR 7-107 do not preclude a lawyer from replying to charges of misconduct publicly made against him or from participating in the proceedings of legislative, administrative, or other investigative bodies.

(J) A lawyer shall exercise reasonable care to prevent his employees and associates from making an extra judicial statement that he would be prohibited from making under DR 7-107.

DR 7-108. Communication with or Investigation of Jurors

(A) Before the trial of a case a lawyer connected therewith shall not communicate with or cause another to communicate with anyone he knows to be a member of the venire from which the jury will be selected for the trial of the case.

(B) During the trial of a case:

(1) A lawyer connected therewith shall not communicate with or cause another to communicate with any member of the jury.

(2) A lawyer who is not connected therewith shall not communicate with or cause another to communicate with a juror concerning the case.

(C) DR 7-108(A) and (B) do not prohibit a lawyer from communicating with veniremen or jurors in the course of official proceedings.

(D) After discharge of the jury from further consideration of a case with which the lawyer was connected, the lawyer shall not ask questions of or make comments to a member of that jury that are calculated merely to harass or embarrass the juror or to influence his actions in future jury service.

(E) A lawyer shall not conduct or cause, by financial support or otherwise, another to conduct a vexatious or harassing investigation of either a venireman or a juror.

(F) All restrictions imposed by DR 7-108 upon a lawyer also apply to communications with or investigations of members of a family of a venireman or a juror.

(G) A lawyer shall reveal promptly to the court improper conduct by a venireman or a juror, or by

another toward a venireman or a juror or a member of his family, of which the lawyer has knowledge.

DR 7-109. Contact with Witnesses

(A) A lawyer shall not suppress any evidence that he or his client has a legal obligation to reveal or produce.

(B) A lawyer shall not advise or cause a person to secrete himself or to leave the jurisdiction of a tribunal for the purpose of making him unavailable as a witness therein.

(C) A lawyer shall not pay, offer to pay, or acquiesce in the payment of compensation to a witness contingent upon the content of his testimony or the outcome of the case. But a lawyer may advance, guarantee, or acquiesce in the payment of:

- (1) Expenses reasonably incurred by a witness in attending or testifying.
- (2) Reasonable compensation to a witness for his loss of time in attending or testifying.
- (3) A reasonable fee for the professional services of an expert witness.

DR 7-110. Contact with Officials

(A) A lawyer shall not give or lend anything of more than nominal value to a judge, official, or employee of a tribunal, but a lawyer is not prohibited hereby from making contributions to a fund for filing fees or campaign expenses of a judge or official seeking election or reelection to a public office.

(B) In an adversary proceeding, a lawyer shall not communicate, or cause another to communicate, as to the merits of the cause with a judge or an official before whom the proceeding is pending, except:

- (1) In the course of official proceedings in the cause.
- (2) In writing if he promptly delivers a copy of the writing to opposing counsel or to the adverse party if he is not represented by a lawyer.
- (3) Orally upon adequate notice to opposing counsel or to the adverse party if he is not represented by a lawyer.
- (4) As otherwise authorized by law.

Canon 8

A Lawyer Should Assist in Improving the Legal System

ETHICAL CONSIDERATIONS

EC 8-1. Changes in human affairs and imperfections in human institutions make necessary constant efforts to maintain and improve our legal system. This system should function in a manner that commands public respect and fosters the use of legal remedies to achieve redress of grievances. By reason of education and experience, lawyers are especially qualified to recognize deficiencies in the legal system and to initiate corrective measures therein.

Thus they should participate in proposing and supporting legislation and programs to improve the system, without regard to the general interests or desires of clients or former clients.

EC 8-2. Rules of law are deficient if they are not just, understandable, and responsive to the needs of society. If a lawyer believes that the existence or absence of a rule of law, substantive or procedural, causes or contributes to an unjust result, he should endeavor by lawful means to obtain appropriate changes in the law. He should encourage the simplification of laws and the repeal or amendment of laws that are outmoded. Likewise, legal procedures should be improved whenever experience indicates a change is needed.

EC 8-3. The fair administration of justice requires the availability of competent lawyers. Members of the public should be educated to recognize the existence of legal problems and the resultant need for legal services, and should be provided methods for intelligent selection of counsel. Those persons unable to pay for legal services should be provided needed services. Clients and lawyers should not be penalized by undue geographical restraints upon representation in legal matters, and the bar should address itself to improvements in licensing, reciprocity, and admission procedures consistent with the needs of modern commerce.

EC 8-4. Whenever a lawyer seeks legislative or administrative changes, he should identify the capacity in which he appears, whether on behalf of himself, a client, or the public. A lawyer may advocate such changes on behalf of a client even though he does not agree with them. But when a lawyer purports to act on behalf of the public, he should espouse only those changes which he conscientiously believes to be in the public interest.

EC 8-5. Fraudulent, deceptive, or otherwise illegal conduct by a participant in a proceeding before a tribunal or legislative body is inconsistent with fair administration of justice, and it should never be participated in or condoned by lawyers. Unless constrained by his obligation to preserve the confidences and secrets of his client, a lawyer should reveal to appropriate authorities any knowledge he may have of such improper conduct.

EC 8-6. Judges and administrative officials having adjudicatory powers ought to be persons of integrity, competence, and suitable temperament. Generally lawyers are qualified, by personal observation or investigation, to evaluate the qualifications of persons seeking or being considered for such public offices, and for this reason they have a special responsibility to aid in the selection of only those who are qualified. It is the duty of lawyers to endeavor to prevent political considerations from outweighing judicial fitness in the selection of judges. Lawyers should protest earnestly against the appointment or election of those who are unsuited for the bench and should strive to have elected or appointed thereto only those who are willing to forego pursuits, whether of a business, political, or

EC 8-6

other nature, that may interfere with the free and fair consideration of questions presented for adjudication. Adjudicatory officials, not being wholly free to defend themselves, are entitled to receive the support of the bar against unjust criticism. While a lawyer as a citizen has a right to criticize such officials publicly, he should be certain of the merit of his complaint, use appropriate language, and avoid petty criticisms, for unrestrained and intemperate statements tend to lessen public confidence in our legal system. Criticisms motivated by reasons other than a desire to improve the legal system are not justified.

EC 8-7. Since lawyers are a vital part of the legal system, they should be persons of integrity, of professional skill, and of dedication to the improvement of the system. Thus a lawyer should aid in establishing, as well as enforcing, standards of conduct adequate to protect the public by insuring that those who practice law are qualified to do so.

EC 8-8. Lawyers often serve as legislators or as holders of other public offices. This is highly desirable, as lawyers are uniquely qualified to make significant contributions to the improvement of the legal system. A lawyer who is a public officer, whether full or part-time, should not engage in activities in which his personal or professional interests are or foreseeably may be in conflict with his official duties.

EC 8-9. The advancement of our legal system is of vital importance in maintaining the rule of law and in facilitating orderly changes; therefore, lawyers should encourage, and should aid in making, needed changes and improvements.

DISCIPLINARY RULES

DR 8-101. Action as a Public Official

(A) A lawyer who holds public office shall not:

(1) Use his public position to obtain, or attempt to obtain, a special advantage in legislative matters for himself or for a client under circumstances where he knows or it is obvious that such action is not in the public interest.

(2) Use his public position to influence, or attempt to influence, a tribunal to act in favor of himself or of a client.

(3) Accept any thing of value from any person when the lawyer knows or it is obvious that the offer is for the purpose of influencing his action as a public official.

DR 8-102. Statements Concerning Judges and Other Adjudicatory Officers

(A) A lawyer shall not knowingly make false statements of fact concerning the qualifications of a candidate for election or appointment to a judicial office.

(B) A lawyer shall not knowingly make false accusations against a judge or other adjudicatory officer.

Canon 9

A Lawyer Should Avoid Even the Appearance of Professional Impropriety

ETHICAL CONSIDERATIONS

EC 9-1. Continuation of the American concept that we are to be governed by rules of law requires that the people have faith that justice can be obtained through our legal system. A lawyer should promote public confidence in our system and in the legal profession.

EC 9-2. Public confidence in law and lawyers may be eroded by irresponsible or improper conduct of a lawyer. On occasion, ethical conduct of a lawyer may appear to laymen to be unethical. In order to avoid misunderstandings and hence to maintain confidence, a lawyer should fully and promptly inform his client of material developments in the matters being handled for the client. While a lawyer should guard against otherwise proper conduct that has a tendency to diminish public confidence in the legal system or in the legal profession, his duty to clients or to the public should never be subordinate merely because the full discharge of his obligation may be misunderstood or may tend to subject him or the legal profession to criticism. When explicit ethical guidance does not exist, a lawyer should determine his conduct by acting in a manner that promotes public confidence in the integrity and efficiency of the legal system and the legal profession.

EC 9-3. After a lawyer leaves judicial office or other public employment, he should not accept employment in connection with any matter in which he had substantial responsibility prior to his leaving, since to accept employment would give the appearance of impropriety even if none exists.

EC 9-4. Because the very essence of the legal system is to provide procedures by which matters can be presented in an impartial manner so that they may be decided solely upon the merits, any statement or suggestion by a lawyer that he can or would attempt to circumvent those procedures is detrimental to the legal system and tends to undermine public confidence in it.

EC 9-5. Separation of the funds of a client from those of his lawyer not only serves to protect the client but also avoids even the appearance of impropriety, and therefore commingling of such funds should be avoided.

EC 9-6. Every lawyer owes a solemn duty to uphold the integrity and honor of his profession; to encourage respect for the law and for the courts and the judges thereof; to observe the Code of Professional Responsibility; to act as a member of a learned profession, one dedicated to public service; to cooperate with his brother lawyers in supporting the organized bar through the devoting of his time, efforts, and financial support as his professional standing and ability reasonably permit; to conduct himself so as to reflect credit on the legal profession and to inspire the confidence, respect, and trust

of his clients and of the public; and to strive to avoid not only professional impropriety but also the appearance of impropriety.

DISCIPLINARY RULES

DR 9-101. Avoiding Even the Appearance of Impropriety

(A) A lawyer shall not accept private employment in a matter upon the merits of which he has acted in a judicial capacity.

(B) A lawyer shall not accept private employment in a matter in which he had substantial responsibility while he was a public employee.

(C) A lawyer shall not state or imply that he is able to influence improperly or upon irrelevant grounds any tribunal, legislative body, or public official.

DR 9-102. Preserving Identity of Funds and Property of a Client

(A) All funds of clients paid to a lawyer or law firm, other than advances for costs and expenses, shall be deposited in one or more identifiable bank accounts maintained in the state in which the law office is situated and no funds belonging to the lawyer or law firm shall be deposited therein except as follows:

(1) Funds reasonably sufficient to pay bank charges may be deposited therein.

(2) Funds belonging in part to a client and in part presently or potentially to the lawyer or law firm must be deposited therein, but the portion belonging to the lawyer or law firm may be withdrawn when due unless the right of the lawyer or law firm to receive it is disputed by the client, in which event the disputed portion shall not be withdrawn until the dispute is finally resolved.

(B) A lawyer shall:

(1) Promptly notify a client of the receipt of his funds, securities, or other properties.

(2) Identify and label securities and properties of a client promptly upon receipt and place them in a safe deposit box or other place of safekeeping as soon as practicable.

(3) Maintain complete records of all funds, securities, and other properties of a client coming into the possession of the lawyer and render appropriate accounts to his client regarding them.

(4) Promptly pay or deliver to the client as requested by a client the funds, securities, or other properties in the possession of the lawyer which the client is entitled to receive.

b. Definitions.¹

As used in the above Disciplinary Rules of the Code of Professional Responsibility:

(1) "Differing interests" include every interest that will adversely affect either the judgment or the loyalty of a lawyer to a client, whether it be a conflicting, inconsistent, diverse, or other interest.

(2) "Law firm" includes a professional legal corporation.

(3) "Person" includes a corporation, an association, a trust, a partnership, and any other organization or legal entity.

(4) "Professional legal corporation" means a corporation, or an association treated as a corporation, authorized by law to practice law for profit.

(5) "State" includes the District of Columbia, Puerto Rico, and other federal territories and possessions.

(6) "Tribunal" includes all courts and all other adjudicatory bodies.

(7) "A bar association representative of the general bar" includes a bar association of specialists as referred to in DR 2-105(A)(1) or (4).

Adopted Dec. 20, 1971.

¹ "Confidence" and "secret" are defined in DR 4-101(A).

Sec. 10. Generally

(A) **Reporting.** Every inquiry and complaint involving a lawyer shall be reported to counsel promptly after it is made and the disposition of every inquiry and complaint shall be reported to counsel promptly after it occurs.

(B) **Screening.** Counsel shall evaluate all information coming to his attention alleging lawyer misconduct or disability. If the lawyer is not subject to the jurisdiction of the State Bar the matter shall be referred to the appropriate entity in the jurisdiction in which the lawyer is admitted. Complaints shall be docketed with an appropriate grievance committee and counsel shall conduct an investigation.

(C) **Investigation.** Where a matter has not been rejected after initial evaluation and the grievance committee has not determined otherwise, counsel shall proceed to conduct an investigation. The respondent shall then be advised promptly that he is the subject of an investigation, be provided a copy of the allegations against him, and be asked to respond in writing with a copy to the complainant. As early as practicable after the beginning of an investigation, counsel shall recommend to the grievance committee having jurisdiction whether to classify the matter as a complaint or to reject it as only constituting an inquiry. Where the grievance committee classifies the matter as a complaint the matter shall then be pursued to disposition. Nothing herein shall preclude the grievance committee from conducting its own investigation of matters coming to its attention.

(D) **Recommendation for Disposition.** As soon as practicable after completion of any additional investigation that may be required after classification of a matter as a complaint, including an investigatory hearing if necessary, counsel shall make a disposition recommendation to the grievance committee. Counsel may recommend dismissal, transfer to another committee, a negotiated sanction, or the filing of a disciplinary action. The committee

may approve, disapprove, or modify the recommendation and proceed with disposition, or it may order further investigation, including one or more investigatory hearings, briefing of legal issues, and such other action as will assist in reaching a prompt disposition.

(E) **Investigatory Hearing.** The chairman of the grievance committee, with or without the request of counsel, may order that an investigatory hearing be conducted by the committee but shall order an investigatory hearing at the request of the respondent. The hearing shall be held not sooner than twenty-five (25) days after notice of hearing to counsel and respondent except by their agreement. Where the respondent has failed to respond in writing to allegations against him and does not so respond within twenty (20) days after service of the notice of hearing, or within such additional period as the chairman allows, the chairman may refuse to conduct an investigatory hearing requested by the respondent. All notices of hearings shall advise the respondent that he is entitled to be represented by a lawyer at the hearing and to present evidence in his own behalf.

The hearing shall be a nonadversary proceeding but the grievance committee may allow such procedures for eliciting evidence as it deems necessary, including the taking of testimony from the complainant or respondent or other witnesses with or without the presence of each other.

(F) **Appeal to Review Committee.** Where the grievance committee rejects a matter as only constituting an inquiry, dismisses a complaint, or invokes sanctions which are clearly inappropriate, counsel or complainant, with approval of counsel, may appeal the action of the grievance committee to the review committee in accordance with such rules of procedure as the review committee shall promulgate. The review committee shall not consider evidence not presented to the grievance committee but shall allow the submission of briefs and oral arguments by any interested party. After final submission of the matter, the review committee shall promptly dispose of the appeal. It shall either affirm the action of the grievance committee or, where it finds clear and convincing evidence that the decision of the grievance committee is erroneous, remand the matter to the grievance committee for reconsideration and such other investigation as may be necessary. Only one (1) appeal in a given matter shall be permitted.

Sec. 11. Service

Service upon the respondent of notice of any disciplinary or disability proceeding or of any other matters or notices required by these rules shall, unless otherwise provided by these rules, be made in accordance with Rule 21b of the Texas Rules of Civil Procedure or by such other method designed to assure actual notice to respondent as may be directed by the chairman of a grievance committee.

Sec. 12. Subpoena Power; Discovery

(A) **Oaths; Subpoena.** Any member of a grievance committee may administer oaths and affirmations in a matter pending before the committee.

Counsel or the grievance committee may compel by subpoena the attendance of witnesses and the production of pertinent books, papers, and documents. A respondent, upon request to the chairman of the grievance committee, shall be entitled, at his expense, to have the committee compel by subpoena the attendance of witnesses and the production of pertinent books, papers, and documents before it.

Subpoenas shall be in writing and signed by counsel or a member of the grievance committee and shall notify the witness of the time and place of appearance. If the witness is commanded to produce documentary or other evidence, the subpoena shall contain a brief description of the materials desired produced.

Subpoenas shall be served on the witnesses personally or in accordance with Rule 21b of the Texas Rules of Civil Procedure. Proof of service may be made by certificate of the person serving the subpoena. If service is by certified mail, the return receipt shall be attached to the certificate.

A subpoena issued during the course of an investigation shall clearly indicate on its face that the subpoena is issued in connection with a confidential investigation under these rules and that it is regarded as contempt of court for a person subpoenaed to breach the confidentiality of the investigation. It shall not be regarded as a breach of confidentiality for a person subpoenaed to consult with an attorney.

A district court of the county in which the attendance or production is required may, upon proper application, enforce the attendance and testimony of any witness and the production of any documents subpoenaed.

(B) **Quashing Subpoena.** An attack on the validity of a subpoena or upon its scope shall be heard and determined by the court wherein enforcement of the subpoena is being sought.

(C) **Witnesses and Fees.** Subpoena and witness fees and mileage shall be the same as those provided for proceedings in the district court.

Sec. 13. Examination of Witnesses Before District Judge; Procedure

If any witness, including the respondent, after such subpoena has been served, fails or refuses to appear before the committee or to produce those books, papers, documents, letters, or other tangible evidence described in the subpoena, or refuses to be sworn or to affirm, or to testify, such witness may be compelled to appear and to produce the requested tangible evidence and to testify at a hearing before a judge of an appropriate district court. Application for such hearing shall be entitled: "In re: Hearing Before Grievance Committee for Dis-

trict No. _____." The judge shall order a time and place for such hearing and shall provide for such notice as the court deems proper under the circumstances. Unless the respondent shall request a public hearing, and except as otherwise may be required by law, all proceedings before the court under this section shall be private and confidential and all records relating to these proceedings shall be held in absolute confidence and shall not be open to the public. If such witness fails to appear, testify, or produce such tangible evidence as may be ordered, or if a witness breaches the confidentiality of the investigation, he or she shall be punished as in cases of contempt.

Sec. 14. Grievance Committee Judgment; Procedure for

(A) **Committee Action.** If the grievance committee finds that respondent has engaged in conduct constituting professional misconduct or suffers from a disability which requires suspension from the practice of law, and respondent has had reasonable notice of the complaint and an opportunity to respond thereto, the committee, after a hearing if not waived and if any interested party so requests after notice, shall determine appropriate sanctions or take appropriate action.

(B) **Judgment.** If the committee shall be of the opinion that the license of the respondent should be revoked or suspended for a period not to exceed three (3) years, or that respondent should be publicly or privately reprimanded, or that such other and further orders should be made as protection of the public and respondent's clients may require, and shall have reason to believe the respondent will accept its action as final, it shall prepare a form of judgment and submit the same to him. Upon his agreement to its entry, evidenced by a memorandum in writing, signed and acknowledged by him, the committee shall enter judgment accordingly. Copies of the judgment, together with copies of the complaint, shall be mailed to the executive director of the State Bar, to counsel, to the clerk, and to the clerk of the district court of the county of residence of the respondent, in the last case for entry upon the minutes of the court. If the attorney's license has been revoked, the clerk shall strike his name from the rolls; if suspended, the clerk shall strike the name from the rolls for the time suspended.

(C) **Enforcement.** A judgment of a grievance committee agreed to in accordance with this section shall have the force and effect of a judgment of the district court. In order to enforce such judgment or to punish a respondent for violation thereof, the committee may apply to a district court in the county of the residence of respondent, which shall have available to it all writs and processes as well as the power of contempt to enforce such judgment the same as such court has available to it in order to enforce its own judgment.

(D) **Nonacceptance; Trial De Novo.** In instances in which the respondent does not accept a pro-

posed judgment or does not accept a decision of suspension, disbarment, or reprimand, counsel shall thereafter institute suit by disciplinary petition and trial shall be de novo in the district court. The disciplinary petition shall contain a prayer for disbarment, suspension, reprimand, or other sanction of the respondent as the facts shall warrant. The committee shall not be bound by its action or judgment which shall not be admitted in evidence for any purpose.

Sec. 15. Resignation in the Face of a Pending Disciplinary Proceeding

An attempt by an attorney to resign his or her license to practice law shall be ineffective unless and until it is accepted by the Court. A motion to resign shall not be accepted by the clerk for filing unless the same is accompanied by a certificate by counsel indicating whether or not any disciplinary action is pending against movant. If such certificate discloses pending disciplinary actions, movant must also obtain and file a concurring motion from the district grievance committee before which the disciplinary action is then pending. Such concurring motion shall contain findings of fact and conclusions of law regarding the complaint(s) then pending against movant. Such complaint(s) shall be considered as conclusively established thereby for all pertinent purposes. The acceptance of a resignation under this section by the Court shall be tantamount to disbarment for the purpose of reinstatement.

Sec. 16. Additional Rules of Procedure

(A) **Nature of Proceedings.** Disciplinary actions are civil in nature.

(B) **Proceedings Governed by Rules of Civil Procedure.** Except as otherwise provided in these rules, the Texas Rules of Civil Procedure apply in disciplinary actions.

(C) **Standard of Proof.** Disciplinary actions shall be proven by a preponderance of the evidence.

(D) **Burden of Proof.** The burden of proof in proceedings seeking discipline or suspension due to disability is on the State Bar. The burden of proof in proceedings seeking reinstatement is on the applicant.

(E) **Availability of Hearing Transcript.** The deliberations, voting, and discussions of a grievance committee are strictly confidential and are not subject to discovery or production. Complainant, counsel, or respondent shall have the right to cause the testimony to be recorded, at the requesting party's expense, provided all records and transcripts shall remain in the custody of the grievance committee and shall be released only for use in disciplinary proceedings or in the course of an appeal to the review committee.

(F) **Related Pending Litigation.** The processing of a disciplinary matter shall not be delayed because

of substantial similarity to the material allegations of pending criminal or civil litigation.

(G) Effect of Delay or Settlement by Complainant. The unwillingness or neglect of the complainant to sign a complaint or to prosecute a charge, settlement, or compromise between the complainant and the lawyer or restitution by the lawyer shall not alone justify abatement of the processing of any complaint.

(H) Effect of Time Limitations. Except as is otherwise provided in these rules, time limitations are directory and not jurisdictional. Failure to observe prescribed time intervals may result in sanctions against the violator but does not justify abatement of any disciplinary or disability investigation or proceeding.

(I) Trial by Jury. Either party to a disciplinary action seeking sanctions shall be entitled to a jury trial to the extent provided for in the State Bar Act.

(J) Four Year Limitation Rule and Exceptions. No member shall be reprimanded, suspended, or disbarred for misconduct occurring more than four (4) years prior to the time such allegation is brought to the attention of counsel except in cases in which disbarment or suspension is compulsory as provided herein. Limitations, however, will not run where fraud or concealment is involved until such misconduct is discovered or should have been discovered by reasonable diligence by counsel.

Sec. 17. Venue; Residence

(A) Resident Member. A disciplinary action shall be instituted against a resident member in a district court of the county of the member's residence.

(B) Nonresident Member. A disciplinary action may be instituted against a nonresident member in a district court in any county where the alleged misconduct occurred or in a district court in Travis County, Texas.

(C) Residence Defined. For purposes of this section, a resident member's county of residence shall be either (1) the county in Texas of his domicile, or if that cannot be ascertained after diligent inquiry, (2) the county in Texas in which he maintains an office from which he regularly engages in the practice of law, or if neither (1) or (2) can be ascertained after diligent inquiry, then (3) the county in Texas shown in his last known address on the membership rolls of the Court.

Sec. 18. Requisites of Disciplinary Petition

The disciplinary petition shall be styled: "The State Bar of Texas v. _____." The disciplinary petition shall allege:

- (1) The identity of the grievance committee bringing the suit as petitioner;
- (2) The name of the respondent and the fact that he or she is a licensed attorney and a member of the State Bar of Texas;

(3) The residence of the respondent or pleadings that would otherwise fix the venue;

(4) A brief description of the acts and conduct that gave rise to the claimed professional misconduct sufficient to give fair notice, which allegations may be grouped in one or more counts;

(5) The Disciplinary Rule or Rules allegedly violated by such acts and conduct or other grounds for seeking sanctions;

(6) A demand for judgment that the respondent be disbarred, suspended, or reprimanded as the facts shall warrant and for such other relief to which the petitioner deems itself entitled; and

(7) Any other matter which may be required or permitted by law or this Article authorizing or regulating a particular proceeding.

Sec. 19. Answer of Respondent

The answer of the respondent shall be as in civil cases generally.

Sec. 20. Resident Judge Disqualified

Upon motion of either party filed within thirty (30) days after a judge is assigned, or within thirty (30) days after service of citation upon the respondent, whichever is later, the judge in whose court the disciplinary action is filed shall recuse himself or herself and the presiding judge of the administrative judicial district in which the suit is pending shall call upon the presiding judge of another administrative district to furnish for trial of the case a district judge who is not a resident of the administrative judicial district in which the action is pending. Each party to the disciplinary action shall have the right to cause a recusal only once during such action under these provisions.

Sec. 21. Preferred Setting

Disciplinary actions shall be entitled to preferred settings and advancement in all courts at the request of either party.

Sec. 22. Conduct Constituting Threat of Harm to Clients

(A) Evidence of Irreparable Harm. Upon receipt of evidence of just cause demonstrating that a lawyer poses a substantial threat of irreparable harm to his clients or prospective clients, the appropriate grievance committee shall authorize counsel to seek the interim suspension of such lawyer as hereinafter provided. Authorization for interim suspension shall require the affirmative vote of two-thirds (2/3) of the committee members present and voting.

(B) Immediate Interim Suspension. The court may enter an order in the nature of a temporary restraining order immediately suspending the lawyer pending the final disposition of a disciplinary action predicated upon the conduct causing the harm or may order such other action as deemed appropriate. In the event the order is entered, the court may appoint a custodian pursuant to Section

33 to protect clients' interest. The matter shall then proceed as in cases of temporary injunctions under the Texas Rules of Civil Procedure.

(C) **Notice to Clients.** A lawyer suspended pursuant to paragraph (B) shall comply with the notice requirements in Section 32.

Sec. 23. Judgment

(A) **Determination of Misconduct; Sanctions Available.** If the court finds from the evidence in a case tried without a jury, or from the verdict of the jury, if there be one, that the respondent's conduct does not constitute professional misconduct, the court shall enter judgment accordingly. If the court shall find that the respondent's conduct does constitute professional misconduct, the court shall determine whether the respondent shall be reprimanded or suspended from practice (in which case the court shall fix the term of suspension not to exceed three (3) years for each separate act of misconduct) or disbarred and the court shall enter a judgment accordingly. If the judgment be one finding that the respondent's conduct constitutes professional misconduct, the court shall direct transmittal of certified copies of the judgment and disciplinary petition to the clerk, and the latter shall make proper notation on the membership rolls.

(B) **Sanctions; Relevant Factors.** In its discretion, the court may conduct a separate evidentiary hearing on the appropriate measure of discipline. In determining the appropriate measure of discipline, the trial court shall consider, in addition to any other relevant matters, the nature and degree of misconduct for which the respondent is being disciplined, the seriousness and circumstances attending the misconduct, assurance that those who seek legal services will be insulated from unprofessional conduct, the profit to the attorney or the injury or hardship to others resulting from the misconduct, avoidance of repetition, the deterrent effect upon others, the maintenance of respect for the honor and dignity of the legal profession, and the conduct of the respondent during the course of the investigation and trial of the disciplinary action. In addition thereto, the disciplinary record of the respondent is admissible on the issue of the appropriate measure of discipline to be imposed.

(C) **Terms of Judgment; Enforcement.** In any judgment of disbarment or in any judgment of suspension for a period of more than ninety (90) days, the court shall order the respondent to surrender his or her permanent bar card and law license for transmittal to the clerk. In all judgments of disbarment or suspension, the court shall direct that the respondent shall not practice law or represent himself or herself to be an attorney during the period of such disbarment or suspension. The violation of the court's judgment in this regard shall be punishable as for contempt. In all judgments of disbarment, suspension or reprimand, the court may make and enter all such other and further orders as the protection of the public and the respondent's

clients may require, including probation of a suspension or a reprimand. In no event shall a court grant a member probation of a suspension or reprimand more than one time.

(D) **Restitution.** In all cases in which the proof establishes that the respondent's misconduct involved misapplication of client funds and the court determines that suspension is the appropriate measure of discipline, the judgment shall require that restitution be made during the term of suspension and shall provide that failure to do so shall cause the suspension to remain in effect indefinitely thereafter and until evidence of satisfactory restitution is made by the respondent and is appropriately verified by counsel.

Sec. 24. Appeal; No Supersedeas

Either party to a disciplinary action shall have the right of appeal to the Court of Appeals but, if the judgment appealed from be one suspending or disbarring the respondent, he or she shall not be entitled to practice law in any form while the appeal is pending and shall have no right to supersede the judgment by bond or otherwise.

Sec. 25. Exemption from Cost and Appeal Bond

No cost or appeal bond shall be required of the grievance committee or the State Bar. In lieu thereof, when cost or appeal bond would otherwise be required, a memorandum shall be filed setting forth the exemption under this section.

Sec. 26. Compulsory Discipline

(A) **Generally.** When an attorney has been convicted of a serious crime, counsel shall initiate an action seeking compulsory discipline pursuant to this section. Except as otherwise provided in this section, the provisions of this Article relating to the procedure in disciplinary actions shall apply to actions brought hereunder. Proceedings hereunder are not exclusive in that an attorney may be tried on the underlying facts as well as upon the conviction itself.

(B) **Serious Crime Defined.** A serious crime, for the purpose of this section, shall be any felony involving moral turpitude or any misdemeanor involving theft, embezzlement, or fraudulent misappropriation of money or other property. A conviction for the attempt, conspiracy, or solicitation of another to commit a serious crime shall also be deemed to be a conviction of a serious crime for the purposes of this rule. The determination of whether a particular conviction constitutes a conviction of a serious crime is a question of law to be determined by the court.

(C) **Evidence of Guilt.** In any action brought to discipline an attorney who has been convicted of a serious crime, the record of conviction shall be conclusive evidence of the guilt of the attorney for the crime of which the attorney was convicted.

(D) **Commencement of Suit.** Discipline under this section shall be initiated by the filing of a

disciplinary petition in a district court of the convicted attorney's residence. Said petition shall allege the conviction and shall seek the appropriate discipline as provided herein.

(E) Procedure. The district court shall proceed to hear and determine all questions of fact and law as hereinafter provided without the aid of a jury. When an attorney has been convicted of a serious crime in any trial court of competent jurisdiction, the attorney shall be suspended from the practice of law pending any appeal of that criminal conviction. Upon introduction into evidence in the disciplinary action brought hereunder of a certified copy of the judgment of conviction and sentence and a certificate of the clerk that the attorney is licensed by the Court, the district court in which the disciplinary action is pending shall promptly determine whether the attorney has been convicted of a serious crime. Uncontroverted affidavits that the attorney is the same person as the person convicted in the criminal action and that the attorney is a resident of the county in which the disciplinary action is brought shall constitute competent and sufficient evidence of those facts. Nothing contained herein shall prohibit proof of the necessary elements in such proceeding by competent evidence in any other manner permitted by law. The district court shall set, hear, and determine whether the attorney should be disciplined within forty-five (45) days of the answer day; however, any failure to do so will not affect its jurisdiction to act. Any suspension ordered pending appeal of a criminal action shall be interlocutory.

(F) Disbarment. When an attorney has been convicted of a serious crime in any court of competent jurisdiction and that conviction has become final, the attorney shall be disbarred, except as provided in paragraph (G) below. If the attorney has been suspended pending the appeal of the criminal conviction, a motion for final judgment of disbarment shall be filed in the pending disciplinary action. If the motion is supported by affidavit or certified copies of court documents showing that the conviction has become final, the motion shall be granted without hearing, unless within ten (10) days following service of the motion upon the convicted attorney or his or her attorney of record, pursuant to Rule 21b of the Texas Rules of Civil Procedure, the convicted attorney files a verified reply contesting the finality of the judgment, in which event the court shall conduct an evidentiary hearing to determine such issue. If no disciplinary action is pending when the attorney's conviction becomes final, disbarment shall be initiated by the filing of a disciplinary petition pursuant to this section.

(G) Suspension. If an attorney's sentence upon conviction of a serious crime is fully probated, or if an attorney receives probation without an adjudication of guilt, the attorney shall be suspended during the term of such probation; however, upon notice and hearing, the court in the disciplinary action may impose upon an attorney who has received probation such further disciplinary sanction as may be

warranted, including disbarment. If an attorney is suspended during the term of probation, such suspension is conditioned upon the attorney satisfactorily serving the terms of such probation. If probation is revoked, the attorney shall be disbarred as herein provided.

Sec. 27. Reciprocal Discipline

(A) Counsel Duty to Obtain Order of Discipline from Other Jurisdiction. Upon being disciplined in another jurisdiction, a member shall promptly inform counsel of such action. Upon receipt of information that a member has been disciplined in another jurisdiction, counsel shall obtain a certified copy of the disciplinary order and file it and a disciplinary petition in the district court in the county wherein the member resides or in the case of a non-resident, in a district court in Travis County, which filing shall constitute a prima facie showing of the matters contained therein.

(B) Notice Served Upon Respondent. Upon presentation of a certified copy of an order demonstrating that a respondent has been disciplined in another jurisdiction, the court shall forthwith issue a notice directed to the respondent containing:

(1) A copy of the order from the other jurisdiction; and

(2) An order directing that respondent inform the court within thirty (30) days from service of the notice of any claim by the respondent predicated upon the grounds set forth in paragraph (C), that the imposition of the identical discipline in this state would be unwarranted and the reasons therefor.

(C) Discipline to be Imposed. Upon the expiration of thirty (30) days from service of the notice pursuant to the provisions of paragraph (B), if respondent fails to answer the disciplinary petition, the court shall impose the identical discipline. If respondent answers the disciplinary petition, the court shall impose the identical discipline unless respondent shows by clear and convincing evidence that:

(1) The procedure was so lacking in notice and opportunity to be heard as to constitute a deprivation of due process; or

(2) There was such infirmity of proof establishing the misconduct as to give rise to the clear conviction that the court could not, consistent with its duty, accept as final the conclusion on that subject; or

(3) The imposition of the same discipline by the court would result in grave injustice; or

(4) The misconduct established warrants substantially different discipline in this state; or

(5) The offense for which the member was disciplined does not constitute misconduct under the Texas Code of Professional Responsibility.

If the court after a hearing, or a trial by jury if so requested by either party, determines that any of the foregoing exists, it shall enter such order as is deemed appropriate.

(D) Conclusiveness of Adjudication in Other Jurisdiction. In all other aspects, a final adjudication in another jurisdiction that a member has been guilty of misconduct shall establish conclusively the misconduct for purposes of a disciplinary proceeding in this state.

Sec. 28. Reinstatement After Disbarment

(A) Eligibility and Venue. A disbarred attorney may, at any time after the expiration of five (5) years from the date of final judgment of disbarment or acceptance of resignation, apply to the district court of the county of his or her residence for reinstatement. Provided, however, that when the attorney has been disbarred or has resigned based upon conviction of a criminal offense, such person may not make application for reinstatement until five (5) years from the date of completion of sentence.

(B) Petition; Contents. The application for reinstatement shall be verified and shall set forth the following information which, upon appropriate motion, may be sealed:

(1) Name, age, and residence address of the applicant;

(2) The offense or misconduct upon which the disbarment was based and the date of final judgment of disbarment;

(3) The name of the court and county where the disciplinary action was adjudicated or the name of the grievance committee before whom such disciplinary proceeding was heard;

(4) A statement that the applicant has made restitution to all persons, if any, naming them, who may have suffered pecuniary loss by reason of the misconduct for which the applicant was disbarred and that applicant has paid all costs of the disciplinary action which resulted in his or her disbarment;

(5) A statement that at the time of filing of the petition the applicant is of good moral character, possesses the mental and emotional fitness to practice law, and, during the five (5) years just prior to the filing of the petition, has been living a life of exemplary conduct;

(6) A statement that the applicant has recently read and presently understands the Code of Professional Responsibility of the State of Texas, that he or she has kept abreast of the law during the period of disbarment, and that the ends of justice will be subserved by his or her reinstatement;

(7) A listing of applicant's occupation(s) during the period of disbarment, including the names and current addresses of all partners, associates, and employers, if any, and dates and duration of all such relationships and employment;

(8) A statement showing the approximate annual earnings and other income of applicant and the names and current addresses of all sources from which all such earnings and income were derived during the period of disbarment;

(9) A statement listing all residences maintained during the period of disbarment and the names and current addresses of all landlords, if any;

(10) All financial obligations of applicant at the date of filing of the application, together with the dates when the same were incurred, and the names and current addresses of all creditors;

(11) A statement showing the dates, general nature, and final disposition of every civil action during said period wherein applicant was either a party or in which he had claimed an interest;

(12) A statement showing dates, general nature, and ultimate disposition of every matter involving the arrest and prosecution of applicant during said period for any crime, whether felony or misdemeanor, together with the names and addresses of the complaining witnesses;

(13) A statement as to whether or not any applications were made during said period for a license requiring proof of good character for its procurement and as to each such application the date, name, and address of the authority to whom it was addressed and the disposition thereof;

(14) A statement of any procedure or inquiry during said period concerning said applicant's standing as a member of any profession or organization, or holder of any license or office, which involved censure, removal, suspension, revocation of license, or discipline of applicant and as to each, the dates, facts, and disposition thereof and the name and address of the authority in possession of such records;

(15) A statement as to whether or not any charges of fraud were made or claimed against applicant during said period, whether formal or informal, and dates, names, and addresses of persons making such charges.

(C) Duty to Amend. The applicant shall be under an affirmative duty to amend and update such information until such time as his or her application for reinstatement has been heard and determined.

(D) Reinstatement After Resignation. The provisions of this Article concerning reinstatement after disbarment shall apply equally to reinstatement following resignation.

(E) Burden of Proof; Denial. The burden of proof shall be upon applicant to show by a preponderance of evidence that the public interest and the ends of justice would be best served by his or her reinstatement. A false material statement in the application for reinstatement shall require the trial judge to deny such reinstatement. Any finding that, during such period of disbarment or resignation, applicant engaged in the practice of law may serve as a ground for denial of reinstatement.

Sec. 29. Notice, Hearing, and Judgment

(A) Generally. After the filing of the application in the district court, the Texas Rules of Civil Procedure shall govern the procedure in all proceedings for reinstatement except where in conflict with spe-

cific provisions hereof. All questions of fact and law in such proceedings for reinstatement shall be determined by the court without the aid of a jury.

(B) Reinstatement; Relevant Factors. In determining the applicant's fitness for reinstatement, in addition to any other relevant matters, the court may consider evidence concerning the nature and degree of misconduct for which applicant was disbarred and the circumstances attending the offense, his or her understanding of the serious nature of the acts for which he or she was disbarred, his or her conduct during the disbarment proceedings, the profit to the applicant and injury or hardship to others, his or her attitude toward the administration of justice and the practice of law, any unauthorized practice of law prior to reinstatement, the attorney's good works or other accomplishments, and any other evidence which is relevant to the issues of the applicant's fitness to practice law and the likelihood that applicant will not engage in further misconduct.

(C) Notice. Notice of an application for reinstatement shall be served on counsel and the chairman of the grievance committee that took final action leading to disbarment, by mail in accordance with Rule 21b, Texas Rules of Civil Procedure, and shall be published in the *Texas Bar Journal*.

(D) Judgment; Conditions. If the court is satisfied after hearing all of the evidence both for and against the applicant, that all the material allegations are true and that the ends of justice will be served, the court may enter judgment authorizing the applicant to be reinstated upon his or her obtaining a passing grade on a bar examination regularly administered by the Texas Board of Law Examiners within eighteen (18) months from the date of judgment.

Said judgment shall direct the Board of Law Examiners to admit the applicant to a regularly scheduled examination and to process applicant's examination in accordance with that Board's rules and procedures relating to the examination of attorneys who are licensed in foreign jurisdictions. No judgment of reinstatement shall be entered by default, but the court in all cases shall hear evidence on such application before rendering judgment. If, after hearing all of the evidence, the court determines that the applicant is not entitled to reinstatement at that time, the court may, in its discretion either enter a judgment denying the petition or may direct that the petition be held in abeyance for a reasonable period of time until the applicant provides additional proof that he or she has satisfied the requirements of these rules. The court's judgment may include such other and further orders as protection of the public and applicant's potential clients may require.

(E) Appeal; Readmission. When a judgment has been entered, any party shall have the right of appeal as herein provided. If the application for reinstatement is granted and an appeal is perfected,

the trial court judgment shall be stayed pending such appeal. After applicant has complied with the terms of the judgment of reinstatement and with this section, the applicant shall furnish the Clerk a certified copy of such judgment and evidence of compliance and shall pay all membership fees and assessments for the current bar year, together with all costs of the reinstatement proceedings. Upon satisfactory completion of all of the requirements of this section relating to reinstatement, the applicant may then take the attorney's oath, and his or her name shall be again entered on the membership rolls by the clerk.

(F) Denial; Subsequent Eligibility. If an applicant's first application for reinstatement is denied after a hearing on the merits, the applicant shall not be eligible to file a second application for reinstatement until the expiration of a period of three (3) years from the date of final judgment. If an applicant's second application for reinstatement is denied after a hearing on the merits, no application for reinstatement shall be considered until the expiration of a period of five (5) years from the date of final judgment of the last preceding application.

Sec. 30. Suspension Due to Disability

(A) Grounds for Suspension. The license to practice of any member shall be suspended upon a finding that the member:

- (1) Has been judicially declared to be mentally incompetent; or
- (2) Is disabled to practice law because of mental or emotional infirmity or illness caused by addiction to intoxicants or drugs and is unable to practice law without danger to the legal interests of his or her clients or to the public.

(B) Procedure. The procedure to be followed for suspension under this section shall be the procedure provided for the discipline of members for professional misconduct subject to the following provisions:

- (1) Suspension hereunder shall be immediately imposed by the court having disciplinary jurisdiction upon the filing of a certified copy of a subsisting judgment or other official record whereby the respondent has been judicially declared incompetent;
- (2) The court may appoint an attorney to represent a respondent who does not have legal representation;
- (3) Suspension under this section shall not be for a definite period of time but shall be until the respondent is reinstated in accordance with the provisions of this Article.

Sec. 31. Reinstatement After Suspension Due to Disability

A member whose license to practice has been suspended under the preceding section may be reinstated upon application, as follows:

- (A) Application.

(1) Application for reinstatement shall be by written petition, verified and filed in the district court of the county of residence of the applicant or in the district court that suspended the applicant's license to practice. The application shall state the name, age, residence, and address of the applicant; the court in which the applicant was suspended, together with the number and style of that case; a detailed description of applicant's activities since suspension, including the facts of any employment, the details concerning hospitalization, medical treatment of applicant which entitles him or her to be reinstated; and any other matters believed by applicant to be relevant to the application for reinstatement. Upon appropriate motion, the court may order the application for reinstatement sealed.

(2) An attorney suspended under Section 30 shall, in proceedings for reinstatement, bear the burden of proof to establish that the reason for such suspension no longer exists and that reinstatement to the practice of law would be without danger to the legal interests of his or her clients or to the public. Where appropriate, and upon order of the court, the applicant shall submit to an examination by one or more mental health providers. The filing of an application for reinstatement under this section shall constitute a waiver of any privilege existing between the applicant and any mental health provider who has treated, consulted, or examined the applicant during such disability or since his or her suspension and shall constitute authorization to counsel to review on demand the records of any such mental health provider. The application shall also state the applicant's current residence.

(B) Supporting Documents. The following documents shall accompany the application:

(1) A certified copy of any court order restoring the applicant to competency; or

(2) An affidavit from a mental health provider as to the applicant's current condition if the suspension was based upon mental infirmity or illness; or

(3) An affidavit from a physician as to the applicant's current condition if the suspension was based upon addiction to intoxicants or drugs.

(C) Time for Filing Application. A first application for reinstatement may be filed at any time after applicant's license to practice has been suspended under Section 30. If the first application is denied after a hearing on its merits, a second application for reinstatement may be filed at any time after the expiration of one (1) year from the date of denial of the first application. Subsequent applications shall not be filed until after the expiration of one (1) year from the date of denial on its merits of the last preceding application.

(D) Notice, Hearing, and Judgment. The procedure for reinstatement under this section is the same as provided in Section 28 except to the extent the same is inconsistent with this section. Provid-

ed, however, that if the applicant's suspension from the practice of law has continued for a period of three (3) consecutive years or more, the court, in its discretion, may require the applicant to obtain a passing grade on the state bar examination or complete a course of study approved by the court before the applicant may be reinstated.

Sec. 32. Notice to Interested Persons of Attorney Cessation of Practice

(A) Generally. When an attorney engaged in law practice in this state dies, resigns, becomes an inactive member of the State Bar, is disbarred, or is suspended from the active practice of law, leaving an unfinished client matter for which no active member of the State Bar, with the consent of the client, has agreed to assume responsibility, notice of cessation of practice shall be given as provided in this section.

(B) Notice. Notice of cessation of practice may also be required by any judgment of disbarment or suspension, or upon acceptance of an attorney's resignation, as deemed necessary by the court or district grievance committee. Notice shall be mailed to all persons who are then clients; to opposing counsel; to courts and agencies in which the attorney had pending matters, with an identification of the matter; to any errors and omissions insurer; and to any other person or entity having reason to be informed of such death, change of status, or discontinuance or interruption of law practice. Failure to comply with this section by the resigned or disciplined attorney may result in disciplinary action or contempt.

(C) Notice by Representative of Attorney. In the event of the death of the attorney, the notice shall be given by the personal representative of the deceased attorney or by the person having custody or control of the files and records of the deceased attorney. In the case of incompetency, the notices shall be given by the attorney's guardian or a duly authorized agent or attorney in fact, or if none exists, by the person having custody or control of the files and records of the attorney. In other cases the notice shall be given by the attorney, a person authorized by the attorney, or by the person having custody or control of files and records.

(D) Duties in Addition to Notice. Attorneys who have been disbarred or suspended must, within thirty (30) days of the date of judgment, (1) notify all clients of such attorney's inability to continue to represent such clients and of the necessity for promptly retaining new counsel, (2) deliver all papers, files, or other property belonging to such clients, (3) refund to clients any unearned fees paid in advance, and (4) file an affidavit with counsel showing compliance herewith.

(E) Authority of Counsel. When an attorney is suspended under Section 30 or disappears or dies while under investigation, counsel shall determine whether a law partner, executor, or other appropriate representative of the attorney concerned is

available to notify the attorney's clients and protect their interests. Counsel shall petition the district court having disciplinary jurisdiction to take necessary action for the protection of the clients involved pursuant to this section if no person is available to give the required notice.

Sec. 33. Jurisdiction of Court over Affected Attorney's Practice

(A) Application for Assumption of Jurisdiction. Notwithstanding the giving of notice, as required by Section 32, a client of the attorney, the grievance committee, counsel, or any interested person or entity may make application to a district court in the county where the attorney maintains or has most recently maintained an office for the practice of law or where such attorney resides, for assumption of jurisdiction by the court over the subject attorney's law practice.

(B) Application; Contents. The application shall be verified, shall state the facts showing just cause to believe that notice of cessation is required pursuant to this section, and shall state the following:

(1) An attorney engaged in law practice in this state has died, disappeared, resigned, become an inactive member of the State Bar or has been disbarred or suspended from the active practice of law, or because of an excessive use of intoxicants or drugs, physical or mental illness, or other infirmity has become incapable of providing legal services necessary to protect the legal interests of a client;

(2) Just cause to believe that supervision of the court is warranted because the attorney has left an unfinished client matter for which no other active member of the State Bar has, with consent of the client, agreed to assume responsibility; and

(3) Just cause to believe that the interests of one or more clients of the attorney or of one or more interested persons or entities will be prejudiced if the proceedings herein provided are not maintained.

(C) Hearing. The application shall be set for hearing and an order to show cause shall be issued, directing the attorney or his personal representative, or if none exists, the persons having custody or control of the records, to show cause why the court should not assume jurisdiction of the law practice as provided herein.

(D) Order of Court. If the court finds that one or more of the events stated above has occurred and that supervision of the court is warranted because the affected attorney has left an unfinished client matter for which no other active member of the State Bar of Texas has, with consent of the client, agreed to assume responsibility, and that the interested persons or entities will be prejudiced if this proceeding is not maintained, it shall enter an order assuming jurisdiction over the attorney's client matters and shall appoint one or more active members of the State Bar to act under its direction and may

order such appointed attorneys to do one or more of the following:

(1) Examine the client matters, including the files and records of the law practice, and obtain information as to any pending matters which may require attention;

(2) Notify persons and entities who appear to be clients of the attorney of the occasion for and the assumption by the court of jurisdiction over the attorney's matters and shall inform them to obtain other legal counsel;

(3) Apply for extension of time before any court or administrative body pending employment of another attorney by the client;

(4) With the consent of the client, file such motions and pleadings on behalf of the client as are required to prevent prejudice to the client's legal rights;

(5) Give notice to appropriate persons other than the client who may be affected;

(6) Arrange for the surrender or delivery of client's papers or property;

(7) Do such other acts as the court may direct.

(E) Custodian. Persons exercising custody and control of the files and records of the law practice of the affected attorney pursuant to this section shall observe the attorney-client privilege and shall make disclosure only to the extent necessary to carry out the purposes of this section. The appointment of a member of the State Bar under this section does not abrogate the attorney-client privilege and such privilege shall apply to communication between the appointed lawyer and the client to the same extent as it applied to communications between the affected attorney and the client.

(F) Immunity; No Bond. Except for willful acts or omissions, no person or entity shall incur any liability by reason of the institution or maintenance of this proceeding. No person shall incur any liability for any act done or omitted to be done pursuant to an order of the court under this section. It shall not be necessary to post a bond or security in this proceeding.

Sec. 34. Access to Disciplinary Information

(A) Confidentiality. Proceedings before a grievance committee are confidential except the pendency, subject matter, and status of a matter may be disclosed by counsel if:

(1) The respondent has waived confidentiality;

(2) The proceeding is based upon conviction of a crime; or

(3) The proceeding is based upon allegations that have become generally known to the public.

(B) Public Proceedings. After a grievance committee and a respondent have reached agreement for a sanction other than a private reprimand, or after the grievance committee has authorized the filing of a disciplinary action, the disposition is public; however, the deliberations of committee members shall remain confidential.

(C) **Request for Nonpublic Information.** A request for nonpublic information other than that authorized for disclosure under paragraph (A) above shall be denied unless the respondent has consented to disclosure except that the Grievance Oversight Committee of the Supreme Court shall be entitled to such information.

(D) **Disclosure to National Discipline Data Bank.** Counsel shall transmit notice of all public discipline imposed against an attorney, suspensions due to disability, and reinstatements to the National Discipline Data Bank maintained by the American Bar Association.

(E) **Duty of Participants.** All participants in a proceeding under this Article shall conduct themselves so as to maintain the confidentiality mandated.

Sec. 35. Dissemination of Disciplinary Information

(A) **Notice to Disciplinary Agencies.** Counsel shall transmit notice of public discipline, suspensions due to disability, reinstatements, and certificates of conviction to the disciplinary enforcement agency of any other jurisdiction in which the respondent is admitted.

(B) **Public Notice of Discipline Imposed.** Counsel shall cause notices of public reprimand, suspension, disbarment, reinstatement, and suspension due to disability to be published in the *Texas Bar Journal* and in a newspaper of general circulation in the judicial district in which the lawyer maintained an office for the practice of law. Counsel shall also cause such sanctions to be recorded in the minutes of the district court of respondent's residence. Private reprimands shall be published in the *Texas Bar Journal* with the name of the lawyer deleted.

(C) **Notice to the Court.** Counsel shall promptly transmit a certified copy of the order of reprimand, suspension, disbarment, reinstatement, and suspension due to disability to the clerk.

Sec. 36. Expenses and Fees

(A) **Reimbursement of Expenses.** All reasonable and necessary expenses incurred in the discharge of the duties of the grievance committees, and of individual members thereof, when approved by the chairman of the committee and counsel, shall be paid out of State Bar funds.

(B) **Fees of Office.** Clerks of courts, sheriffs, and other officers shall receive the same fee for their service in carrying out the applicable provisions of this Article as such officers are to receive if performing similar services in connection with other civil suits.

Sec. 37. Immunity from Civil Suit

Communications to the review committee, grievance committee, or counsel relating to lawyer misconduct or disability and testimony given in any disciplinary proceedings shall be absolutely privileged and no lawsuit predicated thereon may be

instituted against any complainant or witness. Members of the review committee, members of the grievance committees, officers and directors of the State Bar, counsel, and staff shall be immune from suit for any conduct in the course of their official duties. The immunity herein granted is absolute and unqualified and shall extend to actions at law or in equity.

Sec. 38. Maintenance of Funds or Other Property Held for Clients and Others

Every lawyer engaged in the practice of law in the State of Texas shall maintain a separate trust account or accounts, designated as such, into which funds of clients or other fiduciary funds shall be deposited and shall further maintain and preserve for a period of at least five (5) years after final disposition of the underlying matter, the records of such accounts, including checkbooks, cancelled checks, check stubs, vouchers, ledgers, journals, closing statements, accountings, or other statements of disbursements rendered to clients or other parties with regard to trust funds or similar equivalent records clearly and expressly reflecting the date, amount, source, and explanation for all receipts, withdrawals, deliveries, and disbursements of the funds or other property of a client.

ARTICLE XI. INTEREST EARNED ON CLIENT FUNDS HELD BY ATTORNEYS

Sec. 1. Short Title

This Article may be referred to as the Texas Equal Access to Justice Program.

Sec. 2. Findings; Purpose

The Supreme Court of Texas finds that:

(A) On certain client funds held by attorneys, interest income cannot reasonably be earned to benefit individual clients for whom the funds are held;

(B) Income can be earned on those client funds pursuant to the program provided for in this Article and that income should be used to provide additional legal services to the indigent in civil matters;

(C) This Court is the proper and appropriate body, through the adoption of rules as set forth in this Article, to create and administer, or cause to be created and administered, a program to carry out the purposes of this Article; and

(D) This Article is adopted in furtherance of the inherent powers of this Court to regulate the practice of law in the State of Texas.

Sec. 3. Rules

This Court shall hereafter promulgate rules, consistent with the provisions of this Article, that are necessary and appropriate to carry out the purposes of this Article and conform the program created as provided by this Article to applicable statutes, regulations, and rulings. The rules, which may be amended or revoked by this Court from time to time

as it deems necessary to carry out this Article, shall provide for:

(A) The formation of a corporation, incorporated without members under the Texas Non-Profit Corporation Act (TEX.REV.CIV.STAT.ANN. art. 1396-1.01 *et seq.*), to be the recipient of and disbursing agent for interest earned on client funds as provided by this Article;

(B) The operation of the nonprofit corporation and the program created as provided by this Article, including the provisions to be contained in the articles of incorporation and bylaws of the corporation;

(C) The designation of persons to serve as directors of the corporation and their terms of office;

(D) Definitions of the client funds subject to Section 5 of this Article;

(E) Exemptions from Section 5 of this Article when deemed by the Court to be appropriate;

(F) Provisions specifying the types of financial institutions eligible for the deposit of the funds, the types of organizations and programs eligible to receive funds from the nonprofit corporation, and the persons and types of matters and cases eligible to receive legal services funded by grants from the nonprofit corporation; and

(G) Provisions relating to recordkeeping, reporting, and audits of the nonprofit corporation and the organizations and programs receiving funds from the nonprofit corporation.

Sec. 4. Provisions Relating to the Nonprofit Corporation

(A) The nonprofit corporation provided for in this Article shall be organized in such a manner as to be exempt from federal income taxation under the Internal Revenue Code of 1954 or any subsequent United States internal revenue law.

(B) The exclusive purpose of the nonprofit corporation provided for in this Article shall be to grant funds received by it, as provided in this Article, to organizations that will use the funds exclusively to provide legal services to the indigent in civil matters.

(C) The nonprofit corporation provided for in this Article shall be governed by a board of directors consisting of a chairman and twelve members. The chairman and six directors shall be persons appointed by this Court and the other six directors shall be persons appointed by the president of the State Bar of Texas, with the approval of the board of directors of the State Bar of Texas. At least two of each group of appointees to the board of directors, other than the chairman, shall not be attorneys, and shall not have, other than as consumers, a financial interest in the practice of law.

(D) Funds granted by the nonprofit corporation provided for in this Article to organizations to provide legal services to the indigent in civil matters may not be used for any case or matter that, if

undertaken on behalf of an indigent person by an attorney in private practice, might reasonably be expected to result in payment of a fee for legal services from an award to a client, from public funds, or from the opposing party. This subsection does not apply if it is determined, pursuant to rules adopted by this Court, that adequate legal services would otherwise be unavailable to the indigent person in the case or matter.

(E) Neither the nonprofit corporation provided for in this Article nor any organization or program to which it grants funds may take an action or require an attorney to take an action in violation of the Code of Professional Responsibility (Article X, Section 9, State Bar Rules) or in violation of any other code of professional responsibility adopted by this state for attorneys.

(F) No funds shall be granted by the nonprofit corporation to directly or indirectly fund class action suits, lawsuits against governmental entities, or lobbying for or against any candidate or issue. Provided, however, that funds may be granted to finance suits against governmental entities on behalf of individuals in order to secure entitlement to benefits such as, but not limited to, Social Security, Aid to Families with Dependent Children and the like.

(G) The nonprofit corporation provided for in this Article shall require, as a condition to the granting of funds to any organization or program, that adequate provision be made, in accordance with rules adopted by this Court, for reports as to the actual use of funds and for audit of the reports. The violation of any prohibition contained in Subsection 4(F) of this Article shall render the offending organization or program ineligible to receive funds from the nonprofit corporation.

(H) The records of the nonprofit corporation provided for in this Article, including applications for funds, whether or not granted, shall be open for public inspection, in accordance with rules this Court may promulgate.

(I) The nonprofit corporation provided for in this Article may expend funds for administrative costs of the program, including any costs incurred after the adoption of this Article, and may provide a reasonable reserve for administrative costs.

Sec. 5. Deposit of Certain Client Funds

Text of section effective upon adoption of program rules

(A) An attorney, law firm, or professional corporation engaged in the practice of law, receiving in the course of the practice of law in this state, client funds that are nominal in amount or are reasonably anticipated to be held for a short period of time, may establish and maintain a separate interest-bearing demand account at a financial institution and may deposit in the account all those client funds. All the client funds may be deposited in a single unsegregated account. The interest earned on the account shall be paid in accordance with and used

for the purposes set forth in this Article and the rules adopted by this Court. Funds to be deposited under this Article do not include those funds evidenced by a financial institution instrument, such as a draft, until the instrument is fully credited to the financial institution in which the account is maintained.

(B) This Article does not prohibit an attorney, law firm, or professional corporation engaged in the practice of law from establishing one or more interest-bearing accounts or other investments permitted by the Texas Code of Professional Responsibility (Article X, Section 9, State Bar Rules) with the interest or dividends earned on the accounts or investments payable as directed by clients for whom funds are not deposited in accordance with Subsection (A) of this section.

(C) An attorney, law firm, or professional corporation engaged in the practice of law which wishes to maintain accounts provided for in this Section 5 must so advise the nonprofit corporation in writing within thirty (30) days of the establishment of such account or accounts. Attorneys, law firms, and professional corporations engaged in the practice of law which have elected to participate in such program but which later decide to withdraw, shall so advise the nonprofit corporation within thirty (30) days of the closing of such account or accounts.

The Supreme Court order of May 9, 1984, adopting this article provides, in part, that "Sections 5 and 6 of Article XI shall not take effect until the first day of the first month that begins more than 90 days after the rules provided for in Article XI have been adopted by this Court."

Sec. 6. Depositories

Text of section effective upon adoption of program rules

(A) The interest-bearing demand account required by Section 5 of this Article shall be established with any financial institution meeting the requirements set forth in the rules adopted by this Court.

(B) The attorney, law firm, or professional corporation establishing the interest-bearing demand account shall attempt in good faith to obtain a rate of interest payable on the account not less than the rate paid by the depository institution to other depositors with accounts of similar size. A higher rate offered by the institution on deposits meeting certain time requirements or minimum amounts, such as those offered in the form of certificates of deposit may be obtained if there is no impairment of the right to withdraw or transfer principal immediately, other than the statutory notification requirements generally applicable to those accounts, even though interest may be lost because of the withdrawal or transfer.

(C) The depository institution shall be directed by the attorney, law firm, or professional corporation establishing the account:

(1) To remit, at least quarterly, interest earned on the average daily balance in the account, less reasonable service charges, to the nonprofit corporation provided for in this Article;

(2) To transmit to the nonprofit corporation provided for in this Article with each remittance a statement showing the name of the attorney, law firm, or professional corporation with respect to which the remittance is sent, the rate or rates of interest applied, and the amount of service charges deducted, if any; and

(3) To transmit to the depositing attorney, law firm, or professional corporation at the same time a report is sent to the nonprofit corporation provided for in this Article, a report showing the amount paid to the nonprofit corporation for that period, the rate or rates of interest applied, the amount of service charges deducted, if any, and the average daily account balance for each month of the period for which the report is made.

For provisions relating to effective date of this section, see note following § 5 of this article.

Sec. 7. Attorney Liability

Nothing in this Article affects the obligations of attorneys, law firms, or professional corporations engaged in the practice of law with respect to client funds other than client funds reasonably determined to be "nominal in amount" or reasonably anticipated to be held for a "short period of time," as those terms are defined by the rules adopted by this Court. An attorney, law firm, or professional corporation is not liable in determining which funds are nominal in amount or on deposit for a short period of time if the determination is made in good faith in accordance with the rules.

Sec. 8. Liability of Nonprofit Corporation

If client funds that are neither nominal in amount nor on deposit for a short period of time are deposited under Section 5(A) of this Article, the liability of the nonprofit corporation provided in this Article may not exceed the amount of interest attributable to client funds actually paid by the depository to the nonprofit corporation.

Sec. 9. Initial Distribution of Funds

The initial distribution of funds under this Article shall be made at a time when, in the determination of the board of directors of the nonprofit corporation provided for in this Article, there are sufficient funds to provide an adequate distribution.

B. CODE OF JUDICIAL CONDUCT

Adopted July 25, 1974

Effective September 1, 1974

Amended to February 19, 1980

Canon

1. A Judge Should Uphold the Integrity and Independence of the Judiciary.
 2. A Judge Should Avoid Impropriety and the Appearance of Impropriety in all his Activities.
 3. A Judge Should Perform the Duties of his Office Impartially and Diligently.
 4. A Judge May Engage in Activities to Improve the Law, the Legal System, and the Administration of Justice.
 5. A Judge Should Regulate his Extra-Judicial Activities to Minimize the Risk of Conflict with his Judicial Duties.
 6. A Judge Should Regularly File Reports of Compensation Received for Quasi-Judicial and Extra-Judicial Activities.
 7. A Judge Should Refrain from Political Activity Inappropriate to his Judicial Office.
- Compliance With The Code of Judicial Conduct.
Effective Date of Compliance.

Canon 1

A Judge Should Uphold the Integrity and Independence of the Judiciary

An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing, and should himself observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. The provisions of this Code should be construed and applied to further that objective.

Canon 2

A Judge Should Avoid Impropriety and the Appearance of Impropriety in all his Activities

A. A judge should respect and comply with the law and should conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

B. A judge should not allow his family, social, or other relationships to influence his judicial conduct or judgment. He should not lend the prestige of his office to advance the private interests of others; nor should he convey or permit others to convey the impression that they are in a special position to influence him. He should not testify voluntarily in an adjudicative proceeding as a character witness.

Canon 3

A Judge Should Perform the Duties of his Office Impartially and Diligently

The judicial duties of a judge take precedence over all his other activities. His judicial duties include all the duties of his office prescribed by law. In the performance of these duties, the following standards apply:

A. Adjudicative Responsibilities.

(1) A judge should be faithful to the law and maintain professional competence in it. He should be unswayed by partisan interests, public clamor, or fear of criticism.

(2) A judge should maintain order and decorum in proceedings before him.

(3) A judge should be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom he deals in his official capacity, and should require similar conduct of lawyers, and of his staff, court officials, and others subject to his direction and control.

(4) A judge should accord to every person who is legally interested in a proceeding, or his lawyer, full right to be heard according to law, and, except as authorized by law, neither initiate nor consider *ex parte* or other private communications concerning a pending or impending proceeding.

(5) A judge should dispose promptly of the business of the court.

(6) A judge should abstain from public comment about a pending or impending proceeding in any court, and should require similar abstention on the part of court personnel subject to his direction and control. This subsection does not prohibit judges from making public statements in the course of their official duties or from explaining for public information the procedures of the court.

(7) A judge should prohibit broadcasting, televising, recording, or taking photographs in the courtroom and areas adjacent thereto during sessions of court or recesses between sessions (*Estes vs. Texas*, 381 U.S. 532; *Sheppard vs. Maxwell*, 384 U.S. 333), except that a judge may authorize:

(a) the use of electronic or photographic means for the presentation of evidence, for the perpetuation of a record, or for other purposes of judicial administration;

(b) the broadcasting, televising, recording, or photographing of investitive, or ceremonial proceedings;

(c) the photographic or electronic recording and reproduction of appropriate court proceedings under the following conditions:

(i) the means of recording will not distract participants or impair the dignity of the proceedings;

(ii) the parties have consented, and the consent to being depicted or recorded has been obtained from each witness appearing in the recording and reproduction;

(iii) the reproduction will not be exhibited until after the proceeding has been concluded and all direct appeals have been exhausted; and

(iv) the reproduction will be exhibited only for instructional purposes in educational institutions.

(d) Oral arguments by the parties in the appellate courts may be recorded by electronic means upon the prior consent obtained from the court, or the chief justice or presiding judge as the case may be, where the means of recording will not distract the participants or impair the dignity of the proceedings.

B. Administrative Responsibilities.

(1) A judge should diligently discharge his administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other judges and court officials.

(2) A judge should require his staff and court officials subject to his direction and control to observe the standards of fidelity and diligence that apply to him.

(3) A judge should take or initiate appropriate disciplinary measures against a lawyer for unprofessional conduct of which the judge may become aware.

(4) A judge should not make unnecessary appointments. He should exercise his power of appointment only on the basis of merit, avoiding nepotism and favoritism. He should not approve compensation of appointees beyond the fair value of services rendered.

C. Disqualification. (Art. V, Sec. 11 Texas Constitution; Art. 15 V.A.T.S.; C.C.P. Art. 30.01).

(1) A judge should disqualify himself in a proceeding in which his impartiality might reasonably be questioned, including, but not limited to, instances where:

(a) he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;

(b) he served as lawyer in the matter in controversy, or a lawyer with whom he previously practiced law served during such association as a lawyer concerning the matter, or the judge or

such lawyer has been a material witness concerning it;

(c) he knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;

(2) A judge should inform himself about his personal and fiduciary financial interests, and make a reasonable effort to inform himself about the personal financial interests of his spouse and minor children residing in his household.

(3) For the purposes of this section:

(a) "fiduciary" includes such relationships as executor, administrator, trustee, and guardian;

(b) "financial interest" means ownership of a legal or equitable interest, however small, or a relationship as director, advisor, or other active participant in the affairs of a party, except that:

(i) ownership in a mutual or common investment fund that holds securities is not a "financial interest" in such securities unless the judge participates in the management of the fund;

(ii) an office in an educational, religious, charitable, fraternal, or civic organization is not a "financial interest" in securities held by the organization;

(iii) the proprietary interest of a policy holder in a mutual insurance company, of a depositor in a mutual savings association, or a similar proprietary interest, is a "financial interest" in the organization only if the outcome of the proceeding could substantially affect the value of the interest;

(iv) ownership of government securities is a "financial interest" in the issuer only if the outcome of the proceeding could substantially affect the value of the securities.

Amended Nov. 9, 1976.

Canon 4

A Judge May Engage in Activities to Improve the Law, the Legal System, and the Administration of Justice

A judge, subject to the proper performance of his judicial duties, may engage in the following quasi-judicial activities, if in doing so he does not cast doubt on his capacity to decide impartially any issue that may come before him:

A. He may speak, write, lecture, teach, and participate in other activities concerning the law, the legal system, and the administration of justice.

B. He may appear at a public hearing before an executive or legislative body or official on matters concerning the law, the legal system, and the administration of justice, and he may otherwise consult with an executive or legislative body

or official, but only on matters concerning the administration of justice.

C. He may serve as a member, officer, or director of an organization or governmental agency devoted to the improvement of the law, the legal system, or the administration of justice. He may assist such an organization in raising funds and may participate in their management and investment, but should not personally participate in public fund raising activities. He may make recommendations to public and private fund-granting agencies on projects and programs concerning the law, the legal system, and the administration of justice.

Canon 5

A Judge Should Regulate his Extra-Judicial Activities to Minimize the Risk of Conflict with his Judicial Duties

A. Avocational Activities. A judge may write, lecture, teach, and speak on non-legal subjects, and engage in the arts, sports, and other social and recreational activities, if such avocational activities do not detract from the dignity of his office or interfere with the performance of his judicial duties.

B. Civic and Charitable Activities. A judge may participate in civic and charitable activities that do not reflect adversely upon his impartiality or interfere with the performance of his judicial duties. A judge may serve as an officer, director, trustee, or non-legal advisor of an educational, religious, charitable, fraternal, or civic organization not conducted for the economic or political advantage of its members, subject to the following limitations:

(1) A judge should not serve if it is likely that the organization will be engaged in proceedings that would ordinarily come before him or will be regularly engaged in adversary proceedings in any court.

(2) A judge should not solicit funds for any educational, religious, charitable, fraternal, political, or civic organization, or use or permit the use of the prestige of his office for that purpose, but he may be listed as an officer, director, delegate, or trustee of such an organization. He should not be a speaker or the guest of honor at an organization's fund raising events, but he may attend such events.

(3) A judge should not give investment advice to such an organization, but he may serve on its board of directors or trustees even though it has the responsibility for approving investment decisions.

C. Financial Activities.

(1) A judge should refrain from financial and business dealings that tend to reflect adversely on his impartiality, interfere with the proper performance of his judicial duties, exploit his judicial position, or involve him in frequent transactions with

lawyers or persons likely to come before the court on which he serves.

(2) Subject to the requirement of subsection (1), a judge may hold and manage investments, including real estate, and engage in other remunerative activity including the operation of a business. A judge should not be an officer, director or manager of a publicly owned business. For purposes of this Canon, a "publicly owned business" is a business having more than ten owners.

(3) A judge should manage his investments and other financial interests to minimize the number of cases in which he is disqualified. As soon as he can do so without serious financial detriment, he should divest himself of investments and other financial interests that might require frequent disqualification.

(4) Neither a judge nor a member of his family residing in his household should accept a gift, bequest, favor, or loan from anyone except as follows:

(a) a judge may accept a gift incident to a public testimonial to him; books supplied by publishers on a complimentary basis for official use; or an invitation to the judge and his spouse to attend a bar-related function or activity devoted to the improvement of the law, the legal system, or the administration of justice;

(b) a judge or a member of his family residing in his household may accept ordinary social hospitality; a gift, bequest, favor, or loan from a relative; a wedding or engagement gift; a loan from a lending institution in its regular course of business on the same terms generally available to persons who are not judges; or a scholarship or fellowship awarded on the same terms applied to other applicants;

(c) a judge or member of his family residing in his household may accept any other gift, bequest, favor, or loan only if the donor is not a party or person whose interests have come or are likely to come before him.

(5) For the purposes of this section "member of his family residing in his household" means any relative of a judge by blood or marriage, or a person treated by a judge as a member of his family, who resides in his household.

(6) Information acquired by a judge in his judicial capacity should not be used or disclosed by him in financial dealings or for any other purpose not related to his judicial duties.

D. Fiduciary Activities. A judge should not serve as the executor, administrator, trustee, guardian, or other fiduciary, except for the estate, trust, or person of a member of his family; and then only if such service will not interfere with the proper performance of his judicial duties. "Member of his family" includes a spouse, child, grandchild, parent, grandparent, or other relative or person with whom the judge maintains a close familial relationship. As a family fiduciary a judge is subject to the following restrictions:

(1) He should not serve if it is likely that as a fiduciary he will be engaged in proceedings that would ordinarily come before him, or if the estate, trust, or ward becomes involved in adversary proceedings in the court on which he serves or one under its appellate jurisdiction.

(2) While acting as a fiduciary a judge is subject to the same restrictions on financial activities that apply to him in his personal capacity.

E. Arbitration. A judge should not act as an arbitrator or mediator.

F. Practice of Law. A judge should not practice law.

G. Extra-judicial Appointments. A judge should not accept appointment to a governmental committee, commission, or other position that is concerned with issues of fact or policy on matters other than the improvement of the law, the legal system, or the administration of justice. A judge, however, may represent his country, state, or locality on ceremonial occasions or in connection with historical, educational, and cultural activities.

Amended Nov. 9, 1976; Feb. 19, 1980, eff. Feb. 19, 1980.

Canon 6

A Judge Should Regularly File Reports of Compensation Received for Quasi-Judicial and Extra-Judicial Activities

A judge may receive compensation and reimbursements of expenses for the quasi-judicial and extra-judicial activities permitted by this Code, if the source of such payments does not give the appearance of influencing the judge in his judicial duties or otherwise give the appearance of impropriety, subject to the following restrictions:

A. Compensation. Compensation should not exceed a reasonable amount nor should it exceed what a person who is not a judge would receive for the same activity.

B. Expense Reimbursement. Expense reimbursement should be limited to the actual cost of travel, food, and lodging reasonably incurred by the judge and, where appropriate to the occasion, by his family. Any payment in excess of such an amount is compensation.

C. Repealed Feb. 19, 1980.

Canon 7

A Judge Should Refrain from Political Activity Inappropriate to his Judicial Office

A. Political Conduct in General. Any candidate for judicial office, including an incumbent judge, and others acting on his behalf, should refrain from all conduct which might tend to arouse reasonable belief that he is using the power or prestige of his judicial position to promote his own candidacy.

B. Campaign Conduct:

(1) A candidate, including an incumbent judge, for a judicial office that is filled by public election between competing candidates:

(a) should maintain the dignity appropriate to judicial office, and should encourage members of his family to adhere to the same standards of political conduct that apply to him;

(b) should prohibit others subject to his direction or control from doing for him what he is prohibited from doing under this Canon;

(c) should not make pledges or promises of conduct in office other than the faithful and impartial performance of the duties of the office. Any statement of qualifications, record, or performance in office should be such as can withstand the closest scrutiny as to accuracy, candor and fairness.

Amended Nov. 9, 1976.

Compliance with the Code of Judicial Conduct

A. The following judges shall comply with this Code:

Those elected in a statewide election.
Justices of courts of civil appeals.
Commissioners of any appellate court.
District judges.
Judges of domestic relations courts.
Judges of juvenile courts.
Judges of county courts at law.
Statutory Probate Judges.

Masters and Referees who are permanently appointed by one of the judges listed above.

The Code shall not apply to county judges whether they are also judges of juvenile courts or not.

B. Part-time Judge. A part-time judge is a judge who serves on a continuing or periodic basis, but is permitted by law to devote time to some other profession or occupation and whose compensation for that reason is less than that of a full-time judge. A part-time judge:

(1) is not required to comply with Canon 5C(2), D, E, F, and G.

(2) should not practice law in the court on which he serves or in any court subject to the appellate jurisdiction of the court on which he serves, or act as a lawyer in a proceeding in which he has served as a judge or in any other proceeding related thereto.

C. Judge Pro Tempore. A judge *pro tempore* is a person who is appointed to act temporarily as a judge.

(1) While acting as such, a judge *pro tempore* is not required to comply with Canon 5C(2), (3), D, E, F, and G.

(2) A person who has been a judge *pro tempore* should not act as a lawyer in a proceeding in

which he has served as a judge or in any other proceeding related thereto.

D. Retired Judge. A retired judge who is eligible for recall to judicial service should comply with all the provisions of this Code except Canon 5C(2), D, E, F, and G, but he should refrain from judicial service during the period of an extra-judicial appointment not sanctioned by Canon 5G. A retired judge who is not subject to recall for judicial service, or who by reason of disability does not perform such services is excused from compliance with Canon 5C(2), D, E, F, and G.

Amended Sept. 24, 1974; Nov. 9, 1976; Feb. 19, 1980.

Effective Date of Compliance

A person to whom this Code become applicable should arrange his affairs as soon as reasonably

possible to comply with it. If, however, the demands on his time and the possibility of conflicts of interest are not substantial, a person who holds judicial office on the date this Code becomes effective may:

A. continue to act as an officer or director of a publicly owned business for a period not to exceed four (4) years from the effective date of this Code;

B. continue to act as an executor, administrator, trustee, or other fiduciary for the estate or person of one who is not a member of his family.

Paragraph V of the 1980 order amending this Code provided:

"That one year after the date this Order is signed, the State Commission on Judicial Conduct shall destroy all documents and records which are currently in its possession and custody which have been filed in compliance with Canon 6C which is hereby repealed."

TITLE 15

ATTORNEYS—DISTRICT AND COUNTY

1. DISTRICT ATTORNEYS

Art.
321. Term of Office.
322. Districts Shall Elect.
322a. Repealed.
322a-1. 26th Judicial District Attorney.
322b. 6th Judicial District: Abolition of District Attorney's Office; Stenographer.
322c. 66th Judicial District Attorney.
323. Bond.
324. City of 39,000 to 49,000 in Judicial District of 3 or More Counties; Assistant, Investigator and Stenographer.
324a. Counties of 37,500 to 100,000; Appointment and Payment of Deputies or Assistants.
324b. County over 70,000, Judicial District of More Than One County; Assistant and Investigator.
325. 6th Judicial District; Assistant.
325a. 8th Judicial District; Compensation of District Attorney.
325b. 31st or 8th Judicial District; Compensation of District Attorney.
326. Hudspeth and Culberson Counties; Payments to El Paso County.
326a. Repealed.
326b. 34th Judicial District; Assistants, Stenographers, Etc.
326c, 326d. Repealed.
326e. 34th Judicial District; Use of Funds from El Paso County.
326f. Counties over 150,000 Having County Attorney; District Attorney, Assistants, Investigators and Stenographer.
326g. Counties over 150,000 Having No County Attorney; Assistants, Investigators and Stenographers; Automobiles.
326h. City of 50,000 or More in Judicial District of More Than One County; Assistants.
326i. Counties of 22,000 or More; Assistants and Investigators.
326j. Repealed.
326k. 90th Judicial District; District Attorney and Stenographer.
326k-1. Criminal District Attorney in Counties Constituting Three or More Judicial Districts.
326k-2. Unconstitutional.
326k-3. Judicial District of Five or More Counties of 98,740 to 98,750; District Attorney and Assistant.
326k-4. 7th Judicial District; Compensation of District Attorney.
326k-5. 12th Judicial District; Compensation of District Attorney.
326k-5a. 12th Judicial District; Deputy.
326k-6. Investigators of District, Criminal District, or County Attorneys; Powers of Arrest and Process; Responsibility.
326k-7. Repealed.

Art.
326k-8. Counties Under 25,000 with Tax Valuation Over \$75,000,000; Assistant District Attorney.
326k-9. Counties of 75,001 to 77,100 and 30,900 to 30,950; Criminal District Attorney.
326k-10. Districts of One County of 50,500 to 55,000 with Tax Value Over \$70,000,000; Assistants and Stenographer.
326k-11. County Attorneys Designated Criminal District Attorneys.
326k-12. Counties of 70,000 to 220,000 and 39,000 to 50,000 and McLennan County; Assistants, Investigators and Stenographer; Automobile.
326k-13. 7th Judicial District; Abolition of District Attorney's Office.
326k-14. 53rd Judicial District; District Attorney, Assistants and Personnel.
326k-15. 79th Judicial District; District Attorney, Assistants and Stenographer.
326k-16. 106th Judicial District; Assistants, Investigators and Stenographer.
326k-17. Repealed.
326k-18. 51st and 119th Judicial Districts; Assistants, Investigators and Stenographer.
326k-19. Stenographer in Districts of Two or More Counties.
326k-20. 100th Judicial District; Stenographer.
326k-21. 27th Judicial District; Assistant and Stenographer.
326k-22. Smith County Criminal District Attorney.
326k-23. Brazoria County Criminal District Attorney.
326k-24. 109th Judicial District; Compensation of District Attorney.
326k-25. 30th Judicial District; Compensation of District Attorney.
326k-26. Harris County District Attorney for Criminal District Court.
326k-27. 118th Judicial District; Investigator and Adult Probation Officer.
326k-28. Galveston County Criminal District Attorney.
326k-29. Repealed.
326k-29a. 105th Judicial District; Compensation of District Attorney.
326k-30. Midland County Special Judicial District; Investigator and Stenographer.
326k-30a. 142nd Judicial District of Midland County; Assistants, Investigators and Stenographers; Compensation of District Attorney.
326k-31. 109th Judicial District; Investigators or Assistants.
326k-32. Cass County Criminal District Attorney.
326k-33. Harrison County Criminal District Attorney.
326k-34. Repealed.
326k-35. 70th and 161st Judicial Districts; Compensation of District Attorney.
326k-36. Randall County Criminal District Attorney.
326k-36a. 47th Judicial District Attorney.

Art.

- 326k-37. 70th Judicial District; Assistants, Investigators and Stenographers.
 326k-38, 326k-38a. Repealed.
 326k-38b. 49th Judicial District Attorney.
 326k-39. Repealed.
 326k-40. 30th Judicial District; Assistants, Investigators and Stenographers.
 326k-41, 326k-41a. Repealed.
 326k-42. Roberts County District Attorney.
 326k-43. 27th Judicial District; Compensation of District Attorney.
 326k-43a. 27th Judicial District; Assistants, Investigators and Stenographers; Compensation of District Attorney.
 326k-44. Borden County District Attorney.
 326k-45. 24th Judicial District; Compensation of District Attorney; Assistants, Investigators and Stenographers.
 326k-45a. Calhoun County Criminal District Attorney.
 326k-46. 38th and Second 38th Judicial Districts; Compensation of District Attorneys.
 326k-47. 23rd Judicial District; Compensation of District Attorney.
 326k-47a. 23rd Judicial District; Duties of District Attorney.
 326k-48. 81st Judicial District; Compensation of District Attorney.
 326k-48a. 81st Judicial District; Stenographer or Clerk.
 326k-49. 1st Judicial District; Compensation of District Attorney.
 326k-49a. 112th Judicial District; Compensation of District Attorney.
 326k-50. Bexar County Criminal District Attorney.
 326k-51. Upshur County Criminal District Attorney.
 326k-52. 64th Judicial District; Stenographer.
 326k-53. 132nd Judicial District; Compensation of District Attorney and District Judge.
 326k-54. 118th Judicial District; Stenographer.
 326k-55. 36th Judicial District; Compensation of District Attorney.
 326k-56. 19th, 54th, 74th and 170th Judicial Districts; Compensation of District Attorney.
 326k-56a. Repealed.
 326k-57. 25th Judicial District; Compensation of District Attorney.
 326k-58. Bowie County Criminal District Attorney.
 326k-59. Victoria County Criminal District Attorney.
 326k-60. 88th Judicial District; Stenographer.
 326k-60a. 88th Judicial District; Compensation of District Attorney.
 326k-61. 85th Judicial District, District Attorney, Assistants and Personnel.
 326k-61a. 229th Judicial District Attorney.
 326k-61b. 235th Judicial District Attorney.
 326k-62. 42nd and 104th Judicial Districts; Criminal District Attorney.
 326k-63. Navarro County Criminal District Attorney.
 326k-64. Deaf Smith County Criminal District Attorney.
 326k-64a. Representation of State in Oldham County District Court.
 326k-65. 22nd Judicial District; Assistants and Employees.
 326k-66. 69th Judicial District; Compensation of District Attorney; Assistants, Investigators and Stenographers.
 326k-67. Collin County Criminal District Attorney.
 326k-68. Eastland County Criminal District Attorney.
 326k-69. Lubbock County Criminal District Attorney.

Art.

- 326k-70. 84th Judicial District; Appointment and Compensation of Assistant.
 326k-71. Kaufman County Criminal District Attorney.
 326k-72. 145th Judicial District Attorney.
 326k-73. 173rd Judicial District Attorney.
 326k-74. 29th Judicial District Attorney.
 326k-75. Hays County Criminal District Attorney.
 326k-76. Ford Bend County Criminal District Attorney.
 326k-77. Rockwall County Criminal District Attorney.
 326k-78. Van Zandt County Criminal District Attorney.
 326k-79. Wood County Criminal District Attorney.
 326k-80. Walker County Criminal District Attorney.
 326k-81. Bastrop County Criminal District Attorney.
 326k-82. 97th Judicial District Attorney.
 326k-83. Jasper County Criminal District Attorney.
 326k-84. Denton County Criminal District Attorney.
 326k-85. Jackson County Criminal District Attorney.
 326k-86. Caldwell County Criminal District Attorney.
 326k-87. 156th Judicial District Attorney.
 326k-88. Tyler County Criminal District Attorney.
 326 l. 72nd Judicial District; Assistant District Attorney.
 326 l-1. 2nd Judicial District; Assistants, Investigators and Stenographers.
 326 l-2. 9th Judicial District; Assistants, Investigators, Secretaries and Employees.
 326 l-3. 3rd Judicial District; Assistant District Attorney.
 326m. Districts of 5 Counties with Population of 74,427 to 74,428.
 326n. District Attorneys, Assistants and Investigators in Certain Judicial Districts.
 326o. 77th Judicial District; Abolition of District Attorney's Office.
 326p. Repealed.
 326q. Unconstitutional.
 327. Failure to Attend Court.
 328. Vacancy in Office.
2. COUNTY ATTORNEYS
329. Election.
 330. Bond.
 331. Assistants.
 331a. County of 100,000 to 150,000 with City over 75,000; Assistants and Stenographer.
 331b. Counties of 49,600 to 49,700; Assistants to County Attorney Performing Duties of District Attorney.
 331b-1. Counties of 42,900 to 43,000; Assistants to County Attorney Performing Duties of District Attorney.
 331b-2. Certain Counties of 46,000 to 46,150; Assistants.
 331b-3. Counties of 60,001 to 100,000 Having No District Attorney; Assistants.
 331c. Counties of 37,500 to 100,000 Having No District Attorney; Fees; Assistants and Stenographer.
 331d. Counties of 27,050 to 27,075 with Two or More District Courts; Assistants.
 331e. Counties of 50,900 to 60,000 Having No District Attorney; Assistants.
 331f. Certain Counties over 13,000 on Mexican Border; Assistant and Secretary.
 331f-1. Counties of 64,191 to 100,000 on Mexican Border; Assistant and Secretary.
 331g. Counties of Not Less Than 100,000 Having No District Attorney; Assistants and Investigator.
 331g-1. Counties over 37,000; Investigator.
 331g-2. Counties of 11,200 to 11,400; Special Investigator.

- Art.
331h. County Attorney of Harris County.
331i. County Attorney of Midland County; Assistants, Investigators and Stenographers.
331j. Counties of 20,000 to 20,500; Secretary.
331k. County Attorney of Polk County.
331l. Grayson County Attorney; Private Practice of Law.
331m. County Attorney of Terry County.

3. GENERAL PROVISIONS

332. Qualifications.
332a. Assistants and Personnel of Prosecuting Attorneys.
332b. Collin and Orange Counties; Compensation and Criminal District or County Attorney.
332b-1. Marion, Lamb, Terry, Yoakum, Lamar, Crosby, and Ellis Counties; Compensation of Criminal District or County Attorney.
332b-2. County Attorney of Castro County; District Attorney of 64th Judicial District.
332b-3. County Attorney of Ochiltree County; District Attorney of 84th Judicial District.
332b-4. Professional Prosecutors Act.
332b-5. County Attorney of Andrews County; District Attorney of 109th Judicial District.
332c. Representation of County Officials and Employees by District, County or Private Attorneys.
332d. Prosecutor Council.
332d-1. Application of Sunset Act.
333. To Report to Attorney General.
334. Shall Advise Officers.
335. Collections and Fees.
336. Accepting Reward.
337. Collection Reports.
338. Register.
339. To Prosecute Officers.
340. Admissions.
341. Population Determined.

4. PUBLIC DEFENDERS

- 341-1. Tarrant County; Appointment and Compensation; Entitlement of Indigents.
341-2. Counties Having Four County and Four District Courts; Appointment and Compensation; Entitlement of Indigents.
341-3. Wichita County; Appointment, Compensation, Powers, and Duties; Substitute in Case of Conflict.

1. DISTRICT ATTORNEYS

Art. 321. Term of Office

District Attorneys and criminal district attorneys shall hold office for the term of two years.

[Acts 1925, S.B. 84.]

Increase in Terms of Office

Const. Art. 5, § 21 was amended in November 1954 to increase the terms of office of County Attorneys and District Attorneys from two to four years.

Const. Art. 5, § 30 was added in November 1954 to increase the terms of office for all Judges of all courts of county-wide jurisdiction and of all Criminal

District Attorneys from two to four years.

Art. 322. Districts Shall Elect

Sec. 1. The following Judicial Districts in this state shall each respectively elect a District Attorney, viz.: 1st, 2nd, 3rd, 5th, 7th, 8th, 9th, 12th, 21st, 22nd, 23rd, 24th, 25th, 27th, 29th, 30th, 31st, 32nd, 33rd, 34th, 35th, 36th, 38th, 39th, 46th, 47th, 49th, 50th, 51st, 52nd, 53rd, 63rd, 64th, 69th, 70th, 72nd, 76th, 79th, 81st, 83rd, 90th, 100th, and 106th.

Sec. 2. There shall also be elected a Criminal District Attorney for Dallas County, a Criminal District Attorney for Tarrant County, and one Criminal District Attorney for the Counties of Callahan and Taylor.

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., p. 222, ch. 151; Acts 1933, 43rd Leg., p. 74, ch. 43; Acts 1933, 43rd Leg., Spec.L., p. 150, ch. 107; Acts 1943, 48th Leg., p. 457, ch. 306, § 1; Acts 1963, 58th Leg., p. 1312, ch. 501, § 12, eff. Aug. 23, 1963; Acts 1967, 60th Leg., p. 1203, ch. 538, § 2, eff. Aug. 28, 1967; Acts 1975, 64th Leg., p. 983, ch. 378, §§ 1 and 2, eff. June 19, 1975; Acts 1979, 66th Leg., p. 1129, ch. 540, § 2, eff. Aug. 27, 1979; Acts 1983, 68th Leg., p. 4975, ch. 889, § 23, eff. Sept. 1983.]

Section 29 of the 1983 amendatory act provides:

"The office of district attorney for the 75th Judicial District is abolished."

Art. 322a. Repealed by Acts 1971, 62nd Leg., p. 2338, ch. 707, § 7, eff. Aug. 30, 1971

See, now, articles 322a-1 and 326k-14.

Art. 322a-1. 26th Judicial District Attorney

Office established

Sec. 1. The office of district attorney for the 26th Judicial District is established.

Powers and duties

Sec. 2. The district attorney for the 26th Judicial District shall represent the State in all criminal cases in the district court for the 26th Judicial District and perform other duties provided by law governing district attorneys.

Compensation

Sec. 3. The district attorney shall receive compensation for his services in an amount as may be fixed by the general law relating to the salaries paid to district attorneys by the State.

Appointment; election and term

Sec. 4. On or as soon as possible after the effective date of this Act, the Governor shall appoint a district attorney for the 26th Judicial District, who shall serve until January 1 following the next general election and until his successor is elected and has qualified. Thereafter, a district attorney shall be elected every four years for a four-year term beginning January 1 following his election.

Appointment of assistants, etc.; salary

Sec. 5. The district attorney, with the approval of the Commissioners Court of Williamson County, may appoint assistants, investigators, and office personnel as he deems necessary. The salary of each person appointed shall be set by the district attorney with the approval of the Commissioners Court.

Payment of salary

Sec. 6. The salary of each person appointed by the district attorney and the other operating expenses of the office of district attorney shall be paid from county funds by the Commissioners Court of Williamson County.

[Acts 1971, 62nd Leg., p. 2338, ch. 707, §§ 1 to 6, eff. Aug. 30, 1971.]

Art. 322b. 6th Judicial District; Abolition of District Attorney's Office; Stenographer

The office of District Attorney in the Sixth Judicial District of Texas is hereby abolished and the County Attorney of each county composing said district, to wit: Fannin and Lamar Counties, shall represent the State of Texas in all matters wherein the State of Texas is a party in his respective county and shall receive such fees and compensation for his services as is now, and may hereafter, be provided by General Laws of the State of Texas; and provided further that each said County Attorney may employ a stenographer by and with the consent of the Commissioners Court of his county, to be paid such salary from county funds as shall be fixed by order of the Court.

[Acts 1926, 39th Leg., 1st C.S., p. 11, ch. 6, § 1. Amended by Acts 1941, 47th Leg., p. 419, ch. 248, § 1.]

Art. 322c. 66th Judicial District Attorney

Sec. 1. There is hereby created the office of District Attorney in the 66th Judicial District of Texas composed of Hill County, created by House Bill No. 487, Acts 1905, Twentieth¹ Legislature, Regular Session, page 37, as amended.²

Sec. 2. There shall be elected at the next general election after the effective date of this Act and at each general election thereafter a District Attorney for the 66th Judicial District of Texas composed of Hill County, who shall represent the State of Texas in all criminal cases in the 66th District Court and perform such other duties as are or may be provided by law governing District Attorneys and he shall receive such compensation as is allowed by law to other District Attorneys in this State. The Governor shall appoint a qualified licensed attorney to serve as District Attorney for the 66th Judicial District from September 1, 1949, until the next

general election and until his successor is duly elected and qualified.

[Acts 1949, 51st Leg., p. 688, ch. 360.]

¹ Should read "Twenty-ninth".

² See article 199, subd. 66.

Art. 323. Bond

Each district attorney, before entering on the duties of his office, shall give bond, payable to the Governor in the sum of five thousand dollars, with two or more good and sufficient sureties, to be approved by the district judge of their respective districts, conditioned that such district attorney will faithfully pay over, in the manner prescribed by law, all money which he may collect or which may come to his hands for the State or for any county. Such bond shall be deposited in the office of the Comptroller.

[Acts 1925, S.B. 84.]

Art. 324. City of 39,000 to 49,000 in Judicial District of 3 or More Counties; Assistant, Investigator and Stenographer

Sec. 1. In any Judicial District of this State consisting of three (3) or more Counties, in which there is situated a City of not less than thirty-nine thousand (39,000) inhabitants and not more than forty-nine thousand (49,000) inhabitants, according to the last preceding Federal Census, the District Attorney shall appoint one (1) Assistant District Attorney, provided that the District Attorney shall furnish data to the County Judge of the County in which said above-mentioned City is located that he is in need of an Assistant and is himself unable to attend to all the duties required of him by law and that it is necessary and to the best interests of the State that an Assistant District Attorney be appointed. Said Assistant District Attorney so appointed shall be a qualified resident of the District in which said appointment is made and shall give bond and take the official oath; the said Assistant District Attorney shall be a qualified licensed attorney and shall have authority to perform all the acts and duties of the District Attorney under the laws of this State; said appointment shall be for such time as the District Attorney shall deem best in the enforcement of the law, not to be less than one (1) month. Said Assistant District Attorney shall be paid by the County in which said above-mentioned City is located for the time of actual service rendered at the rate of Three Thousand Dollars (\$3,000) per annum, in twelve (12) equal monthly installments out of the County Funds by warrants drawn upon such County Funds. Said sum shall be paid upon certificate of the District Attorney of said District, that said Assistant District Attorney of said District has performed his duties and is entitled to pay. The District Attorney of any such District, at any time he deems said Assistant unnecessary or finds that he is not attending to his duties as required by law, may remove said person from office by merely writing to said County Judge to that effect.

Sec. 2. Said District Attorney is hereby authorized, with the consent of the County Judge and the Commissioners Court of the County where said City of between thirty-nine thousand (39,000) and forty-nine thousand (49,000) population is located, to appoint one (1) Assistant in addition to his legal assistant provided for in this Act, which Assistant shall not be required to possess the qualifications prescribed by law for District or County Attorneys, which said Assistant shall be known as Special Investigator, and who shall perform such duties as may be assigned to him by the District Attorney and who shall receive as compensation a salary not to exceed Two Thousand, Four Hundred Dollars (\$2,400) per annum, payable monthly out of the County Funds by warrants drawn on such County Funds.

Said Special Investigator shall have authority under the direction of the District Attorney to make arrests and execute process in criminal cases and shall have all the rights and duties of a peace officer in criminal cases and in cases growing out of the enforcement of all laws.

Sec. 3. The District Attorney is hereby authorized with the consent of the County Judge and the Commissioners Court to appoint one (1) stenographer who may or who may not possess the qualifications prescribed by law for District and County Attorneys, and who shall perform the necessary stenographic work as may be assigned to him by the District Attorney, and who shall receive as compensation a salary not to exceed Two Thousand, Four Hundred Dollars (\$2,400) per annum, payable monthly out of the County Funds by warrants drawn on such County Funds.

Sec. 4. This Act is not intended and shall not be considered or construed as repealing any law now in the Statute books, but shall be cumulative thereof, and providing further shall be cumulative of all laws not in conflict with the provisions hereof.

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., p. 32, ch. 23, § 1; Acts 1929, 41st Leg., p. 529, ch. 254, § 1; Acts 1931, 42nd Leg., p. 232, ch. 137, § 1; Acts 1941, 47th Leg., p. 384, ch. 215, § 1; Acts 1947, 50th Leg., p. 49, ch. 38, § 1.]

Art. 324a. Counties of 37,500 to 100,000; Appointment and Payment of Deputies or Assistants

The provision of this Act¹ relating to the appointment and payment of deputies or assistants, by the county attorneys and the district attorneys, in counties having a population in excess of one hundred thousand inhabitants, shall also apply to counties where one county composes a judicial district, and the population of the county is more than thirty-seven thousand five hundred, and less than one hundred thousand inhabitants, as shown by the last United States Census, and counties where the coun-

ty attorney performs the duties of the county attorney and district attorney, as provided by law.

[Acts 1925, S.B. 84.]

¹ Probably refers to art. 3902.

Art. 324b. County over 70,000, Judicial District of More Than One County; Assistant and Investigator

In any judicial district in this State consisting of more than one county in which there may be a county having a population in excess of 70,000 inhabitants, according to the last census of the United States, and according to any United States census which may hereafter be taken, the district attorney of each district in connection with and for the purpose of conducting his office in such county shall be and is hereby authorized, with the approval of the county commissioners court of such county to appoint one assistant district attorney, who shall receive a salary to be fixed by said commissioners court of such county, not to exceed \$2400.00 per annum. Such district attorney shall likewise be authorized, with the approval of such county commissioners court of such county, to appoint one special investigator, at a salary to be fixed by said commissioners court, not to exceed \$2400.00 per annum. The salary of such assistant and special investigator, above provided for, shall be paid by the county having a population of more than 70,000, by warrant drawn on the general funds thereof, all salaries payable monthly.

The assistant district attorney above provided for, when appointed, shall take the oath of office and be authorized to represent the State in any court or proceeding in said county in which such district attorney is, or shall be authorized to represent the State, such authority to be exercised under the direction of said district attorney, and such assistants and special investigators shall be subject to removal at the will of said district attorney. Said assistant district attorney shall be authorized to perform any official act devolving upon or authorized to be performed by such district attorney in said county, this Article is not intended to repeal any other law now existing, but is cumulative thereof.

[Acts 1925, S.B. 84.]

Art. 325. 6th Judicial District; Assistant

The district attorney of the Sixth Judicial District of Texas is hereby authorized to appoint an assistant district attorney, whose qualifications and authority shall be the same as now required by law for district attorneys, and he shall take the oath and execute the bond required by law. Said assistant shall receive a salary of not exceeding two thousand dollars per year to be paid out of excess fees of said office as the same accrue under the law.

[Acts 1925, S.B. 84.]

Abolition of office

Acts 1926, 39th Leg., 1st C.S., p. 11, ch. 6, § 1, abolished the office of district attorney of the Sixth Judicial District. See article 322b.

Art. 325a. 8th Judicial District; Compensation of District Attorney

The salary of the District Attorney for the 8th Judicial District of Texas composed of the Counties of Hunt, Hopkins, Delta and Rains shall be \$4,000.00 per year, and shall be paid by the State in monthly installments upon warrants drawn by the Comptroller of Public Accounts.

[Acts 1929, 41st Leg., p. 537, ch. 260, § 1.]

Art. 325b. 31st or 8th Judicial District; Compensation of District Attorney

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

[Acts 1961, 57th Leg., p. 524, ch. 251, § 1.]

Art. 326. Hudspeth and Culberson Counties; Payments to El Paso County

The commissioners courts of Hudspeth and Culberson Counties shall pay to El Paso County the sum of One Hundred Dollars each per month, to be used by El Paso County as provided in Section 6, Chapter 9, General Laws, Acts of the 39th Legislature, 1st Called Session, 1926.¹

[Acts 1925, S.B. 84. Amended by Acts 1969, 61st Leg., p. 2299, ch. 776, § 1(b), eff. Sept. 1, 1969.]

¹ Article 326e.

Art. 326a. Repealed by Acts 1973, 63rd Leg., p. 121, ch. 60, § 3, eff. April 26, 1973

See, now, art. 326b.

Art. 326b. 34th Judicial District; Assistants, Stenographers, Etc.

Sec. 1. The District Attorney of the 34th Judicial District shall represent the State of Texas in all criminal cases before all the District Courts of the

34th Judicial District and all District Courts having jurisdiction in El Paso County, Texas.

Sec. 2. The District Attorney in connection with, and for the purpose of conducting his office in the 34th Judicial District may appoint two First Assistant District Attorneys, or one First Assistant District Attorney and one First Assistant Administrative District Attorney, and such other Assistant District Attorneys as shall be necessary to the proper performance of his official duties. The number of Assistants to be appointed and the compensation to be paid shall be with the approval of the Commissioners Court of El Paso County, Texas. The First Assistant District Attorneys, and other Assistant District Attorneys, shall be duly licensed to practice law in the State of Texas and shall be authorized to perform any official act devolving upon or authorized to be performed by the District Attorney, under the direction of the District Attorney, and shall be subject to removal at the will of the District Attorney.

Sec. 3. The District Attorney of the 34th Judicial District may appoint as many stenographers, secretaries, investigators, and other office personnel as shall be necessary to the proper performance of his official duties. The number of office personnel shall be with the approval of the Commissioners Court of El Paso County, Texas.

Sec. 4. The District Attorney of the 34th Judicial District and all Assistant District Attorneys of the District Attorney and investigators of the 34th Judicial District shall be compensated in accordance with the salary provision set out in Section 1, Chapter 12, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 3886h, Vernon's Texas Civil Statutes). Office personnel of the office of the District Attorney shall be compensated in an amount determined by the Commissioners Court of El Paso County, Texas.

[Acts 1926, 39th Leg., 1st C.S., p. 14, ch. 9, § 3. Amended by Acts 1971, 62nd Leg., p. 2496, ch. 818, § 2, eff. June 8, 1971, Acts 1973, 63rd Leg., p. 126, ch. 60, § 2, eff. April 26, 1973.]

Arts. 326c, 326d. Repealed by Acts 1973, 63rd Leg., p. 121, ch. 60, § 3, eff. April 26, 1973

See, now, art. 326b.

Art. 326e. 34th Judicial District; Use of Funds from El Paso County

El Paso County is hereby authorized to set aside each year a sum to be approved by the commissioners court to be expended by said district attorney in preparation and conduct of criminal affairs of said office and all sums of money now required by Article 326, Revised Civil Statutes of Texas, 1925, to be paid by Hudspeth and Culberson Counties to El Paso County shall be paid into the fund provided for in this Article and shall be used as directed. This fund to be expended upon sworn claims of said

district attorney and approved by the commissioners court of El Paso County.

[Acts 1926, 39th Leg., 1st C.S., p. 14, ch. 9, § 6. Amended by Acts 1969, 61st Leg., p. 2299, ch. 776, § 1(c), eff. Sept. 1, 1969.]

Art. 326f. Counties over 150,000 Having County Attorney; District Attorney, Assistants, Investigators, and Stenographer

Compensation of District Attorney

Sec. 1. In any county having a population in excess of 150,000 inhabitants, according to the last census of the United States and according to any United States census which may hereafter be taken and having a county attorney, the district attorney of such county shall receive a salary of five hundred dollars from the State of Texas, as provided in the Constitution of the State of Texas, and all fees, commissions and perquisites earned by such office; provided, that the amount of said salary, fees, commissions and perquisites to be so received and retained by him, shall not exceed the sum of ten thousand dollars in any one year, and provided further, that all salaries, fees, commissions and perquisites so earned and received by such office in excess of said salary during each and every fiscal year shall be paid into the county treasury of said county in accordance with the terms and provisions of the Maximum Fee Bill¹, except as to such portion of such excess as shall be used and expended in the payment of salaries to deputies, assistants, stenographers, investigators or other employees and incidental expenses of such office, as hereinafter provided.

Assistants, Stenographer, Investigators; Appointment, Powers and Salary

Sec. 2. Such district attorney, in connection with and for the purpose of conducting his office in such county, shall be and is hereby authorized to appoint seven assistant district attorneys, one of whom shall receive a salary not to exceed forty-eight hundred dollars per annum, three of whom shall receive a salary not to exceed thirty-six hundred dollars per annum each; two of whom shall receive a salary not to exceed three thousand dollars per annum each, one of whom shall receive a salary not to exceed twenty-eight hundred dollars per annum, all salaries payable monthly. He shall also be authorized to employ one stenographer, who shall receive a salary not to exceed two thousand five hundred dollars per annum, and one stenographer who shall receive a salary not to exceed two thousand dollars per annum, payable monthly. He shall also be authorized to employ four investigators, one of whom shall receive a salary not to exceed three thousand dollars per annum, and the others shall receive a salary of not to exceed twenty-two hundred dollars per annum, payable monthly. Said investigators shall have the power and shall be authorized to make arrests and to execute all processes in criminal

cases. The salaries of assistants, deputies, stenographers and investigators, and other employes above provided for, shall be paid by said county by warrant drawn from the general funds thereof.

Additional Assistants and Employees; Appointment and Salary

Sec. 3. Should such district attorney be of the opinion that the number of deputies, assistants, stenographers, investigators or other employes above provided for are insufficient or inadequate for the proper investigation of crime and the efficient performance of the duties of said office, he may appoint such additional assistants and employes, and fix their salaries, provided such salaries shall in no event exceed the maximum provided herein to be paid to such assistants or other employes, but such additional assistants and employes, so appointed, before qualifying and entering upon the duties of such office and employment, shall be confirmed by the commissioners' court of the county court in which such appointments are made.

Payment of Salaries

Sec. 4. The salaries for the additional assistants and employes, as hereinabove provided for herein, shall be paid monthly out of the excess fees collected by such district attorney and his office, which would otherwise go to said county, a detailed itemized statement under oath of which he shall include in his annual report, as provided to be made in the Maximum Fee Bill; and in no event shall said county be liable for the salaries of such additional assistants or employes.

Authority and Removal of Assistants, Etc.

Sec. 5. The assistant district attorneys above provided for, when appointed, shall take the oath of office and be authorized to represent the State in any court or proceeding in which such district attorney is or shall be authorized to represent the State, such authority to be exercised under the direction of said district attorney, and such assistants, deputies, stenographers, investigators and employes, whether regular or additional, shall be subject to removal at the will of said district attorney. Each of said assistant district attorneys shall be authorized to perform any official act devolving upon or authorized to be performed by such district attorney in said county.

Application of Act

Sec. 7. The provisions of this Act² shall apply to every district attorney within the State of Texas, within counties of a population of more than 150,000 inhabitants and having a county attorney, to be determined as above provided, whether the said district attorney be of and for a judicial district called and known by number, or whether called and known as a criminal judicial district, or whether of and for any court called or known as a criminal district court; and whether such district attorney be

called and known as a district attorney or a criminal district attorney, or a criminal district attorney of any named county or court.

[Acts 1927, 40th Leg., p. 93, ch. 67.]

¹ Article 3883 et seq.

² This article and Code of Criminal Procedure, 1925, art. 367b (see, now, art. 19.36).

Art. 326g. Counties over 150,000 Having No County Attorney; Assistants, Investigators and Stenographers; Automobiles

Assistants, Stenographers, Investigators; Appointment and Salaries

Sec. 1. That in any county having a population in excess of 150,000 inhabitants, according to the last census of the U.S., and according to any U.S. census which may be hereafter taken, and in which there is no county attorney, the district attorney or criminal district attorney may appoint 7 assistant district attorneys, one of whom shall receive a salary not to exceed forty-eight hundred dollars per annum; one of whom shall receive a salary not to exceed forty-two hundred dollars per annum; one of whom shall receive a salary not to exceed thirty-six hundred dollars per annum; two of whom shall receive a salary not to exceed three thousand dollars per annum each; two of whom shall receive a salary not to exceed twenty-four hundred dollars per annum each. He may employ two stenographers, who shall receive a salary not to exceed two thousand four hundred dollars per annum each. He may employ three investigators who shall receive a salary not to exceed two thousand four hundred dollars per annum each. The salaries of assistants, stenographers and investigators, and other employees, above provided for, shall be paid monthly by said county, by warrant drawn from the general funds thereof.

Additional Assistants and Employees; Appointment and Salaries

Sec. 2. Should such district attorney be of the opinion that the number of deputies, assistants, stenographers, investigators or other employees above provided for are inadequate for the proper investigation of crime and the efficient performance of the duties of said office, he may appoint such additional assistants and employees, and fix their salaries, provided such salaries shall in no event exceed the maximum provided herein to be paid to such assistants or other employees, but such additional assistants and employees, so appointed, before qualifying and entering upon the duties of such office and employment, shall be confirmed by the commissioners court of the county in which such appointments are made.

Payment of Salaries for Additional Assistants and Employees

Sec. 3. The salaries for such additional assistants and employees shall be paid monthly out of the

excess fees collected by such district attorney and his office, which would otherwise go to said county, a detailed sworn itemized statement of which he shall include in his annual report, as provided, to be made in the Maximum Fee Bill.¹ In no event shall said county be liable for the salaries of such additional assistants or employees.

Authority and Removal of Assistants, Etc.

Sec. 4. The assistant district attorneys above provided for, when appointed, shall take the oath of office and be authorized to represent the State in any court or proceeding in which such district attorney is or shall be authorized to represent the State, such authority to be exercised under the direction of said district attorney. Any such assistant, stenographer, investigator, or employee, whether regular or additional, shall be subject to removal at the will of said district attorney or criminal district attorney.

Automobiles; Purchase and Expense

Sec. 5. The commissioners' court of the county of the district attorney's or criminal district attorney's residence may, upon the written sworn application of the district attorney or criminal district attorney, stating the necessity therefor, allow one or more automobiles to be used by the district attorney or criminal district attorney in the discharge of his official duties, which if purchased shall be bought by the county in the manner prescribed by law for the purchase of supplies, and paid out of the general fund, and they shall be and remain the property of the county. The amount to be expended for the purchase of an automobile or automobiles shall not exceed the sum of twelve hundred dollars for the first year, and shall not exceed the sum of five hundred dollars for any year thereafter. The expense of the maintenance and operation of such automobile or automobiles as may be allowed shall be paid for by the district attorney or the criminal district attorney from fees of office, and the amount thereof shall be reported in detail by the district attorney or the criminal district attorney on a monthly report, as is now required by law in reporting expenses incurred by him in the conduct of his office, and shall be deducted by him from the amount due by him to the county in the same manner as the other expenses are deducted which are provided for by law. Such expense account for the maintenance and operation of such automobile or automobiles shall be subject to the audit of the county auditor, and if it appears that any item of such expense was not incurred by such officer, or that such item was not necessary thereto, such item may be by such auditor or court rejected, in which case the correctness or necessity of such item may be adjudicated in any court of competent jurisdiction.

Application of Act

Sec. 6. The provisions of this Act shall apply to every district attorney within the State of Texas

within counties of a population of more than one hundred and fifty thousand inhabitants, and in which there is no county attorney to be determined as above provided, whether the said district attorney be of and for a judicial district called and known by number, or whether called and known as a criminal judicial district, or whether of and for any court called or known as a criminal district court; and whether such district attorney be called and known as a district attorney, or a criminal district attorney, or a criminal district attorney of any named county or court.

[Acts 1927, 40th Leg., p. 111, ch. 74. Amended by Acts 1929, 41st Leg., p. 231, ch. 96, § 1.]

¹ Article 3883 et seq.

Art. 326h. City of 50,000 or More in Judicial District of More Than One County; Assistants

Sec. 1. In any judicial district in this State composed of more than one county and in which there is a city having an actual population of 50,000 inhabitants or more, the district attorney shall have authority, with the approval of the commissioners' court of such county in which said city is situated, to appoint not more than two assistants, who shall be licensed to practice law in this State, and shall perform such duties as shall be required of them by the district attorney; and under the direction of the district attorney shall have all the authority that may be exercised by the district attorney. The district attorney shall use one of said assistants as an investigator to assist in the performance of the duties of his office, in addition to whatever other duties may be required of such assistant. Said assistants shall take the constitutional oath of office and serve at the will of the district attorney, not to exceed under any one appointment the maximum time fixed by the Constitution for such officers.

Sec. 2. The salary of each of said assistants shall not exceed three thousand dollars (\$3,000.00) per year, to be paid by the county in which said city is situated by warrant drawn on the general fund thereof, all salaries payable monthly. The district attorney shall ascertain the population of any city in his district necessary to be ascertained under this Act by making application to the mayor of any such city for a certificate as to the population of such city. It shall be the duty of any such mayor to ascertain by some reasonable accurate estimate the population of any such city, and his certificate to same under oath shall authorize the district attorney to assume its correctness and act upon the information contained in such certificate in making any appointment of an assistant or assistants under this Act.

[Acts 1927, 40th Leg., p. 82, ch. 58.]

Art. 326i. Counties of 22,000 or More; Assistants and Investigators

Sec. 1. The district attorney of any criminal district court only for more than one county may

appoint one assistant district attorney of each county containing a population of 22,000 or more as shown by the last preceding census of the United States, provided said district attorney shall furnish data to the judge of said criminal district court that he is in need of said assistants and it is necessary for the investigation and prosecution of crime and the efficient enforcement of law and to the best interest of the State that such assistant district attorneys be appointed. And when said data is furnished to said judge of said criminal district court he shall forthwith certify the same to the commissioners' court of the county in which such appointment is to be made.

And said district attorney is hereby authorized, with the approval of the commissioners' court of such county, to appoint one assistant district attorney for each county, as provided above, who shall receive a salary to be fixed by said commissioners' court in such county not to exceed \$2,400.00 per annum. The salary of such assistant district attorneys above provided for shall be paid by the county for which said assistant is appointed, by warrant drawn on the general funds thereof, all salaries payable monthly.

Every person so appointed shall be a qualified resident attorney of the county and district in which such appointment is made, and shall give bond and take the oath of office required of district attorneys of this State, and shall have the power and authority to perform all the acts and duties of district attorneys under the law of this State, and said appointments shall be for such time as the district attorney shall deem best in the enforcement of the law, not to be less than one month.

Sec. 2. The assistant district attorneys, above provided for when appointed and qualified, shall be authorized to represent the State in any court or proceeding in said district in which such district attorney is or shall be authorized to represent the State, such authority to be exercised under the direction of said district attorney, and said assistant district attorneys shall be authorized to perform any official act devolving upon or authorized by said district attorney in said district.

Sec. 3. Said district attorney may likewise be, and he is hereby authorized, with the approval of such county commissioners' court of each county wherein an assistant district attorney may be appointed as provided by this Act, to appoint one special investigator for each of said counties wherein an assistant district attorney may be appointed as provided by this Act, at a salary to be fixed by said commissioners' court not to exceed \$2,400.00 per annum. The salary of such special investigator above provided for shall be paid by each county in which a special investigator is appointed, by warrant drawn on the general funds thereof, all such salaries to be payable monthly. Said assistant district attorneys and special investigators shall be subject to removal at the will of said district attorney.

ney. This article is not intended to repeal any other law now existing, but is cumulative thereof.

[Acts 1927, 40th Leg., p. 95, ch. 68.]

Art. 326j. Repealed by Acts 1927, 40th Leg., p. 222, ch. 151

The Supreme Court, in *Townsend v. Terrell*, 118 T. 463, 16 S.W.2d 1063, held that this article, derived from Acts 1927, 40th Leg., p. 195, ch. 127, § 1, was repealed by Acts 1927, 40th Leg., p. 222, ch. 151, which amended art. 322.

Art. 326k. 90th Judicial District; District Attorney and Stenographer

Sec. 1. The office of district attorney for the 90th Judicial District of Texas is hereby created, and the person now holding said office and acting as such district attorney shall continue to hold and exercise the duties of such office for the remainder of the term for which he was elected and until his successor is duly elected and qualified, and he shall receive such salary as now or hereafter provided by law for district attorneys in districts containing two or more counties.

Sec. 2. Said District Attorney may appoint a stenographer to assist said District Attorney for said 90th Judicial District whose salary shall not exceed the sum of Fifteen Hundred (\$1500.00) Dollars per annum, and which shall be paid out of the General Funds of Stephens County, at such time and on such terms and conditions as may be prescribed by the Commissioners' Court of Stephens County.

[Acts 1927, 40th Leg., 1st C.S., p. 171, ch. 60. Amended by Acts 1929, 41st Leg., p. 206, ch. 88, § 1.]

Art. 326k-1. Criminal District Attorney in Counties Constituting Three or More Judicial Districts

Creation of Office; Election and Term; Qualifications; Oath; Bond

Sec. 1. In those counties in this State which within themselves constitute three or more separate Judicial Districts, and in which there is not now a District Attorney the office of Criminal District Attorney is hereby created, and shall exist from and after the passage of this Act. Such officer shall be known as Criminal District Attorney of such county. A Criminal District Attorney shall be elected in each such county at the next general election, and at each succeeding general election after the passage of this Act. He shall hold his office for the period of two years and until his successor is elected and qualified. He shall possess all the qualifications and take the oath and give the bond required by the Constitution and Laws of this State for other District Attorneys; and it is further provided and directed that the¹ present County Attorney of any such county shall continue in office and take the oath and give the bond required by the Constitution and Laws for other District Attorneys and assume the duties and be known as the Criminal District Attorney of the county, and proceed to organize and arrange the affairs of the office of Criminal District

Attorney of such county, and appoint assistants as provided in this Act, and receive the fees provided for in this Act for such office until the next general election and until his successor shall be elected and qualified.

¹ So in enrolled bill. Session Law omits word "the."

Powers and Duties

Sec. 2. The Criminal District Attorney of any such county shall have and exercise, all such powers, duties and privileges within such county as are by law now conferred or which may hereafter be conferred upon District and County Attorneys.

Fees; Limitation and Distribution

Sec. 3. The Criminal District Attorney in each county affected by this Act shall receive the same fees allowed by law for County Attorneys in misdemeanor cases and shall also receive a salary of five hundred (\$500.00) dollars per annum, to be paid by the State in the manner provided by law for paying the salaries of District Attorneys, and in addition thereto shall be paid the following fees by the State in the manner provided by law for paying the fees of County and District Attorneys;

For each conviction of felonious homicide and for each conviction where the punishment fixed by the Statute may be death, where the defendant does not appeal or dies, or escapes after appeal and before final judgment of the Court of Criminal Appeals or where upon appeal judgment is affirmed, the sum of forty dollars. For all other convictions in felony cases where the defendant does not appeal or dies or escapes after appeal and before final judgment of the Court of Criminal Appeals or where upon appeal the judgment is affirmed, the sum of thirty dollars; provided, that in all convictions of felony, in which punishment is fixed by the verdict and punishment in a house of correction and reformatory, his fee shall be fifteen dollars. For representing the State in each case of habeas corpus where the defendant is charged with a felony, the sum of twenty dollars; For representing the State in each examining trial, in felony cases, where indictment is returned, in each case, the sum of five dollars. The Criminal District Attorney shall receive fees for other services rendered by him as is now or may hereafter be authorized by law to be paid to District and County Attorneys in this State and for such services including the same fee now fixed and allowed by law in misdemeanor cases to County Attorneys, fees allowed by law for ex-officio services, said ex-officio fees may be allowed in addition to other fees herein provided, in an amount not to exceed fifteen hundred dollars per annum by the Commissioners' Court of the county and in the same manner as provided for county officers. The Criminal District Attorney shall retain out of the fees earned and collected by him the sum of three thousand five hundred dollars per annum and in addition thereto one-fourth of the gross excess of all such fees in excess of three thousand five hundred dol-

lars per annum to an amount not in excess of two thousand dollars. After deducting the three thousand five hundred dollars and one-fourth of the remaining gross the remaining amount is to be applied first for the payment of the salaries of his assistants and the actual and necessary expenses incurred by him in the conduct of his said office, such as stamps, stationery, books, telephone, traveling expenses and other necessary expenses, and the balance remaining to be paid over to the county in accordance with the terms and provisions of the fee bill; provided that in arriving at the amount collected by him he shall include fees arising from all classes of criminal cases, whether felony or misdemeanor, arising in any of the Justice, County or District Courts or which may hereafter be created, including habeas corpus hearing, fines and forfeitures, but shall not include the five hundred dollars annual salary paid by the State; provided that on the first day of January, or as soon thereafter as practicable each year, he shall make a full and complete report and account, as is now provided by law for officers required to make annual reports of fees collected, of all such fees so collected by him; provided that in addition to the above he shall receive ten per cent for the collection of delinquent fees due the county, bond forfeitures, and money collected for the State and county as is now provided by law relating to the collection of fees by County and District Attorneys; such fees to be included in the report herein provided for and to be taken into consideration in arriving at the total maximum compensation provided in this Act; and provided further that the Criminal District Attorney shall represent the State and county in all tax suits, including suits for inheritance tax, as is now provided for District and County Attorneys. He shall receive the same fees as received by District and County Attorneys and the said fees in delinquent tax and inheritance tax suits shall be exempt to him as now provided for fees exempt to District and County Attorneys, and all such tax fees shall not be accounted for nor included in his annual report.

**Assistants; Appointment; Compensation;
Powers; Removal**

Sec. 4. The Criminal District Attorney shall appoint as many assistants as shall be necessary to properly administer the affairs of the office of Criminal District Attorney and to enforce the law, not to exceed five assistants, said appointments to be made by the said Criminal District Attorney and ratified by the Commissioners' Court. One of said assistants shall receive a salary not to exceed three thousand dollars per annum, two of said assistants shall receive a salary not to exceed two thousand four hundred dollars per annum and two of said assistants shall receive a salary not to exceed twenty-one hundred dollars per annum, each payable monthly. Assistant Criminal District Attorney¹ shall be appointed by the Criminal District Attorney and when confirmed by the Commissioners' Court shall take the oath of office and be authorized to

represent the State in all of the courts of the county in which the Criminal District Attorney is authorized by this Act to represent the State, such authority to be exercised under the direction of the Criminal District Attorney, and which said assistants shall be subject to removal at the will of the Criminal District Attorney. Each of said assistants shall be authorized to administer oaths, file information, examine witnesses before the Grand Jury and generally perform any duty devolving upon the Criminal District Attorney, and to exercise any power conferred by law upon County and District Attorneys and the Criminal District Attorney when by him so authorized. The Criminal District Attorney shall be paid the same fees for services rendered by his assistants as he would be entitled to receive if the services had been rendered by himself.

¹ Probably should read "Attorneys".

Additional Assistants and Employees

Sec. 5. Should the work of the Criminal District Attorney require additional assistants and investigators and other employees provided for in this Act to properly investigate and punish offenders, and for the efficient performance of the duties incumbent upon the Criminal District Attorney, he may appoint such additional assistants and employees and fix their salaries, provided such salary shall in no event exceed the maximum provided herein to be paid to assistants so appointed; but such additional assistants and employees before qualifying and entering upon the duties of such office shall be confirmed by the Commissioners' Court of the county, upon a written application of the Criminal District Attorney, setting out under oath the necessity and facts requiring such additional appointment.

Assistants as Special Investigators; Compensation

Sec. 6. The Criminal District Attorney is authorized, with the consent of the County Judge and the Commissioners' Court to appoint not to exceed two assistants in addition to his regular assistants provided for in this Act, which two assistants shall not be required to possess the qualifications prescribed by law for District or County Attorneys, which said two assistants shall be known as special investigators, and who shall perform such duties as may be assigned to them by the Criminal District Attorney and who shall receive as their compensation a salary not to exceed twenty-four hundred dollars per annum, payable monthly out of the county funds, by warrants drawn on such county funds; and providing further that said investigators for the Criminal District Attorney shall be allowed a sum of money by order of the Commissioners' Court for traveling and other expenses incident to the duties they shall perform under the direction of the Criminal District Attorney, which said sum of money so allowed by the said Commissioners' Court shall not exceed seventy-five dollars per month, as in the judgment of the Commissioners' Court may be deemed necessary to properly administer the duties of such office and investigation of criminal cases in said Criminal Dis-

trict Attorney's office and incident thereto; provided further that such amount as may be thus necessarily incurred shall be paid by the Commissioners' Court upon affidavit made by the Criminal District Attorney, showing the necessity of such expenditure and for what the same was incurred. The Commissioners' Court may also require any further evidence as in their opinion may be necessary to show the necessity of such expenditure, but they shall be the sole judge as to the necessity of such expenditure and their judgment allowing same shall be final.

Stenographers; Appointment and Compensation

Sec. 7. The Criminal District Attorney is authorized, with the consent of the County Judge and the Commissioners' Court to appoint not to exceed two stenographers, who may or who may not possess the qualifications prescribed by law for District and County Attorneys and who shall perform the necessary stenographic duties as may be assigned to them by the Criminal District Attorney, and who shall receive as their compensation not to exceed eighteen hundred dollars per annum each, to be paid in monthly installments out of the county funds by warrants drawn on such county funds.

Monthly Report of Expenses

Sec. 8. The Criminal District Attorney shall at the close of each month of the tenure of such office make as a part of the report required by this Act an itemized and sworn statement of the actual and necessary expenses incurred by him in the conduct of said office, such as stamps, stationery, books, telephone, traveling expenses, and any and all other necessary expenses. If such expenses be incurred in connection with any particular case, such statement shall name such case, such expense account shall be subject to the audit of the County Auditor and if it appears that any item of such expense was not incurred by such officer or that such item was not necessary thereto, such item may be by said Auditor rejected, in which case the correction of such item may be adjudicated in any court of competent jurisdiction. The amount of such expenses shall be deducted by the Criminal District Attorney in making his report from the amount, if any, due by him to the county under the provisions of this Act.

Application of Act

Sec. 9. This Act is not intended and shall not be considered or construed as repealing any law now in the statute books, but shall be cumulative thereof, and providing further shall be cumulative of all laws not in conflict with the provisions hereof. This Act shall not apply to any county in this State having two or more incorporated cities each having a population of more than 20,000, according to the latest United States census.

[Acts 1929, 41st Leg., p. 25, ch. 9. Amended by Acts 1929, 41st Leg., 1st C.S., p. 54, ch. 20, § 1.]

Art. 326k-2. Unconstitutional

This article derived from Acts 1929, 41st Leg., 2nd C.S., p. 134, ch. 66, § 1, provided that district attorneys in judicial districts composed of two or more counties should receive certain compensation from the state in addition to the sum of \$500 per annum, provided by the Constitution. In *Witterspoon v. Sheppard*, 123 T. 93, 67 S.W.2d 1037, the Commission of Appeals, in an opinion adopted by the Supreme Court, held that the act violated Const. Art. 5, § 21.

Art. 326k-3. Judicial District of Five or More Counties of 98,740 to 98,750; District Attorney and Assistant

Compensation of District Attorney

Sec. 1. District Attorneys in each judicial district in this State containing five or more counties having a combined population, according to the Fourteenth Census of the United States of the year 1920, of not less than 98,740 nor in excess of 98,750, shall receive from the State as pay for their services the sum of Five Hundred (\$500.00) Dollars per annum, as provided by the constitution, and in addition thereto, and in lieu of the fees, commissions, and perquisites provided by law, shall receive from the State the sum of Ten (\$10.00) Dollars for each of the first 350 days of every calendar year as compensation for attending examining trials; Habeas Corpus hearings, the sessions of the District Court of the district they represent, and for performing such other duties as imposed by law. The compensation provided for in this Act shall be paid monthly by the State upon warrants drawn by the Comptroller of Public Accounts, and it shall not be necessary for the District Attorney to file any account with the District Judge or the Comptroller of Public Accounts. Nothing in this Act shall be construed so as to deprive District Attorneys of the traveling expense allowances now provided by law, nor shall this Act affect the salary or compensation of any District Attorney fixed by special law. All commissions, perquisites and fees allowed to and collected by District Attorneys in districts composed of five or more counties, having the population as herein provided, shall be paid to the District Clerk of the County where said fees, commissions and perquisites are collected, who shall pay the same over to the State Treasury.

Assistant; Appointment; Qualifications; Bond; Oath; Removal

Sec. 2. That in each of said Judicial Districts, the duly elected District Attorney shall have the right, with the consent of the Judge of said District Court to appoint an Assistant District Attorney who shall serve as such Assistant District Attorney for the same term as the district attorney is elected, and in case of a vacancy, the District Attorney, with the consent of the district judge of the District, may make an appointment to fill out the unexpired term. The district attorney of said district, at any time he deems said assistant unnecessary, or finds that he is not attending to his duties as required by law, may remove such assistant district attorney from office

by giving him written notice to that effect. Said assistant district attorney shall give a bond in the sum of Five Thousand Dollars, and take the oath of office, and shall have authority to perform all of the acts and duties of the district attorney under the laws of this State. Said assistant district attorney shall be a qualified resident attorney of the judicial district.

Compensation of Assistant

Sec. 3. The assistant district attorney provided for in Section 1 of this Act shall receive an annual salary of three thousand six hundred dollars, to be paid monthly by the comptroller out of the funds appropriated for the payment of the salaries and fees of the district attorneys of the State of Texas or out of any money not otherwise appropriated, said salary to be paid upon the sworn account such assistant district attorney approved by the district attorney and the district judge of said district; and in addition to this salary the assistant district attorney shall also be paid the amount of expenses incurred by said assistant district attorney in attending the courts of other counties than his residence in the performance of his duties as such assistant district attorney the same amount as is now paid district attorneys out of the funds appropriated for the payment of expenses of the district attorneys of the State.

[Acts 1929, 41st Leg., 2nd C.S., p. 144, ch. 71.]

Art. 326k-4. 7th Judicial District; Compensation of District Attorney

Sec. 1. The District Attorney of the 7th Judicial District shall receive for the actual and necessary discharge of his duties in the District Court of the 7th Judicial District of Texas, and/or in the Special District Court of Smith County, Texas, the same per diem now allowed by the Acts of the Regular Session of the 43rd Legislature, for not to exceed fifty (50) days during each of the calendar years 1935, 1936, 1937 and 1938, respectively, in addition to the maximum number of days for which he may be paid under provisions of the Acts of the Regular Session of the 43rd Legislature. Payment of said additional compensation shall be made in the same manner as is provided for payment of compensation provided for by the Acts of the Regular Session of the 43rd Legislature.

Sec. 2. Nothing herein shall be construed as preventing the District Attorney of the 7th Judicial District of Texas from receiving his actual and necessary expenses while serving as said District Attorney in said district outside of the county of his residence, as now provided by law.

[Acts 1935, 44th Leg., p. 153, ch. 65, § 1.]

Abolition of Office

Acts 1949, 51st Leg., p. 264, ch. 143, § 1, incorporated herein as Article 326k-13; abolished the office of District Attorney

in the 7th Judicial District. Section 2 of the 1949 Act repealed all conflicting laws and parts of laws.

Art. 326k-5. 12th Judicial District; Compensation of District Attorney

Sec. 1. The District Attorney of the 12th Judicial District of Texas shall receive for the actual and necessary discharge of his duties in the District Court of the 12th Judicial District of Texas, for not to exceed fifty (50) days each year in addition to the maximum number of days for which he may be paid under the Acts of the Regular Session of the 43rd Legislature. Payment of said additional compensation shall be made in the same manner as is provided for payment of compensation provided for by the Acts of the Regular Session of the 43rd Legislature.

Sec. 2. Nothing herein shall be construed as preventing the District Attorney of the 12th Judicial District of Texas from receiving his actual and necessary expenses while serving as said District Attorney in said district outside of the county of his residence, as now provided by law.

[Acts 1935, 44th Leg., p. 367, ch. 133.]

Art. 326k-5a. 12th Judicial District; Deputy

Appointment of Deputy

Sec. 1. The district attorney of the 12th Judicial District, with the consent of each of the commissioners courts of the counties comprising the 12th Judicial District, may appoint a deputy district attorney.

Qualifications; Duties

Sec. 2. A deputy district attorney appointed under the provisions of this Act shall be a qualified licensed attorney and shall serve at the will and pleasure of the district attorney. The deputy district attorney may perform all the acts and duties of the district attorney under the laws of this state.

Salary; Expenses

Sec. 3. A deputy district attorney appointed under the provisions of this Act shall be paid a salary set by the district attorney, with the approval of the commissioners courts of the several counties included within the 12th Judicial District, and shall be allowed a reasonable amount for expenses incurred traveling about the district on the call of duty.

Payment of Salary and Expenses; Participation in Retirement System

Sec. 4. The salary and expenses provided for in this Act shall be paid by the counties composing the 12th Judicial District in proportion to the population of each for the last preceding federal census, out of the officers salary fund of the county. The salary shall be paid in 12 equal monthly installments and expense claims shall be paid at the end of each month. The salary is subject to participation fully

in the Texas County and District Retirement System.

[Acts 1973, 63rd Leg., p. 233, ch. 109, eff. May 18, 1973.]

Art. 326k-6. Investigators of District, Criminal District, or County Attorneys; Powers of Arrest and Process; Responsibility

Sec. 1. Any and all investigators appointed by a District Attorney, Criminal District Attorney, or County Attorney, as provided by law, shall have the same authority as the sheriff of the county to make arrests anywhere in the county, and to serve anywhere in the state, warrants, capiases, subpoenas in criminal cases, and all other processes in criminal cases issued by any District Court, County Court, or Justice Court in the State, but such investigators shall not be under the authority and direction of the sheriff, and shall only be under the authority and direction of the said District Attorney, Criminal District Attorney, or County Attorney; and such investigators shall not be allowed to draw any fees of any character for performing such duties.

Sec. 1-a. Said District Attorney, Criminal District Attorney, or County Attorney shall be responsible for the official acts of such investigators and they shall have power to require from such investigators, bond and security, and they shall have the same remedies against their investigators and the sureties of said investigators as any person can have against a District Attorney, Criminal District Attorney, or County Attorney and his sureties.

[Acts 1935, 44th Leg., p. 495, ch. 206. Acts 1981, 67th Leg., p. 180, ch. 81, § 1, eff. Aug. 31, 1981.]

Art. 326k-7. Repealed by Acts 1969, 61st Leg., p. 157, ch. 56, § 2, eff. April 3, 1969

See, now, article 326k-14.

Art. 326k-8. Counties Under 25,000 with Tax Valuation Over \$75,000,000; Assistant District Attorney

In any county in this State having a population less than twenty-five thousand (25,000) inhabitants, according to the last preceding Federal Census, and having a tax valuation exceeding Seventy-five Million Dollars (\$75,000,000) according to the last tax roll which has been approved as required by law, the District Attorney or Criminal District Attorney in said county is hereby authorized to appoint, in addition to the other assistants allowed by law, a Special Assistant District Attorney or Assistant Criminal District Attorney, whose powers and duties shall be the same as those of other Assistant District Attorneys or other Assistant Criminal District Attorneys, and in addition whose special duty shall be to assist said District Attorney or Criminal District Attorney in all civil matters arising in and connected with the efficient conduct of said office, including the investigation of all records, preparation of and filing of suits for the collection of all delinquent taxes of whatever kind or character due

such county. Such Special Assistant District Attorney or Special Assistant Criminal District Attorney shall be paid the sum of Three Thousand, Six Hundred Dollars (\$3,600) per annum, payable in twelve (12) monthly installments, out of the General Fund of said county by warrant drawn upon such a Fund. Said salary shall be payable as herein provided when said District Attorney or Criminal District Attorney shall certify to the Judge of the County Court in such a county that any or all services enumerated herein have been performed and were necessary to the proper and efficient conduct of said office.

[Acts 1937, 45th Leg., p. 72, ch. 43, § 1.]

Art. 326k-9. Counties of 75,001 to 77,100 and 30,900 to 30,950; Criminal District Attorney

Creation of Office; Qualifications; Oath; Bond; Election

Sec. 1. In those counties in this State having a population of not less than seventy-five thousand and one (75,001), and not more than seventy-seven thousand, one hundred (77,100) inhabitants, and not containing a city of more than forty thousand (40,000) inhabitants, as determined by the last preceding Federal Census, and in which counties there are one or more Judicial Districts, and in counties of this State having a population of not less than thirty thousand, nine hundred (30,900), and not more than thirty thousand, nine hundred and fifty (30,950) inhabitants, as determined by the last preceding Federal Census, and in which the County Attorney performs the duties of County Attorney and District Attorney, and in which there is not now a District Attorney, the office of Criminal District Attorney is hereby created, and shall exist from and after the passage of this Act. Such officer shall be known as Criminal District Attorney of such county. He shall possess all the qualifications and take the oath and give the bond required by the Constitution and Laws of this State for other District Attorneys. And it is further provided and directed that the person who is the present County Attorney of any such county shall continue in office and take the oath and give the bond required by the Constitution and Laws for other District Attorneys, and assume the duties and be known as the Criminal District Attorney of the county, and proceed to organize and arrange the affairs of the office of Criminal District Attorney of such county, and appoint assistants as provided in this Act. Provided further, that the present County Attorneys in such counties shall continue to hold the office created by this Act, for a period in no event less than the time such officer would have held his office as County Attorney had this Act not been passed. A Criminal District Attorney shall be elected in each such county at the General Election of the year immediately preceding the termination of the term of the Criminal District Attorney provided for such counties in this Act. Thereafter, a Criminal District Attorney in such

counties shall be regularly elected as provided by law.

Powers and Duties

Sec. 2. The Criminal District Attorney of any such county shall have and exercise all such powers, duties, and privileges within such county as are by law now conferred, or which may hereafter be conferred upon District and County Attorneys, and such Criminal District Attorney shall act as and perform the duties of District Attorney for all Judicial Districts in such counties, and shall act as and perform the duties of County Attorney for all County Courts of such counties.

Salary; Deputies and Assistants

Sec. 3. The Criminal District Attorney in each county affected by this Act shall receive the same salary allowed other Criminal District Attorneys, as provided in Section 13 of Chapter 465,¹ Acts of the Forty-fourth Legislature, Second Called Session, or as may hereafter be provided by law.

Deputies, assistants, and clerks shall be hired by the Criminal District Attorney in such counties, and their compensation shall be fixed as provided by Subsection 4 of Section 14, Chapter 465,² Acts of the Forty-fourth Legislature, Second Called Session, or as may hereafter be provided by law.

Law Governing

Sec. 4. The provisions of Chapter 465³ of the Acts of the Forty-fourth Legislature, Second Called Session, shall apply to and govern the offices of Criminal District Attorney created by this Act to the same extent and in the same manner that such Chapter would have applied had such offices been created prior to the passage of said Act.

Intention of Act as to Creation of Office

Sec. 5. It is not the intention of this Act to create any office of District Attorney, nor any other Constitutional office, and the office of Criminal District Attorney is hereby declared to be a separate and distinct office from the Constitutional office of District Attorney, and no Criminal District Attorney shall draw or be entitled to any salary whatsoever from the State of Texas.

Act Cumulative

Sec. 6. This Act is not intended and shall not be considered or construed as repealing any law now in the Statute Books, except those in conflict herewith, but shall be cumulative thereof.

[Acts 1937, 45th Leg., p. 202, ch. 107.]

¹ Article 3912e, § 13.

² Article 3902, subd. 4.

³ Articles 3912e, 3896 to 3899, 3901, 3902.

Art. 326k-10. Districts of One County of 50,500 to 55,000 with Tax Value Over \$70,000,000; Assistants and Stenographer

From and after the passage of this Act, in Judicial Districts composed of and confined to one County only and in which said Judicial District and County the population as determined by the last preceding Federal Census is not less than fifty thousand five hundred (50,500) and not more than fifty-five thousand (55,000) inhabitants and in which said Judicial District and County the tax value exceeds Seventy Million (\$70,000,000.00) Dollars according to the last approved tax roll, the District Attorney or Criminal District Attorney of said Judicial District and County may appoint not to exceed two (2) Assistants who shall possess the qualifications of a District Attorney and one stenographer, one (1) of said Assistants to receive a salary of Three Thousand (\$3,000.00) Dollars per annum and one of said Assistants to receive a salary of Twenty-seven Hundred Fifty (\$2750.00) Dollars per annum, and the said stenographer to receive a salary of Fifteen Hundred (\$1500.00) Dollars per annum, the salaries of said Assistants and the stenographer to be paid in the manner now prescribed by law for the payment of salaries of like Assistants and deputies.

[Acts 1941, 47th Leg., p. 40, ch. 28, § 1.]

Art. 326k-11. County Attorneys Designated Criminal District Attorneys

Sec. 1. In any county in this State not embraced in or constituting either a Criminal District Attorney's District or a District Attorney's District, and wherein the duty of representing the State in all criminal matters arising in such county devolves upon the County Attorney of such county, the Commissioners' Court thereof, upon petition of such County Attorney at any time during a non-election year, may, by appropriate action spread upon the minutes of such Commissioners' Court, designate the office of County Attorney in such county as the office of Criminal District Attorney of such County, and the incumbent of such office as the Criminal District Attorney of such County; and thereafter and until such time as such county shall be included within a regularly created and constituted District Attorney's District or Criminal District Attorney's District, such office shall be designated as the office of Criminal District Attorney of such county, and the incumbent thereof shall be designated as the Criminal District Attorney of such county; providing that such change in the designation and appellation of such office and the incumbent thereof, as aforesaid, shall in no manner alter or affect either the previous election and qualifications of the incumbent thereof, nor shall the same thereafter alter or affect either the rights, duties, or emoluments of such office or the incumbent thereof; and providing further that in all elections thereafter held to fill such office, and so long as the same shall be so designated, the said office shall be designated upon the ballot and in the election as the office of Crimi-

nal District Attorney of such county; and providing further that in the event any such county be thereafter embraced in or constitute a regularly created District Attorney's District or Criminal District Attorney's District, the designation of County Attorney shall be restored to such office unless the office of County Attorney be abolished in such county.

Sec. 2. It is not the intention of this Act to create any office of District Attorney or any other Constitutional office; but it is the intention of this Act merely to authorize a change in the name and appellation of the office of County Attorney and the incumbent thereof in certain counties, without otherwise changing or affecting the rights, duties, or emoluments either of such office or the incumbent thereof.

Sec. 3. This Act is not intended and shall not be considered or construed as repealing any law now in the statute books, except those in conflict therewith; but it shall be cumulative thereof.

[Acts 1941, 47th Leg., p. 477, ch. 300.]

Art. 326k-12. Counties of 70,000 to 220,000 and 39,000 to 50,000 and McLennan County; Assistants, Investigators and Stenographer; Automobile

Assistants and Investigators; Appointment, Salary and Qualifications

Sec. 1. From and after the passage of this Act, in a Judicial District composed of one (1) or more counties and in which the population in any one (1) of said counties, as determined by the last preceding Federal Census, is not less than seventy thousand (70,000) and not more than two hundred and twenty thousand (220,000) inhabitants and in which county there are two (2) or more District Courts, the District Attorney or the Criminal District Attorney, with the consent of the combined majority of the District Judges and Commissioners Court of such County, is hereby authorized to appoint at their discretion, not more than six (6) investigators or assistants; and in a Judicial District composed of one (1) or more counties and in which the population in any one (1) of said counties, as determined by the last preceding Federal Census, is not less than thirty-nine thousand (39,000) and not more than fifty thousand (50,000) inhabitants, and in which county there are two (2) or more District Courts the District Attorney or the Criminal District Attorney with the consent of a majority of the District Judges, is hereby authorized to appoint at their discretion, one (1) investigator or assistant. Such investigators or assistants shall receive a salary of not more than Three Thousand, Seven Hundred and Fifty Dollars (\$3,750) per annum, nor less than Three Thousand Dollars (\$3,000) per annum, the amount of such salary to be fixed by the District Attorney or Criminal District Attorney and approved by a majority of the District Judges; such investigators or assistants, as well as the District Attorney or Criminal District Attorney, shall be

allowed a reasonable amount for expenses not to exceed Six Hundred Dollars (\$600), each, per annum. The assistants to the District Attorney or Criminal District Attorney must be duly and legally licensed to practice law in the State of Texas, however, the investigators need not be duly and legally licensed to practice law in the State of Texas.

Automobile; Purchase and Upkeep

Sec. 1a. The Commissioners Court in its discretion may authorize the purchase of an automobile or automobiles by the county for the use of investigators of the District Attorney or Criminal District Attorney in their official duties and may authorize the payment by the county of all expenses incidental to the upkeep and operation of such automobile or automobiles.

Stenographer; Appointment and Salary

Sec. 2. Said District Attorney and Criminal District Attorney shall also be authorized to appoint a stenographer who shall receive a salary not to exceed Two Thousand, Four Hundred Dollars (\$2,400) per annum, the amount of such salary to be fixed by the District Attorney or Criminal District Attorney and approved by a majority of the District Judges.

Sec. 2a. Repealed by Acts 1967, 60th Leg., p. 1207, ch. 542, § 2, eff. June 14, 1967.

Investigators and Assistants for Criminal District Attorney of McLennan County; Salary

Sec. 2b. The salary of the investigators and assistants appointed by the Criminal District Attorney of McLennan County shall be fixed at a sum of not more than Fifteen Thousand Dollars (\$15,000) per annum.

Payment; Bond; Powers of Arrest and Process

Sec. 3. The salary of such investigators or assistants and stenographer, and the expenses provided for in this Act shall be paid monthly by the Commissioners Court of such county out of the General Fund of the county or, at the discretion of the Commissioners Court, out of the Jury Fund of said county; said investigators or assistants may be required to give bond and shall have authority under the direction of the District Attorney or Criminal District Attorney to make arrests and execute process in criminal cases and in cases growing out of the enforcement of all laws.

Repealer

Sec. 3a. All laws or parts of laws in conflict with the provisions of this Act are hereby expressly repealed to the extent of the conflict only.

[Acts 1947, 50th Leg., p. 364, ch. 206. Amended by Acts 1949, 51st Leg., p. 916, ch. 495, § 1; Acts 1957, 55th Leg., p. 830, ch. 358, § 1; Acts 1959, 56th Leg., p. 564, ch. 255, § 1, eff. May 26, 1959; Acts 1967, 60th Leg., p. 179, ch. 93, § 1, eff. April 22, 1967; Acts 1969, 61st Leg., p. 1373, ch. 415, § 1, eff. June 2, 1969; Acts 1971, 62nd Leg., p. 2461, ch. 800, § 2, June 8, 1971.]

Art. 326k-13. 7th Judicial District; Abolition of District Attorney's Office.

The office of District Attorney in the 7th Judicial District of Texas is hereby abolished, and the County Attorney of each county composing said district shall represent the State of Texas in all matters wherein the State of Texas is a party, in his respective county, and shall receive such fees and compensation for his services as is provided by the General Laws of the State of Texas.

[Acts 1949, 51st Leg., p. 264, ch. 143, § 1.]

Art. 326k-14. 53rd Judicial District; District Attorney, Assistants and Personnel**Representation of State**

Sec. 1. The District Attorney of the 53rd Judicial District shall represent the State of Texas in all criminal cases before all the District Courts of Travis County, Texas.

Assistants; Appointment; Qualifications; Removal

Sec. 2. The District Attorney of the 53rd Judicial District shall appoint a First Assistant District Attorney and such other Assistant District Attorneys as shall be necessary to the proper performance of his official duties. The number of assistants to be appointed and the compensation to be paid shall be with the approval of the Commissioners Court of Travis County, Texas. The First Assistant District Attorney and other Assistant District Attorneys shall be duly licensed to practice law in the State of Texas and shall be authorized to perform any official act delving upon or authorized to be performed by the District Attorney, under the direction of the District Attorney, and shall be subject to removal at the will of the District Attorney.

Office Personnel

Sec. 3. The District Attorney of the 53rd Judicial District shall appoint as many stenographers, secretaries, investigators and other office personnel to be appointed and the compensation to be paid shall be with the approval of the Commissioners Court of Travis County, Texas.

Compensation

Sec. 4. The District Attorney of the 53rd Judicial District shall be paid a salary in an amount equal to the total salary paid from State and County Funds to the Judge of the 53rd Judicial District Court of Travis County, Texas, excluding any compensation paid to the Judge of the 53rd Judicial District Court of Travis County, Texas, with reference to juvenile board matters. The First Assistant District Attorney shall be paid a salary not to exceed Fifteen Thousand Dollars (\$15,000.00) per year, and the other Assistant District Attorneys shall be paid a salary not to exceed Twelve Thousand-Five Hundred Dollars (\$12,500.00) per year. The Commissioners Court of Travis County, Texas is hereby authorized to supplement the salaries of

the District Attorney and the Assistant District Attorneys paid by the State of Texas in such an amount that the total salaries paid shall not exceed the maximum provided herein.

[Acts 1951, 52nd Leg., p. 85, ch. 55. Amended by Acts 1957, 55th Leg., p. 89, ch. 43, § 1; Acts 1963, 58th Leg., p. 502, ch. 187, § 1, eff. Aug. 23, 1963; Acts 1969, 61st Leg., p. 157, ch. 56, § 1, eff. April 3, 1969.]

Art. 326k-15. 79th Judicial District; District Attorney, Assistants and Stenographer**Compensation of District Attorney**

Sec. 1. The District Attorney of the 79th Judicial District of Texas may be compensated for his services by an additional salary of Twenty-five Hundred Dollars (\$2,500) per year. This is in addition to the salary now allowed by law.

Assistants; Appointment; Qualifications; Oath; Bond; Salary; Term

Sec. 2. The District Attorney of the 79th Judicial District of Texas is hereby authorized to appoint a First and Second Assistant District Attorney of the 79th Judicial District, whose qualifications and authority shall be the same as now required by law for District Attorneys, and who shall take the oath and execute the bond required by law. The First Assistant shall receive a salary of not to exceed Seventy-five Hundred Dollars (\$7,500) per annum, payable in equal monthly installments, the amount of such salary to be fixed by the District Attorney with the approval of the Commissioners Courts of the counties comprising the 79th Judicial District. The Second Assistant shall receive a salary of not to exceed Fifty-five Hundred Dollars (\$5,500) per annum, to be paid by Duval County, payable in equal monthly installments, the amount of such salary to be fixed by the District Attorney with the approval of the Commissioners Court of Duval County. The Second Assistant shall serve for a term not to exceed December 31, 1958. No county whose Commissioners Court has refused to approve the appointment and salary of an Assistant District Attorney shall be liable for any salary or emolument of that Assistant.

Stenographer; Appointment and Compensation

Sec. 3. The District Attorney of the 79th Judicial District is authorized to employ a stenographer whose compensation shall be fixed by the combined majority of Commissioners Courts of the counties of the 79th Judicial District, upon recommendation of the District Attorney of that District, in an amount not to exceed Thirty-nine Hundred Dollars (\$3,900) per year, payable in equal monthly installments.

Payment of Salaries; Proration

Sec. 4. The Commissioners Court of each county of the 79th Judicial District shall pay the salaries as provided in Sections 1, 2 and 3 of this Act, which salaries shall be prorated according to the popula-

tion of each county according to the last preceding Federal Census.

Assignment of Assistants and Salary Payments

Sec. 5. The District Attorney of the 79th Judicial District may specially assign one of his authorized Assistant District Attorneys to one or more counties of the 79th Judicial District. The Commissioners Court of one or more counties of the 79th Judicial District may, in its discretion, pay the whole or any amount greater than the proportionate part of the salary of any Assistant District Attorney who may be specially assigned by the District Attorney of the 79th Judicial District to that particular county or counties; and to the extent that any one or more counties may through its Commissioners Court agree to pay more than its proportionate part of the salary of the Assistant District Attorney specially assigned to it, the other counties in the 79th Judicial District to whom this Assistant is not specially assigned shall be relieved from their proportionate part of his salary.

[Acts 1951, 52nd Leg., p. 91, ch. 58. Amended by Acts 1957, 55th Leg., p. 566, ch. 266, § 1.]

Art. 326k-16. 106th Judicial District; Assistants, Investigators and Stenographer

Assistants and Investigators; Appointment and Salary

Sec. 1. From and after the passage of this Act, the district attorney of the 106th Judicial District, composed of the Counties of Terry, Lynn, Garza, Dawson, Gaines, and Yoakum, with the consent of the district judge of the 106th Judicial District and the combined majority of the Commissioners Courts of the Counties composing the 106th Judicial District, is hereby authorized to appoint not more than two (2) investigators or assistants. Such investigators or assistants shall receive a salary of not less than Three Thousand Dollars (\$3,000) and not to exceed Four Thousand Dollars (\$4,000) per annum each. The salaries shall be fixed by the Commissioners Court of the several Counties composing the 106th Judicial District.

Qualifications

Sec. 2. The assistants to the district attorney must be duly and legally licensed to practice law in the State of Texas; however, the investigators need not be duly and legally licensed to practice law in the State of Texas.

Expenses

Sec. 3. The investigators or assistants provided for in this Act shall be allowed a reasonable amount for expenses not to exceed Twelve Hundred Dollars (\$1200) per annum.

Stenographer; Appointment and Salary

Sec. 4. The district attorney of the 106th Judicial District shall be authorized to employ a stenographer, who shall receive a salary not to exceed

Twenty-four Hundred Dollars (\$2400) per annum, such salary to be fixed by the district judge.

Payment of Salaries and Expenses; Proration

Sec. 5. The salary of the investigators, assistants, and stenographer provided for in this Act and the expenses provided for in this Act shall be paid monthly by the Commissioners Court of each county composing the 106th Judicial District out of the Officers' Salary Fund of the county. Such salary and expenses shall be prorated according to the population of the respective counties.

Bond; Powers of Arrest and Process

Sec. 6. The investigators or assistants provided for in this Act may be required to give bond and shall have authority under the direction of the district attorney to make arrests and execute process in criminal cases and in cases growing out of the enforcement of all laws.

[Acts 1951, 52nd Leg., p. 113, ch. 68.]

Art. 326k-17. Repealed by Acts 1957, 55th Leg., p. 142, ch. 62, § 6

See, now, article 326k-38a.

Art. 326k-18. 51st and 119th Judicial Districts; Assistants, Investigators and Stenographer

Appointments for 51st Judicial District

Sec. 1. The district attorney for the 51st Judicial District, composed of the Counties of Tom Green, Irion, Schleicher, Coke, and Sterling, with the consent of the district judges of the 51st Judicial District and the 119th Judicial District, is hereby authorized to appoint an assistant district attorney and an investigator for the district attorney of such district.

Appointments for 119th Judicial District

Sec. 2. The district attorney for the 119th Judicial District, composed of the Counties of Coleman, Concho, Runnels, and Tom Green, with the consent of the district judges of the 119th Judicial District and the 51st Judicial District, is hereby authorized to appoint an assistant district attorney and an investigator for the district attorney of such District.

Qualifications; Bond; Powers of Arrest and Process

Sec. 3. The assistant district attorneys provided for in this Act must be duly and legally licensed to practice law in this State. The investigators provided for in this Act need not be licensed to practice law. The assistants or investigators may be required to give bond and shall have authority under the direction of the district attorney to make arrests and to execute process in criminal cases and in cases growing out of the enforcement of all laws.

Stenographer; Salary

Sec. 4. In addition to the assistants and investigators provided for in this Act the District Attorney of the 51st Judicial District and the District Attorney of the 119th Judicial District shall each be authorized to employ a stenographer who shall receive a salary not to exceed Forty-eight Hundred Dollars (\$4800.00) per annum, such salary to be fixed by the District Attorney of the respective Districts and approved by the District Judges of the 51st and 119th Judicial Districts.

Assistants and Investigators; Salary and Expenses

Sec. 5. The assistants and investigators provided for in this Act shall receive a salary of not less than Five Thousand Dollars (\$5000.00) nor more than Nine Thousand Dollars (\$9000.00) per annum each, said salary to be fixed by the District Attorney of the respective Districts and approved by the District Judges of the 51st and 119th Judicial Districts. The assistants and investigators may be assigned to one or more counties by the District Attorney concerned and will be compensated accordingly by the County or Counties to which assigned. In addition to their salaries the investigators, assistants and district attorneys shall be allowed the actual and necessary expense incurred in the proper discharge of their duties never to exceed Eleven Hundred Dollars (\$1100.00) per annum each.

Payment of Salary and Expenses; Proration

Sec. 6. The salaries and expenses of the assistant district attorneys, investigators, and stenographers provided for in this Act shall be paid out of the general fund of the county, prorated according to the population of the counties composing the Judicial Districts.

[Acts 1951, 52nd Leg., p. 598, ch. 352. Amended by Acts 1969, 61st Leg., p. 675, ch. 228, § 1, eff. May 16, 1969.]

Art. 326k-19. Stenographer in Districts of Two or More Counties

Any district attorney in the State of Texas in a judicial district composed of two or more counties may employ a stenographer or clerk who shall receive a salary not to exceed \$4,800 per year, to be fixed by the district attorney for such district subject to the approval of the combined majority of the commissioners courts of the counties composing the judicial district. The salary of such stenographer or clerk provided for in this Act shall be paid monthly by the commissioners court of each county composing the judicial district, prorated in proportion to the population of each county as determined by the last preceding Federal census.

[Acts 1951, 52nd Leg., p. 617, ch. 365, § 1. Amended by Acts 1961, 57th Leg., p. 710, ch. 335, § 1, eff. June 16, 1961; Acts 1967, 60th Leg., p. 1239, ch. 562, § 1, eff. June 14, 1967; Acts 1969, 61st Leg., p. 1670, ch. 533, § 1, eff. June 10, 1969.]

Art. 326k-20. 100th Judicial District; Stenographer

The District Attorney of the 100th Judicial District of Texas is hereby authorized to appoint a stenographer who shall receive a salary not to exceed Twenty-four Hundred (\$2400.00) Dollars per annum. Said salary shall be fixed and determined by the District Attorney of said Judicial District, and the District Attorney shall file with the Commissioners Court of each county in said District a statement specifying the amount of salary to be paid said stenographer. Said salary shall be paid monthly by the Commissioners Court of each county comprising said District in the manner and on the same pro-ratio basis as that contained in the order of the District Judge of such Districts for the payment of the salary of the official shorthand reporter.

The Commissioners Court of the county in which the District Attorney resides shall furnish the District Attorney with adequate office space and the supplies necessary to the efficient operation of said office.

[Acts 1951, 52nd Leg., p. 640, ch. 374.]

Art. 326k-21. 27th Judicial District; Assistant and Stenographer

From and after the passage of this Act the District Attorney of the 27th Judicial District, with the consent of each of the Commissioners Courts comprising such judicial district, is authorized to appoint an Assistant District Attorney and a stenographer for such district. The Assistant District Attorney shall be paid an annual salary not to exceed Five Thousand, Five Hundred Dollars (\$5,500) per annum and the stenographer shall be paid an annual salary not to exceed Four Thousand, Two Hundred Dollars (\$4,200) per annum. The salaries of such Assistant District Attorney and stenographer shall be paid from the Officers Salary Fund of the counties comprising said judicial district and the amount to be paid by each county shall be determined according to population. The Assistant District Attorney must be duly and legally licensed to practice law in the State of Texas and shall be authorized to perform all duties imposed upon the District Attorney by law.

[Acts 1951, 52nd Leg., p. 802, ch. 445, § 1. Amended by Acts 1959, 56th Leg., p. 876, ch. 401, § 1.]

Art. 326k-22. Smith County Criminal District Attorney**Creation of Office; Qualifications; Oath; Bond**

Sec. 1. The constitutional office of Criminal District Attorney for Smith County is hereby created, and Criminal District Attorney of Smith County shall possess all the qualifications and take the oath and give the bond required by the Constitution and laws of this State of other District Attorneys.

Election and Term

Sec. 2. There shall be elected by the qualified electors of Smith County, Texas, at the general election in November, 1954, and at the general election every two (2) years thereafter, an attorney for said district who shall be styled the Criminal District Attorney of Smith County, who shall hold office for a period of two (2) years and until his successor is elected and qualified.

Powers and Duties; Fees, Commissions and Perquisites

Sec. 3. It shall be the duty of the Criminal District Attorney of Smith County or his assistants, as herein provided, to be in attendance upon each term and all sessions of the District Courts of Smith County, Texas, and all of the sessions and terms of all of the inferior courts of Smith County, held for the transaction of criminal business, and to exclusively represent the State of Texas in all matters pending before said courts and to represent Smith County in all matters pending before such courts and any other court where Smith County has pending business of any kind, matter or interest. The Criminal District Attorney of Smith County shall have and exercise, in addition to the specific powers given and the duty imposed upon him by this Act, all such powers, duties, and privileges within Smith County, as are now by law conferred, or which may hereafter be conferred upon the District and County Attorneys in the various counties and judicial districts of this State. He shall collect such fees, commission and perquisites as are now or may hereafter be provided by law for similar services rendered by District and County Attorneys of this State.

Salary

Sec. 4. The Criminal District Attorney of Smith County, Texas, shall be commissioned by the Governor and shall receive a salary to be determined by the Commissioners Court and to be paid out of the officers salary fund of Smith County, if adequate; if inadequate, the Commissioners Court shall transfer the necessary funds from the general fund of the County to the officers salary fund.

Assistants, Stenographers and Receptionists; Appointment and Salary

Sec. 5. The Criminal District Attorney of Smith County, for the purpose of conducting the affairs of his office, and with the approval of the Commissioners Court, shall be and is hereby authorized to appoint a First Assistant District Attorney and such other assistants, stenographers, and receptionists as may be necessary. The number of such positions in each class of employment, and the amount of salary that shall be paid to the person holding each position shall be determined by the Commissioners Court of Smith County. All of the salaries shall be paid from the officers salary fund of Smith County, if adequate; if inadequate, the Commissioners Court shall transfer the necessary funds from the

General Fund of the County to the officers salary fund. All employees of the office of Criminal District Attorney of Smith County, whether assistants, stenographers, or receptionists, shall be removable at the will of the Criminal District Attorney.

Assistants; Oath, Powers and Duties

Sec. 6. The Assistant Criminal District Attorneys of Smith County, when so appointed, shall take the constitutional oath of office and the Criminal District Attorney of Smith County and his assistants shall have the exclusive right and it shall be their duty to represent the State of Texas in all criminal cases pending in any and all of the courts of Smith County, Texas, except in the City Courts of the City of Tyler and the other incorporated cities and towns in Smith County. Said Assistant Criminal District Attorneys of Smith County are hereby authorized to administer oaths, file information, examine witnesses before the Grand Jury, and generally perform any duty devolving upon the Criminal District Attorney of Smith County and exercise any power, and perform any duty conferred by law upon the Criminal District Attorney of Smith County.

Appointment and Term; Abolition of County Attorney's Office

Sec. 7. Upon the effective date of this Act the Governor of Texas shall immediately appoint a criminal District Attorney of Smith County who shall hold office until the next general election and until his successor is duly elected and qualified. The office of County Attorney of Smith County is abolished from and after the effective date of this Act.

[Acts 1953, 53rd Leg., p. 44, ch. 36. Amended by Acts 1967, 60th Leg., pp. 1184, 1185, ch. 529, §§ 2 to 4, eff. June 14, 1967.]

Art. 326k-23. Brazoria County Criminal District Attorney**Creation of Office; Qualifications; Oath; Bond**

Sec. 1. The Constitutional office of Criminal District Attorney for Brazoria County is hereby created and said Criminal District Attorney of Brazoria County shall possess all the qualifications and take the oath of office and give the bond required by the Constitution and laws of this State of other District Attorneys.

Election and Term

Sec. 2. There shall be elected by the qualified electors of Brazoria County at its general election in November 1954 and at the general election every two years thereafter an attorney for said county who shall be styled the Criminal District Attorney of Brazoria County, and who shall hold office for a period of two years and until his successor is elected and qualified.

Powers and Duties; Fees, Commissions and Perquisites

Sec. 3. It shall be the duty of the Criminal District Attorney of Brazoria County or his assistants as herein provided to be in attendance upon each term and all sessions of the District Courts of Brazoria County and all of the sessions and terms of the inferior courts of Brazoria County held for the transaction of criminal business, and to exclusively represent the State of Texas in all criminal matters pending before said courts and to represent Brazoria County in all matters pending before such courts and any other court where Brazoria County has pending business of any kind, matter or interest, and in addition to the specified powers given and the duties imposed upon him by this Act all such powers, duties, and privileges within Brazoria County as are by law now conferred, or which may hereafter be conferred upon the District and County Attorneys in the various counties and judicial districts of this State. He shall collect such fees, commissions and perquisites as are now, or may hereafter be provided by law for similar services rendered by District and County Attorneys of this State.

Commission and Compensation

Sec. 4. The Criminal District Attorney of Brazoria County, Texas, shall be commissioned by the Governor and shall receive as salary and compensation the following: a salary of Five Hundred (\$500) Dollars from the State of Texas for the salary of District Attorneys, and a sum of not less than Seventeen Thousand Five Hundred (\$17,500) Dollars and not more than Eighteen Thousand Five Hundred (\$18,500) Dollars a year to be paid out of the Officers' Salary Fund of Brazoria County, if adequate; if inadequate the Commissioners Court shall transfer the necessary funds from the General Fund of the County to the Officers' Salary Fund. The effective date of this Section is January 1, 1972.

Assistants and Stenographers; Appointment and Compensation; Office Expenses

Sec. 5. The Criminal District Attorney of Brazoria County, for the purpose of conducting the affairs of his office, and with the approval of the Commissioners Court shall be and is hereby authorized to appoint one First Assistant and two Assistants and fix their salaries as follows, and no less: said First Assistants shall receive the sum of not less than Twelve Thousand (\$12,000) Dollars per annum. Each of said Assistants shall receive the sum of not less than Ten Thousand (\$10,000) Dollars per annum.

The Criminal District Attorney of Brazoria County may employ four stenographers and fix their salaries at not less than Forty-Eight Hundred (\$4,800) Dollars per annum. All of the salaries mentioned in this section shall be payable from the Officers' Salary Fund of Brazoria County, if adequate; if inadequate the Commissioners Court shall

transfer the necessary funds from the General Fund of the County to the Officers' Fund.

In addition to the salaries provided the Criminal District Attorney, his First Assistant, Assistants, and Stenographers, the Commissioners Court of Brazoria County, Texas, shall provide such Criminal District Attorney of Brazoria County, Texas, such reasonable and necessary expenses for the operation of the Office of Criminal District Attorney of Brazoria County, Texas, as the Commissioners Court of Brazoria County, Texas, may deem necessary for the proper operation of the Office of the Criminal District Attorney of Brazoria County, Texas, and said expenses shall be paid as provided by law for such expenses.

Additional Assistants and Employees

Sec. 6. Should the Criminal District Attorney be of the opinion that the number of assistants, investigators, stenographers, or clerks as provided above is not adequate for the proper investigation and prosecution of crime and the effective performance of the duties of his office, he may with the approval of the Commissioners Court appoint additional assistants, investigators, clerks or stenographers and pay said employees such compensation as may be fixed by the Commissioners Court of Brazoria County, Texas.

Oath of Assistant and Investigators; Powers and Duties

Sec. 7. The Assistant Criminal District Attorneys of Brazoria County and the investigator or investigators, when so appointed shall take the constitutional oath of office, and said Criminal District Attorney of Brazoria County and his assistants shall have the exclusive right and it shall be their duty to represent the State of Texas in all criminal cases pending in any and all of the courts of Brazoria County, Texas, and any and all civil matters in any court anywhere involving interest, crime or right of Brazoria County as well as perform the other statutory or constitutional duties of District and County Attorneys.

Said Assistant Criminal District Attorneys of Brazoria County are authorized to administer oaths, file informations, examine witnesses before the grand jury and generally perform any duty devolving upon the Criminal District Attorney of Brazoria County and exercise any power and perform any duty conferred by law upon the Criminal District Attorney of Brazoria County.

Appointment and Term; Abolition of County Attorney's Office

Sec. 8. Upon the effective date of this Act the Governor of Texas shall immediately appoint a Criminal District Attorney of Brazoria County who shall hold office until the next general election and until his successor is duly elected and qualified. The office of County Attorney of Brazoria County is

abolished from and after the effective date of this Act.

District Attorney of 23rd Judicial District

Sec. 9. Upon the effective date of this Act the District Attorney of the 23rd Judicial District of Texas shall only represent the State of Texas in the counties of Fort Bend, Wharton and Matagorda.

The provisions of this Act shall not affect the office of District Attorney or the duties and powers of such District Attorney in the counties of Fort Bend, Wharton and Matagorda, and the District Attorney of the 23rd Judicial District shall continue to perform his duties in the counties of Fort Bend, Wharton and Matagorda as before, and it is specifically understood that this bill applies only to Brazoria County and not to the counties of Fort Bend, Wharton and Matagorda.

From the effective date of this bill the District Attorney of the 23rd Judicial District shall continue to fulfill the duties of District Attorney in the counties of Wharton, Fort Bend, and Matagorda, but his duties in the County of Brazoria shall be divested from him and invested in the resident Criminal District Attorney of Brazoria County, Texas, as created by this bill.

The District Attorney of the 23rd Judicial District shall only stand for election and be elected from the counties of Fort Bend, Wharton and Matagorda at the next general election, and a District Attorney for the 23rd Judicial District shall be elected every two years from the Counties of Fort Bend, Wharton and Matagorda at the general election every two years thereafter, but it is specifically understood that the present District Attorney of the 23rd Judicial District shall continue in office as such District Attorney in the counties of Fort Bend, Wharton and Matagorda until the next general election and until his successor is elected and qualified.

[Acts 1953, 53rd Leg., p. 409, ch. 118. Amended by Acts 1965, 59th Leg., p. 1037, ch. 513, § 1, eff. June 16, 1965; Acts 1971, 62nd Leg., p. 2620, ch. 860, § 1, eff. Jan. 1, 1972; Acts 1971, 62nd Leg., p. 2621, ch. 860, § 2, eff. June 9, 1971.]

Art. 326k-24. 109th Judicial District; Compensation of District Attorney

Salary

Sec. 1. The district attorney of the 109th Judicial District is entitled to receive from the state the annual salary provided in the General Appropriations Act for district attorneys.

Supplemental Compensation

Sec. 2. The commissioners courts of the counties comprising the 109th Judicial District may pay the district attorney supplemental compensation from county funds in an amount not to exceed \$2,000 per year.

Pro Rata Basis for Supplemental Compensation

Sec. 3. The supplemental compensation paid to the district attorney of the 109th Judicial District shall be paid by the several counties comprising the district in proportion to the population of each county at the last preceding federal census.

[Acts 1953, 53rd Leg., p. 567, ch. 212. Amended by Acts 1967, 60th Leg., p. 863, ch. 368, § 1, eff. June 8, 1967.]

Art. 326k-25. 30th Judicial District; Compensation of District Attorney

Additional Salary

Sec. 1. The District Attorney of the Thirtieth Judicial District of this State may be compensated for his services by an additional salary or not more than Five Thousand Dollars (\$5,000) per year. This is in addition to the salary now allowed by law.

Determination and Payment

Sec. 2. The salary to be paid as provided in Section 1 of this Act, may be fixed and determined by the Commissioners Court of Wichita County, Texas, and may be paid from the officers salary fund of said County, if adequate. If inadequate, the Commissioners Court may transfer the necessary funds from the general fund of the County to the officers salary fund.

[Acts 1953, 53rd Leg., p. 590, ch. 232. Amended by Acts 1963, 58th Leg., p. 979, ch. 403, § 1, eff. Aug. 23, 1963.]

Art. 326k-26. Harris County District Attorney for Criminal District Court

Creation of Office; Qualifications; Oath; Bond

Sec. 1. The constitutional office of District Attorney for the Criminal District Court of Harris County is hereby created, effective September 1, 1953, and said District Attorney shall possess all the qualifications and take the oath and give the bond required by the Constitution and laws of this State of other District Attorneys.

Election and Term

Sec. 2. There shall be elected by the qualified electors of Harris County, Texas, at the General Election in November, 1954, and at the General Election every two (2) years thereafter an attorney for said district who shall be styled the District Attorney for the Criminal District Court of Harris County, and who shall hold office for a period of two (2) years and until his successor is elected and qualified.

Powers and Duties

Sec. 3. It shall be the duty of the District Attorney, or his assistants, as herein provided to be in attendance upon each term and all sessions of the district courts of Harris County, Texas, and the District Attorney and his assistants shall have the right and it shall be their primary duty to represent the State of Texas in criminal cases pending in the

district and inferior courts of Harris County, Texas. The District Attorney shall also have control of any and all cases heard on habeas corpus before any civil district court of Harris County as well as before the Criminal Courts of said county. He shall have and exercise in addition to the specific powers given and duties imposed upon him and his assistants by this Act, all such powers, duties and privileges within Harris County as are now by law conferred and which may hereafter be conferred on District Attorneys in various counties and judicial districts of this State relative to criminal matters for and in behalf of the State of Texas.

Commission and Compensation

Sec. 4. The District Attorney shall be commissioned by the Governor and shall receive as compensation therefor, out of funds provided in the biennial Appropriation Act, and from the officers salary fund of Harris County an annual sum, the total of which shall be fixed by the Commissioners Court of Harris County at not less than Nine Thousand, Nine Hundred Dollars (\$9,900) nor more than Eleven Thousand, Eight Hundred Dollars (\$11,800). The allocation heretofore made under the provisions of Subsection B, Section 13 and Section 15, Subsection A of Chapter 465, Section 6(a), Second Called Session, Acts, Forty-fourth Legislature,¹ to the Criminal District Attorney of Harris County shall be made and allocated on the same basis to the District Attorney for the Criminal District Court of Harris County in the biennial Appropriation Act.

¹ See art. 3912e.

Assistants, Investigators, Reporters and Secretaries; Appointment and Salary

Sec. 5. Whenever the District Attorney shall require the services of assistants, investigators, reporters and secretaries in the performance of his duties, he shall apply to the Commissioners Court for authority to appoint such assistants, investigators, reporters and secretaries, stating by sworn application the number needed, the position to be filled, the duties to be performed and the amount to be paid. The Court shall make its order authorizing the appointment of such assistants, investigators, reporters, and secretaries and fix the compensation to be paid them, and determine the number to be appointed as in the discretion of said Court may be proper. Provided that in no case shall the Commissioners Court, or any member thereof, attempt to influence the appointment of any person as assistant, investigator, reporter or secretary in the District Attorney's office. All of the salaries payable by Harris County provided for in this Act shall be paid from the officers salary fund if adequate. If inadequate, the Commissioners Court shall transfer the necessary funds from the general fund of the county to the officers salary fund.

Oath and Powers of Assistants

Sec. 6. The Assistant District Attorneys of Harris County, when so appointed, shall take the constitutional oath of office, and they are hereby autho-

rized to administer oaths, file information, examine witnesses before the grand jury, and perform any duty devolving upon the District Attorney and shall exercise any power and perform any duty conferred by law upon the District Attorney relative to criminal matters.

Appointment and Term

Sec. 7. On September 1, 1953, the Governor of Texas shall immediately appoint the District Attorney for the Criminal District Court of Harris County, who shall hold office until the next General Election and until his successor is duly elected and qualified.

Abolition of Criminal District Attorney's Office

Sec. 8. The constitutional office of Criminal District Attorney of Harris County is abolished from and after September 1, 1953, and on September 1, 1953, the Criminal District Attorney for the Criminal District Court of Harris County shall transfer all criminal matters that his office is handling to the District Attorney including papers, documents, and instruments in connection with each and every criminal case. On September 1, 1953, the Criminal District Attorney of Harris County shall transfer all civil matters to the County Attorney of Harris County.

[Acts 1953, 53rd Leg., p. 784, ch. 315.]

Art. 326k-27. 118th Judicial District; Investigator and Adult Probation Officer

Sec. 1. The District Attorney of the 118th Judicial District is hereby authorized to appoint an investigator to perform such duties as may be assigned to him by the District Attorney. The investigator need not be licensed to practice law. He shall have authority to make arrests and execute process in criminal cases and shall have all the rights and duties of a peace officer in criminal cases and in cases growing out of the enforcement of all laws. He may be required to make a bond in an amount to be fixed by the District Attorney.

The investigator shall receive an annual salary in an amount to be fixed by the District Attorney of the 118th Judicial District not to exceed the amount paid to the Chief Deputy Sheriff, Howard County, or such greater sum as determined by the District Attorney with the approval of the County Commissioners, Howard County. In addition to his salary, the investigator shall be furnished an automobile for his use in the performance of his official duties, or, in the discretion of the County Commissioners of Howard County, shall be allowed the actual and necessary travel expense incurred by him in the proper discharge of his duties, not to exceed One Thousand, Two Hundred Dollars (\$1,200) a year. All claims for travel expense shall be approved by the District Attorney. The salary and automobile expense shall be paid from the General Fund, the

Officers' Salary Fund, or any other available fund of Howard County.

Sec. 2. The investigator shall also serve as adult probation officer in Howard County under the direction of the District Judge of the 118th Judicial District. For these services he may receive an additional annual salary not to exceed Three Hundred Dollars (\$300), subject to the approval of the Commissioners Court of Howard County, which shall be payable monthly and which shall be paid out of the General Fund, the Officers' Salary Fund, or any other available fund of Howard County. [Acts 1955, 54th Leg., p. 367, ch. 85. Amended by Acts 1962, 57th Leg., 3rd C.S., p. 193, ch. 72, § 1.]

Art. 326k-28. Galveston County Criminal District Attorney

Creation of Office; Qualifications; Oath; Bond

Sec. 1. The Constitutional office of Criminal District Attorney for Galveston County is hereby created and said Criminal District Attorney of Galveston County shall possess all the qualifications and take the oath of office and give the bond required by the Constitution and laws of this State of other District Attorneys.

Election and Term

Sec. 2. There shall be elected by the qualified electors of the 10th and 56th Judicial Districts of Galveston County at the general election in November, 1956, an attorney for said Judicial Districts and county who shall be styled the Criminal District Attorney of Galveston County and who shall hold office for the remainder of the Constitutional term of office of Criminal District Attorney of Galveston County. Thereafter, the qualified electors of said Judicial District and Galveston County shall elect a Criminal District Attorney at the general election in November, 1958, and every four years thereafter.

Powers and Duties; Fees, Commissions and Perquisites

Sec. 3. It shall be the duty of the Criminal District Attorney of Galveston county or his assistants as herein provided to be in attendance upon each term and all sessions of the district courts of Galveston County and all of the sessions and terms of the inferior courts of Galveston County held for the transaction of criminal business, and to exclusively represent the State of Texas in all criminal matters pending before said courts and to represent Galveston County in all matters pending before such courts and any other court where Galveston County has pending business of any kind, matter or interest, and in addition to the specified powers given and the duties imposed upon him by this Act all such powers, duties, and privileges within Galveston County as are by law now conferred, or which may hereafter be conferred upon the district and county attorneys in the various counties and judicial districts of this State. He shall collect such fees, commissions and perquisites as are now, or may

hereafter be provided by law for similar services rendered by district and county attorneys of this State.

Representation of County Employees

Sec. 3a. The Criminal District Attorney of Galveston County may represent any county official or employee other than members of the commissioners court of Galveston County in any civil matter pending in any district court in Galveston County or in any inferior court in Galveston County which arises out of the performance of official duties by such official or employee.

Commission and Compensation

Sec. 4. The Criminal District Attorney of Galveston County shall be commissioned by the Governor and shall receive that salary and compensation from the State of Texas as provided in the statutes and Constitution of the State of Texas and such additional sum to be paid out of the general fund of Galveston County as will bring the total salary, including the salary provided in the Constitution and statutes to an amount not less than the amount paid district judges from the General Revenue Fund of the State of Texas, but in no event to an amount more than the total salary, including supplements, paid any district judge in and for Galveston County. If the officers' salary fund of Galveston County is inadequate, the commissioners court shall transfer the necessary funds from the general fund of the county to the officers' salary fund.

Assistants and Secretaries; Appointment and Compensation; Expenses

Sec. 5. The Criminal District Attorney of Galveston County, for the purpose of conducting the affairs of his office, and with the approval of the Commissioners Court shall be and is hereby authorized to appoint one (1) first assistant and one (1) second assistant and fix their salaries as follows: said first and second assistant shall receive not less than Eight Thousand Four Hundred Dollars (\$8,400) per annum nor more than Eleven Thousand Dollars (\$11,000) per annum. The Criminal District Attorney of Galveston County, Texas, shall be and he is hereby authorized to appoint four (4) additional assistants in addition to the first and second assistant and fix their salaries as follows: two (2) of said additional assistants shall receive not less than Six Thousand Nine Hundred Dollars (\$6,900) per annum nor more than Nine Thousand Dollars (\$9,000) per annum, and two (2) assistants shall receive not less than Six Thousand One Hundred Eighty Dollars (\$6,180) per annum nor more than Eight Thousand Dollars (\$8,000) per annum.

The Criminal District Attorney of Galveston County may employ three (3) secretaries and pay said employees not less than Three Thousand Six Hundred Dollars (\$3,600) per annum nor more than Four Thousand Eight Hundred Dollars (\$4,800) per annum. All of the salaries mentioned in this Sec-

tion shall be payable from the officers salary fund, if adequate, if inadequate the Commissioners Court shall transfer the necessary funds from the general fund of the county to the officers salary fund.

In addition to the salaries provided the Criminal District Attorney and his assistants, the Commissioners Court of Galveston County may allow such Criminal District Attorney and his assistants such necessary expenses as within the discretion of the court seem reasonable and said expenses shall be paid as provided by law for such other claims of expenses.

Additional Assistants and Employees

Sec. 6. Should the Criminal District Attorney be of the opinion that the number of assistants, investigators, stenographers, or clerks, as provided above, is not adequate for the proper investigation and prosecution of crime and the effective performance of the duties of his office, he may with the approval of the Commissioners Court appoint additional assistants, investigators, clerks or stenographers and pay said employees such compensation as may be fixed by the Commissioners Court of Galveston County, Texas.

Oath; Powers and Duties of Assistant and Investigator

Sec. 7. The Assistant Criminal District Attorneys of Galveston County and the investigator, when so appointed shall take the constitutional oath of office, and said Criminal District Attorney of Galveston County and his assistants shall have the exclusive right and it shall be their duty to represent the State of Texas in all criminal cases pending in any and all of the courts of Galveston County, Texas, and any and all civil matters in any court anywhere involving interest, crime or right of Galveston County as well as perform the other statutory or Constitutional duties of district and county attorneys.

Said Assistant Criminal District Attorneys of Galveston County are authorized to administer oaths, file information, examine witnesses before the grand jury and generally perform any duty devolving upon the Criminal District Attorney and exercise any power and perform any duty conferred by law upon the Criminal District Attorney of Galveston County.

Appointment and Term; Abolition of County Attorney's Office

Sec. 8. Upon the effective date of this Act the Governor of Texas shall immediately appoint a Criminal District Attorney of Galveston County who shall hold office until the next general election and until his successor is duly elected and qualified. The office of County Attorney of Galveston County

is abolished from and after the effective date of this Act.

[Acts 1955, 54th Leg., p. 454, ch. 124. Amended by Acts 1961, 57th Leg., p. 332, ch. 178, § 1; Acts 1963, 58th Leg., p. 922, ch. 353, § 1, eff. Aug. 23, 1963; Acts 1969, 61st Leg., 2nd C.S., p. 135, ch. 33, §§ 1, 2, eff. Dec. 9, 1969; Acts 1973, 63rd Leg., p. 1041, ch. 405, § 1, eff. Aug. 27, 1973; Acts 1979, 66th Leg., p. 1637, ch. 684, § 1, eff. Aug. 27, 1979.]

Art. 326k-29. Repealed by Acts 1979, 66th Leg., p. 1129, ch. 540, § 3, eff. Aug. 27, 1979

Art. 326k-29a. 105th Judicial District; Compensation of District Attorney

Salary

Sec. 1. The District Attorney of the 105th Judicial District of Texas shall be compensated for his services by an annual salary which shall be an amount equal to the salary paid to District Attorneys by the State of Texas plus the salary supplementation herein provided.

Supplemental Salary

Sec. 2. The supplemental salary to be paid the District Attorney of the 105th Judicial District shall be the sum of not more than \$12,000, to be paid by the Commissioners Courts of the counties comprising the 105th Judicial District, which sum shall be paid to the District Attorney in addition to all compensation which he is authorized to receive by law from the State of Texas.

Pro Rata Basis for Supplemental Salary; Payment

Sec. 3. The supplemental salary herein provided for the District Attorney of the 105th Judicial District shall be paid by the several counties comprising said District on a pro rata basis according to the population of each county as determined by the last preceding Federal Census. Such supplement may be paid from the Officers Salary Funds of said counties; or, if said funds are inadequate for such purpose, the respective Commissioners Courts may transfer the necessary funds to pay said supplement from the general funds of such counties to the Officers Salary Funds.

[Acts 1971, 62nd Leg., p. 1301, ch. 341, eff. May 24, 1971. Amended by Acts 1979, 66th Leg., p. 1129, ch. 540, § 1, eff. Aug. 27, 1979.]

Sections 4 and 5 of the 1971 act provided:

"Sec. 4. Acts 1955, 54th Legislature, Regular Session, Page 528, Chapter 161; and Acts 1965, 59th Legislature, Regular Session, Page 145, Chapter 60; and all other laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict. It is specifically provided that the provisions hereof shall govern the compensation of the District Attorney of the 105th Judicial District to the exclusion of all other laws or parts of laws now in effect on the same subject.

"Sec. 5. Should any Section, paragraph or other part of this Act be declared unconstitutional or invalid for any reason, such declaration shall not affect the constitutionality or validity of any other Section, paragraph or part of this Act; and the Legislature specifically declares that it would have passed the remainder of this Act notwithstanding the omission therefrom of any Section,

paragraph or other part held or declared to be unconstitutional or invalid."

Art. 326k-30. Midland County Special Judicial District; Investigator and Stenographer

Investigator; Appointment, Qualifications and Powers

Sec. 1. The District Attorney of the Special Judicial District of Midland County, with the approval of the Commissioners Court of Midland County, is hereby authorized to appoint an investigator to perform such duties as may be assigned to him by the District Attorney. The investigator need not be licensed to practice law. He shall have authority to make arrests and execute process in criminal cases and shall have all the rights and duties of a peace officer in criminal cases and in cases growing out of the enforcement of all laws. He may be required to make a bond in an amount to be fixed by the District Attorney.

Salary and Expenses

Sec. 2. The investigator shall receive an annual salary, payable monthly, in an amount to be fixed by the District Attorney of the Special Judicial District of Midland County with the approval of the Commissioners Court of Midland County. In addition to his salary, the investigator may be allowed the actual and necessary travel expense incurred in the proper discharge of his duties, not to exceed the amount fixed by the Commissioners Court of Midland County. All claims for travel expense shall be approved by the District Attorney. The salary and travel expense of the investigator shall be paid from the General Fund, the Officers' Salary Fund, or any other available fund of Midland County.

Stenographer; Appointment and Salary

Sec. 3. The District Attorney of the Special Judicial District of Midland County is hereby authorized to appoint a stenographer, with the approval of the Commissioners Court of Midland County, who shall receive an annual salary, payable monthly, in an amount to be fixed by the District Attorney with the approval of the Commissioners Court. The salary of the stenographer shall be paid from the General Fund, the Officers' Salary Fund, or any other available fund of Midland County.

Expiration of District; Appointment of Investigator and Stenographer

Sec. 4. In the event the Special Judicial District of Midland County is abolished or expires by operation of law, the District Attorney of the Judicial District exercising jurisdiction in Midland County shall be authorized to appoint an investigator and a stenographer to serve in Midland County under the same terms as provided in Sections 1, 2 and 3 of this Act.

[Acts 1955, 54th Leg., p. 529, ch. 162.]

Art. 326k-30a. 142nd Judicial District of Midland County; Assistants, Investigators and Stenographers; Compensation of District Attorney

Application for Appointment of Assistants, Investigators or Stenographers; Order Authorizing Employment; Appointment

Sec. 1. Whenever the District Attorney of the 142nd Judicial District shall require the services of assistants, investigators or stenographers in the performance of his duty, he shall apply to the Commissioners Court of Midland County for authority to appoint such assistants, investigators or stenographers, stating by sworn application the number needed, the position to be filled, and the amount to be paid. Upon receipt of such application the Commissioners Court of Midland County may enter an order authorizing the employment of such assistants, investigators and stenographers and fix the compensation to be paid them within the limitations herein prescribed and determine the number of to be appointed as in the discretion of the Commissioners Court may be proper. In no case shall the Commissioners Court or any member thereof attempt to influence the employment of any person as assistant, investigator or stenographer. Upon entry of such order the District Attorney of the 142nd Judicial District shall be authorized to employ the assistants, investigators and stenographers as authorized by the Commissioners Court of Midland County provided that the compensation paid each of said employees shall not be less than the minimum nor exceed the maximum amounts prescribed in Sections 2 and 3 of this Act.

Salary of Stenographers

Sec. 2. Each stenographer of the District Attorney in the 142nd Judicial District shall be paid a salary of not more than Seven Thousand Five Hundred Dollars (\$7,500) per annum as determined by the Commissioners Court of Midland County, to be paid in equal monthly installments out of the officers' salary fund, the general fund, or any other available fund of Midland County.

Salary of Assistants and Investigators

Sec. 3. Each assistant of the District Attorney of the 142nd Judicial District shall be paid a salary of not more than Twelve Thousand Dollars (\$12,000) per annum as determined by the Commissioners Court of Midland County, to be paid in equal monthly installments out of the officers' salary fund, the general fund, or any other available fund of Midland County. Each investigator shall be paid a salary of not more than Nine Thousand Dollars (\$9,000) per annum as determined by the Commissioners Court of Midland County, to be paid in equal monthly installments out of the officers' salary fund, the general fund, or any other available fund of Midland County.

Qualifications of Assistants; Duties

Sec. 4. The assistants to the District Attorney of the 142nd Judicial District must be duly and legally licensed to practice law in the State of Texas and shall be authorized to perform all duties imposed on the District Attorney by law.

Qualifications of Investigators; Powers and Duties; Expenses

Sec. 5. Investigators for the District Attorney need not be licensed to practice law. They shall have authority to make arrests and execute process in criminal cases, and shall have the rights and duties of a peace officer in criminal cases and in cases growing out of the enforcement of all laws. In addition to their salaries, investigators may be allowed actual and necessary travel expenses incurred in the proper discharge of their duties, not to exceed the amount fixed by the Commissioners Court of Midland County, Texas. All claims for travel expenses for the investigators shall be paid from the General Fund, the Officer's Salary Fund, or any other available fund of Midland County, Texas.

Automobile; Office Furniture and Supplies

Sec. 6. The Commissioners Court of Midland County, Texas, is authorized to furnish an automobile or automobiles for use of the District Attorney's office in carrying out the official duties of the office, and to provide for the maintenance thereof. It is further authorized to furnish telephones, typewriters, office furniture, supplies, and such other items and equipment as it deems necessary to carry out the official duties of the District Attorney's office, and to pay the necessary and essential expenses incident to carrying out the official duties of the District Attorney and his office.

Bond

Sec. 7. The stenographers, special investigators, and assistants to the District Attorney may be required by the Commissioners Court of Midland County, Texas, to give bond in such amount as the court may direct.

Compensation of District Attorney

Sec. 8. The District Attorney of the 142nd Judicial District shall be compensated for his services in such amount as may be fixed by the General Law relating to the salary to be paid to District Attorneys by the state, and in addition his salary may be supplemented by the Commissioners Court of Midland County. The Commissioners Court of Midland County in its discretion is authorized to pay the supplemental salary in such amount as it may determine.

[Acts 1959, 56th Leg., p. 868, ch. 394, eff. May 30, 1959. Amended by Acts 1967, 60th Leg., p. 1990, ch. 737, § 1, eff. Aug. 28, 1967; Acts 1971, 62nd Leg., p. 3366, ch. 1028, § 1, eff. June 15, 1971.]

Art. 326k-31. 109th Judicial District; Investigators or Assistants**Appointment and Salary**

Sec. 1. The District Attorney of the 109th Judicial District is hereby authorized to appoint not more than two (2) investigators or assistants to serve in the counties of the district in which the Commissioners Courts of the respective counties approve the appointment. Each of such investigators or assistants shall receive a salary of not less than Three Thousand, Six Hundred Dollars (\$3,600) and not more than Five Thousand, Two Hundred Dollars (\$5,200) per annum. The Commissioners Court of each county approving the appointment shall pay to each investigator or assistant approved by it an amount annually of not less than its pro rata part of Three Thousand, Six Hundred Dollars (\$3,600), prorated among the counties which approve the appointment on the basis of the total number of criminal cases filed in the 109th District Court in the respective counties during the preceding Calendar year.

Qualifications

Sec. 2. The assistants to the District Attorney must be duly and legally licensed to practice law in the State of Texas; however, the investigators need not be licensed to practice law.

Expenses; Proration Among Counties

Sec. 3. Each investigator or assistant provided for in this Act shall be allowed a reasonable amount for expenses not to exceed One Thousand, Two Hundred Dollars (\$1,200) per annum, prorated among the counties approving his appointment on the basis of the total number of criminal cases filed in the 109th District Court in the respective counties during the preceding Calendar year.

Payment of Salary and Expenses

Sec. 4. The salary and expenses of the investigators or assistants provided for in the Act shall be paid monthly by the Commissioners Court of each county approving such appointment, out of the Officers' Salary Fund of the county.

Bond; Powers of Arrest and Process

Sec. 5. The investigators or assistants provided for in this Act may be required to give bond and shall have authority under the direction of the District Attorney to make arrests and execute process in criminal cases and in cases growing out of the enforcement of all laws.

[Acts 1955, 54th Leg., p. 589, ch. 198.]

Art. 326k-32. Cass County Criminal District Attorney**Creation of Office; Qualifications; Oath; Bond**

Sec. 1. The constitutional office of Criminal District Attorney of Cass County, Texas is hereby

created and said Criminal District Attorney of Cass County shall possess all the qualifications and take the oath of office and give the bond required by the Constitution and laws of this State of other district attorneys.

Election and Term

Sec. 2. There shall be elected by the qualified electors of Cass County at the General Election in November, 1956, an attorney for said County who shall be styled the Criminal District Attorney of Cass County and who shall hold office for the remainder of the constitutional term of office of Criminal District Attorney of Cass County. Thereafter, the qualified electors of Cass County shall elect a Criminal District Attorney at the General Election in November, 1958, and every four (4) years thereafter.

Powers and Duties; Fees, Commissions and Perquisites

Sec. 3. It shall be the duty of the Criminal District Attorney of Cass County, as herein provided, to be in attendance upon each term and all sessions of the District Court of Cass County and all of the sessions and terms of the inferior courts of Cass County held for the transaction of criminal business, and to exclusively represent the State of Texas in all criminal matters pending before said courts and to represent Cass County in all matters pending before such courts and any other court where Cass County has pending business of any kind, nature or interest and in addition to the specified powers given and the duties imposed upon him by this Act, all such powers, duties and privileges within Cass County as are now by law conferred or which may hereafter be conferred upon the district and county attorneys in the various counties and judicial districts of this State. He shall collect such fees, commissions and perquisites as are now or hereafter may be provided by law for similar services rendered by district and county attorneys of this State.

Commission and Salary

Sec. 4. The Criminal District Attorney of Cass County, Texas, shall be commissioned by the Governor and shall receive as salary and compensation the following: The salary of the Criminal District Attorney of Cass County shall be set by the Commissioners Court at a sum of not less than Five Thousand Dollars (\$5,000) nor more than Seven Thousand Five Hundred Dollars (\$7,500) per annum to be paid out of the Officers Salary Fund of Cass County, if adequate; if inadequate, the Commissioners Court shall transfer the necessary funds from the General Fund of the County to the Officers Salary Fund.

Secretary; Appointment and Salary

Sec. 5. The Criminal District Attorney of Cass County, for the purposes of conducting the affairs of his office and with the approval of the Commis-

sioners Court, shall be and is hereby authorized to appoint one (1) secretary and fix her salary at not less than Twelve Hundred Dollars (\$1200) per annum to be paid out of the General Fund of Cass County.

Appointment and Term; Abolition of County Attorney's Office

Sec. 6. Upon the effective date of this Act the Governor of Texas shall immediately appoint a Criminal District Attorney of Cass County who shall hold office until the next General Election and until his successor is duly elected and qualified. The office of County Attorney of Cass County is abolished from and after the effective date of this Act.

District Attorney of 5th Judicial District

Sec. 7. Upon the effective date of this Act the District Attorney of the Fifth Judicial District of Texas shall only represent the State of Texas in the County of Bowie. The provisions of this Act shall not affect the office of District Attorney or the duties and powers of such District Attorney in the County of Bowie and the District Attorney shall continue to perform his duties in the County of Bowie as before, and it is specifically understood that this Act only applies to Cass County and not to the County of Bowie.

From the effective date of this Act the District Attorney of the Fifth Judicial District shall continue to fulfill the duties of District Attorney in the County of Bowie but his duties in the County of Cass shall be divested from him and invested in the resident Criminal District Attorney of Cass County, Texas, as created by this Act.

The District Attorney of the Fifth Judicial District shall only stand for election and be elected in the County of Bowie at the next General Election in 1956 and every four (4) years thereafter, but it is specifically understood that the present District Attorney of the Fifth Judicial District shall continue in office as such District Attorney in the County of Bowie until the next General Election and until his successor is elected and qualified.

[Acts 1955, 54th Leg., p. 824, ch. 306.]

Abolition of Office

Acts 1967, 60th Leg., p. 853, ch. 362, § 8 abolished the office of district attorney of the Fifth Judicial District, effective January 1, 1969. See article 326k-58, § 8.

Art. 326k-33. Harrison County Criminal District Attorney

Creation of Office; Qualifications; Oath; Bond

Sec. 1. The Constitutional office of Criminal District Attorney for Harrison County is hereby created and said Criminal District Attorney of Harrison County shall possess all the qualifications and take the oath of office and give the bond required by the

Constitution and laws of this State of other District Attorneys.

Election and Term

Sec. 2. There shall be elected by the qualified electors of the 71st Judicial District of Harrison County at its general election in November, 1956, and at the general election every four (4) years thereafter an attorney for said Judicial District and County who shall be styled the Criminal District Attorney of Harrison County and who shall hold office for a period of four (4) years and until his successor is elected and qualified.

Powers and Duties; Fees, Commissions and Perquisites

Sec. 3. It shall be the duty of the Criminal District Attorney of Harrison County or his assistants as herein provided to be in attendance upon each term and all sessions of the District Courts of Harrison County and all of the sessions and terms of the inferior Courts of Harrison County held for the transaction of criminal business, and to exclusively represent the State of Texas in all criminal matters pending before said Courts and to represent Harrison County in all matters pending before such Courts and any other Court where Harrison County has pending business of any kind, matter or interest, and in addition to the specified powers given and the duties imposed upon him by this Act all such powers, duties, and privileges within Harrison County as are by law now conferred, or which may hereafter be conferred upon the District and County Attorneys in the various Counties and Judicial Districts of this State. He shall collect such fees, commissions and perquisites as are now, or may hereafter be provided by law for similar services rendered by District and County Attorneys of this State.

Commission and Compensation; Private Practice of Law

Sec. 4. (a) The Criminal District Attorney of Harrison County, Texas, shall be commissioned by the Governor and shall be compensated for his services by the state in such manner and in such amount as may be fixed by the general law relating to the salary to be paid to district attorneys by the state. The Commissioners Court may pay the criminal district attorney any compensation it deems advisable but shall pay the criminal district attorney at least an amount necessary to provide him a total salary from the county and the state of not less than \$16,000 per annum.

(b) The Criminal District Attorney of Harrison County, if paid at least Sixteen Thousand Dollars (\$16,000) per year, and his assistants, if paid at least Ten Thousand Dollars (\$10,000) per year, may not engage in the private practice of civil law and may not refer legal business to others engaged in the private practice of law. This subsection does not apply to those acts required in the performance of the official duties as Criminal District Attorney.

Assistants, Investigator and Stenographers; Appointment, Salary and Expenses

Sec. 5. (a) The Criminal District Attorney of Harrison County, for the purpose of conducting the affairs of his office, and with the approval of the Commissioners Court shall be and is hereby authorized to appoint assistants and fix their annual salary as follows: Said assistants shall receive not more than Twelve Thousand Dollars (\$12,000).

(b) The Criminal District Attorney of Harrison County may employ one investigator and he may employ two (2) stenographers and pay said employees such compensation as may be fixed by the Commissioners Court of Harrison County, Texas. All the salaries mentioned in this section shall be payable from the officers salary fund, if adequate; if inadequate the Commissioners Court shall transfer the necessary funds from the general fund of the County to the officers salary fund.

(c) In addition to the salaries provided the Criminal District Attorney, his assistants and investigators, the Commissioners Court of Harrison County may allow such Criminal District Attorney, his assistants and investigators, such necessary expenses as within the discretion of the Court seems reasonable and said expenses shall be paid as provided by law for such other claims of expenses.

Additional Assistants and Employees

Sec. 6. Should the Criminal District Attorney be of the opinion that the number of assistants, investigators, stenographers, or clerks, as provided above, is not adequate for the proper investigation and prosecution of crime and the effective performance of the duties of his office, he may with the approval of the Commissioners Court appoint additional assistants, investigators, clerks or stenographers and pay said employees such compensation as may be fixed by the Commissioners Court of Harrison County, Texas.

Oath of Assistant and Investigator; Powers and Duties

Sec. 7. The Assistant Criminal District Attorneys of Harrison County and the investigator, when so appointed shall take the Constitutional oath of office, and said Criminal District Attorney of Harrison County and his assistants shall have the exclusive right and it shall be their duty to represent the State of Texas in all criminal cases pending in any and all of the Courts of Harrison County, Texas, and any and all civil matters in any Court anywhere involving interest, crime or right of Harrison County as well as perform the other statutory or Constitutional duties of District and County Attorneys.

Said Assistant Criminal District Attorneys of Harrison County are authorized to administer oaths, file information, examine witnesses before the grand jury and generally perform any duty devolving upon the Criminal District Attorney and exercise any power and perform any duty conferred by

law upon the Criminal District Attorney of Harrison County.

**Appointment and Term; Abolition of
County Attorney's Office**

Sec. 8. Upon the effective date of this Act the Governor of Texas shall immediately appoint a Criminal District Attorney of Harrison County who shall hold office until the next general election and until his successor is duly elected and qualified. The office of County Attorney of Harrison County is abolished from and after the effective date of this Act.

[Acts 1955, 54th Leg., p. 964, ch. 375. Amended by Acts 1971, 62nd Leg., p. 2647, ch. 870, §§ 1, 2, eff. Aug. 30, 1971; Acts 1975, 64th Leg., p. 1385, ch. 533, § 1, eff. Sept. 1, 1975.]

**Art. 326k-34. Repealed by Acts 1967, 60th Leg.,
p. 1832, ch. 709, § 4, eff. Aug. 28, 1967**

The repealed article was derived from Acts 1955, 54th Leg., p. 980, ch. 381.

Acts 1967, 60th Leg., p. 1832, ch. 709, § 1 provided: "The office of Criminal District Attorney of Polk County is abolished."

See, now, art. 331k.

**Art. 326k-35. 70th and 161st Judicial Districts;
Compensation of District Attorney**

Sec. 1. The District Attorney for the 70th and 161st Judicial Districts shall be compensated for his services in such amount as may be fixed by the General Law relating to the salary to be paid to District Attorneys by the State, and in addition his salary may be supplemented by the Commissioners Court of Ector County. The Commissioners Court of Ector County in its discretion is authorized to pay the supplemental salary in such amount as it may determine.

Sec. 2. Repealed by Acts 1967, 60th Leg., p. 1989, ch. 737, § 2, eff. Aug. 28, 1967.

[Acts 1955, 54th Leg., p. 1055, ch. 398. Amended by Acts 1967, 60th Leg., p. 1989, ch. 737, § 2, eff. Aug. 28, 1967; Acts 1973, 63rd Leg., p. 741, ch. 321, § 1, eff. June 12, 1973.]

**Art. 326k-36. Randall County Criminal District
Attorney**

Creation of Office; Qualifications; Oath; Bond

Sec. 1. The constitutional office of Criminal District Attorney of Randall County, Texas, is hereby created and said Criminal District Attorney of Randall County shall possess all the qualifications and take the oath of office and give the bond required by the Constitution and laws of this State of other District Attorneys.

Election and Term

Sec. 2. There shall be elected by the qualified electors of Randall County at the general election in November, 1956, an attorney for said county who shall be styled the Criminal District Attorney of Randall County and who shall hold office for the

remainder of the constitutional term of office of Criminal District Attorney of Randall County. Thereafter, the qualified electors of Randall County shall elect a Criminal District Attorney at the general election in November, 1958, and every four years thereafter.

Powers and Duties; Fees, Commissions and Perquisites

Sec. 3. It shall be the duty of the Criminal District Attorney of Randall County or his assistant, as herein provided, to be in attendance upon each term and all sessions of the district courts of Randall County and all of the sessions and terms of the inferior courts of Randall County held for the transaction of criminal business, and to exclusively represent the State of Texas in all criminal matters pending before said courts and to represent Randall County in all matters pending before such courts and any other court where Randall County has pending business of any kind, nature or interest and in addition to the specified powers given and the duties imposed upon him by this Act, all such powers, duties and privileges within Randall County as are now by law conferred or which may hereafter be conferred upon the District and County Attorneys in the various counties and judicial districts of this State. He shall collect such fees, commissions and perquisites as are now or hereafter may be provided by law for similar services rendered by District and County Attorneys of this State.

Commission and Salary

Sec. 4. The Criminal District Attorney of Randall County, Texas shall be commissioned by the Governor and shall receive as salary and compensation the following: A salary of Five Hundred (\$500.00) Dollars from the State of Texas as provided in the Constitution of the State of Texas for the salary of District Attorneys and the sum of not less than Five Thousand (\$5,000.00) Dollars nor more than Seven Thousand, Five Hundred (\$7,500.00) Dollars per annum to be paid out of the Officers Salary Fund of Randall County, if adequate; if inadequate, the Commissioners Court shall transfer the necessary funds from the General Fund of the county to the Officers Salary Fund.

**Assistant and Secretary; Appointment and
Salary; Expenses**

Sec. 5. The Criminal District Attorney of Randall County, for the purpose of conducting the affairs of his office and with the approval of the Commissioners Court, shall be and is hereby authorized to appoint one assistant, when needed, the salary of whom shall be fixed at a reasonable sum by the Commissioners Court of Randall County. The Criminal District Attorney of Randall County, with the approval of the Commissioners Court, is hereby authorized to appoint one secretary, when needed, the salary of whom shall be fixed at a reasonable sum by the Commissioners Court of Randall County. In addition to the salaries provided for the Criminal District Attorney, his assistant

and secretary, the Commissioners Court of Randall County may allow such Criminal District Attorney, his assistant and secretary such necessary expenses as within the discretion of the court seem reasonable, and said expenses shall be paid as provided by law for other such claims or expenses.

Oath of Assistant; Powers and Duties

Sec. 6. The Assistant Criminal District Attorney of Randall County, when so appointed, shall take the Constitutional oath of office and said Criminal District Attorney of Randall County and his assistant shall have the exclusive right and it shall be their duty to represent the State of Texas in all criminal cases pending in any and all of the courts of Randall County, Texas and any and all civil matters in any court anywhere involving interest or right of Randall County as well as the performance of the other Statutory and Constitutional duties imposed upon District and County Attorneys. Said Assistant Criminal District Attorney of Randall County is authorized to administer oaths, file informations, examine witnesses before the grand jury, and generally perform any duty devolving upon the Criminal District Attorney of Randall County and exercise any power and perform any duty conferred by law upon the Criminal District Attorney of Randall County.

Appointment and Term; Abolition of County Attorney's Office

Sec. 7. Upon the effective date of this Act the Governor of Texas shall immediately appoint a Criminal District Attorney of Randall County who shall hold office until the next general election and until his successor is duly elected and qualified. The office of County Attorney of Randall County is abolished from and after the effective date of this Act.

District Attorney of 47th Judicial District

Sec. 8. Upon the effective date of this Act the District Attorney of the 47th Judicial District of Texas shall only represent the State of Texas in the Counties of Potter and Armstrong. The provisions of this Act shall not affect the office of District Attorney or the duties and powers of such District Attorney in the Counties of Potter and Armstrong and the District Attorney shall continue to perform his duties in the Counties of Potter and Armstrong as before, and it is specifically understood that this Act only applies to Randall County and not to the Counties of Potter and Armstrong.

From the effective date of this Act the District Attorney of the 47th Judicial District shall continue to fulfill the duties of District Attorney in the Counties of Potter and Armstrong, but his duties in the County of Randall shall be divested from him and invested in the resident Criminal District Attorney of Randall County, Texas as created by this Act.

The District Attorney of the 47th Judicial District shall only stand for election and be elected in the Counties of Potter and Armstrong at the next general election in 1956 and every four years thereafter, but it is specifically understood that the present District Attorney of the 47th Judicial District shall continue in office as such District Attorney in the Counties of Potter and Armstrong until the next general election and until his successor is elected and qualified.

[Acts 1955, 54 Leg., p. 1213, ch. 485.]

Art. 326k-36a. 47th Judicial District Attorney

Representation of State

Sec. 1. The District Attorney of the 47th Judicial District shall represent the State of Texas in all criminal cases before all the district courts of Potter and Armstrong counties.

Appointment of Assistants, Investigators, Secretaries and Office Personnel

Sec. 2. The District Attorney of the 47th Judicial District may appoint such assistant district attorneys, investigators, secretaries, and other office personnel as necessary to the proper performance of his official duties. The number of assistants, investigators, secretaries, and other office personnel and the compensation paid are subject to the approval of the Commissioners Court of Potter County.

Salary

Sec. 3. The District Attorney of the 47th Judicial District may be paid a salary in an amount equal to the total salary paid from state and county funds to the Judge of the 47th Judicial District Court.

Payment of Salaries

Sec. 4. The Commissioners Court of Potter County is authorized to pay the salaries of the District Attorney of the 47th Judicial District and his office personnel from the officers salary fund, the general fund, any other available fund, or any combination thereof at the discretion of the commissioners court.

[Acts 1961, 57th Leg., p. 751, ch. 348, eff. June 16, 1961. Amended by Acts 1969, 61st Leg., p. 250, ch. 97, § 1, eff. April 28, 1969; Acts 1975, 64th Leg., p. 1874, ch. 590, § 1, eff. Sept. 1, 1975.]

Art. 326k-37. 70th Judicial District; Assistants, Investigators and Stenographers

Employment of Assistants, Investigators and Stenographers

Sec. 1. From and after the effective date of this Act the District Attorney of the 70th Judicial District is hereby authorized to employ stenographers, assistants and investigators in the manner prescribed in Section 2 of this Act.

Application for Appointment of Assistants, Investigators or Stenographers; Order Authorizing Employment; Appointment

Sec. 2. Whenever the District Attorney of the 70th Judicial District shall require the services of assistants, investigators or stenographers in the performance of his duty, he shall apply to the Commissioners Court of Ector County for authority to appoint such assistants, investigators or stenographers, stating by sworn application the number needed, the position to be filled, and the amount to be paid. Upon receipt of such application the Commissioners Court of Ector County may enter an order authorizing the employment of such assistants, deputies and stenographers and fix the compensation to be paid them within the limitations herein prescribed and determine the number to be appointed as in the discretion of the Commissioners Court may be proper; provided that in no case shall the Commissioners Court or any member thereof attempt to influence the employment of any person as assistant, investigator or stenographer. Upon entry of such order the District Attorney of the 70th Judicial District shall be authorized to employ the assistants, investigators and stenographers as authorized by the Commissioners Court of Ector County provided that the compensation paid them shall not exceed the maximum amount prescribed in Section 3 of this Act.

Salaries and Qualifications

Sec. 3. Each stenographer of the District Attorney in the 70th Judicial District shall be paid a salary of not less than Two Thousand, Four Hundred Dollars (\$2,400.00) per annum and not more than Four Thousand, Eight Hundred Dollars (\$4,800.00) per annum as determined by the Commissioners Court of Ector County to be paid out of the Officers Salary Fund of the county.

Each assistant and each investigator of the District Attorney of the 70th Judicial District shall be paid a salary of not less than Three Thousand, Six Hundred Dollars (\$3,600.00) per annum and not more than Six Thousand, Seven Hundred Fifty Dollars (\$6,750.00) per annum as determined by the Commissioners Court of Ector County to be paid out of the Officers Salary Fund of the county.

The assistants to the District Attorney of the 70th Judicial District must be duly and legally licensed to practice law in the State of Texas and shall be authorized to perform all duties imposed upon the District Attorney by law. The investigators need not be duly and legally licensed to practice law in the State of Texas.

Expenses

Sec. 4. The investigators or assistants provided for in this Act shall be allowed their reasonable and necessary expenses incurred in the conduct of their official duties; provided, however, said expenses shall be paid only after approval of the District

Attorney and the Commissioners Court of Ector County.

Bond; Powers of Arrest and Process

Sec. 5. The investigators or assistants provided for in this Act may be required to give bond and shall have authority under the direction of the District Attorney to make arrests and execute process in criminal cases and in cases growing out of the enforcement of all laws.

[Acts 1957, 55th Leg., p. 9, ch. 8.]

Art. 326k-38. Repealed by Acts 1961, 57th Leg., p. 11, ch. 7, § 6, eff. Feb. 23, 1961

See, now article 326k-38a.

Art. 326k-38a. Repealed by Acts 1975, 64th Leg., p. 251, ch. 100, § 6, eff. April 30, 1975

See, now, art. 326k-38b.

Art. 326k-38b. 49th Judicial District Attorney

Representation of State; Duties of Webb County Attorney

Sec. 1. The District Attorney of the 49th Judicial District shall represent the state in all criminal cases in the district court for the 49th Judicial District and shall represent the state in all criminal cases in Webb County. The County Attorney of Webb County shall continue to handle and prosecute all juvenile, child welfare, and mental health cases in Webb County and the other civil cases in Webb County where the State of Texas is a party, in addition to the other duties imposed by law on the office of county attorney.

Compensation

Sec. 2. The district attorney shall be compensated in such amount as may be fixed by general law relating to salaries paid to district attorneys by the state and, in addition, his compensation may be supplemented by the commissioners court of any one or more of the counties composing the 49th Judicial District in an amount to be fixed by the commissioners court. Also, the commissioners court of any county in the district may supplement the salary of the district attorney for the prosecution of misdemeanor cases in the county.

Assistants, Investigators and Secretaries; Compensation

Sec. 3. The commissioners court of any county in the district may provide the salary of any assistant district attorney, investigator, or secretary and may prescribe as a qualification for retaining the job that such personnel reside in the county. Assistant district attorneys and investigators, in addition to their salaries, may be allowed actual and necessary travel expenses incurred in the discharge of their duties, not to exceed the amount fixed by the district attorney and approved by the commissioners court. All claims for travel expenses may

be paid from the general fund or any other available funds of the county.

Office Equipment and Expenses; Automobiles

Sec. 4. The commissioners court of any county in the district may furnish telephone service, typewriters, office furniture, office space, supplies, and such other items and equipment as are necessary to carry out the official duties of the district attorney's office, and to pay the expenses incident to the operation of the district attorney's office. The commissioners courts are further authorized to furnish automobiles for the use of the district attorney's office for the purpose of conducting the official duties of the office, and to provide the maintenance thereof.

Gifts and Grants

Sec. 5. The commissioners court of the county or the counties composing the district may accept gifts and grants from any foundation or association for the purpose of financing adequate and effective prosecution programs within the county or district.

[Acts 1975, 64th Leg., p. 251, ch. 100, §§ 1 to 5, eff. April 30, 1975. Amended by Acts 1979, 66th Leg., p. 389, ch. 180, § 1, eff. May 15, 1979.]

Art. 326k-39. Repealed by Acts 1961, 57th Leg., p. 1026, ch. 452, § 1, eff. Aug. 28, 1961

The repealed article authorized the appointment of an assistant district attorney for the 42nd and 104th judicial districts and was derived from Acts 1957, 55th Leg., p. 391, ch. 192.

Acts 1967, 60th Leg., p. 1201, ch. 538, § 3, abolished the offices of district attorney for the 42nd and 104th judicial districts, effective January 1, 1969.

Art. 326k-40. 30th Judicial District; Assistants, Investigators and Stenographers

Sec. 1. From and after the effective date of this Act, the District Attorney of the 30th Judicial District, with the consent of the Commissioners Court of Wichita County, shall appoint investigators and assistants as he deems necessary for the performance of his duties. Each investigator and assistant shall receive a salary to be fixed by the Commissioners Court.

Sec. 2. From and after the effective date of this Act, the District Attorney of the 30th Judicial District, with the consent of the Commissioners Court of Wichita County, shall appoint stenographers as he deems necessary for the performance of his duties. Each stenographer shall receive a salary to be fixed by the Commissioners Court.

[Acts 1957, 55th Leg., p. 1227, ch. 403. Amended by Acts 1961, 57th Leg., p. 126, ch. 69, § 1; Acts 1967, 60th Leg., p. 1207, ch. 542, § 1, eff. June 14, 1967; Acts 1971, 62nd Leg., p. 1058, ch. 217, § 1, eff. May 17, 1971.]

Arts. 326k-41, 326k-41a. Repealed by Acts 1981, 67th Leg., p. 59, ch. 25, § 21, eff. April 8, 1981

Art. 326k-42. Roberts County District Attorney

The District Attorney for Roberts County shall represent the state in all criminal cases before the County Court of Roberts County, Texas. The County Commissioners Court of Roberts County may supplement the salary of the District Attorney for Roberts County, and may pay his reasonable and necessary expenses in connection with his duties in Roberts County.

[Acts 1959, 56th Leg., p. 772, ch. 351, § 1.]

Art. 326k-43. 27th Judicial District; Compensation of District Attorney

The Commissioners Court of Bell County, Texas, in the 27th Judicial District of the State of Texas, is hereby authorized to supplement the salary paid by the State of Texas to the District Attorney of the 27th Judicial District of the State of Texas, by an additional salary of One Thousand, Five Hundred Dollars (\$1,500) per year. This supplemental salary that may be paid by the said Commissioners Court of Bell County, Texas, may be paid in addition to the salary paid said District Attorney by the State of Texas under existing law. The amount of any such supplemental salary that may be paid by the said Commissioners Court of said County shall be fixed and determined by the Commissioners Court of said County.

[Acts 1959, 56th Leg., p. 936, ch. 432, § 1.]

Art. 326k-43a. 27th Judicial District; Assistants, Investigators and Stenographers; Compensation of District Attorney

Application for Appointment of Assistants, Investigators or Stenographers; Order Authorizing Employment

Sec. 1. Whenever the District Attorney of the 27th Judicial District shall require the services of assistants, investigators or stenographers in the performance of his duty, he shall apply to the Commissioners Court of any one or more of the counties comprising said 27th Judicial District for authority to appoint such assistants, investigators or stenographers, stating by written application the number needed, the position to be filled, and the amount to be paid. Upon receipt of such application the Commissioners Court or Commissioners Courts applied to may enter an order authorizing the employment of such assistants, investigators and stenographers and fix the compensation to be paid them.

Qualifications and Duties of Assistants

Sec. 2. The assistants to the District Attorney of the 27th Judicial District must be duly and legally licensed to practice law in the State of Texas and shall be authorized to perform all duties imposed on

the District Attorney of the 27th Judicial District by law.

Qualifications and Powers of Investigators

Sec. 3. Investigators for the District Attorney need not be licensed to practice law. They shall have authority to make arrests and execute process in criminal cases, and shall have all the rights and duties of a peace officer in criminal cases and in cases growing out of the enforcement of all laws.

Office Furniture and Supplies; Expenses

Sec. 4. Any one or more of the Commissioners Courts of the counties comprising the 27th Judicial District are authorized to furnish telephones, typewriters, office furniture, supplies, and such other items and equipment as may be deemed necessary to carry out the official duties of the District Attorney's office, and to pay necessary and essential expenses incident to carrying out the official duties of the District Attorney and his office. In addition to their salaries, the District Attorney, his assistants and investigators may be allowed actual and necessary travel expenses incurred in the proper discharge of their duties. The provisions of this Section shall not apply to that portion of the compensation and travel expense paid by the State of Texas to district officials and employees.

Supplementary Salary of District Attorney

Sec. 5. The Commissioners Court of Bell County, Texas, in the 27th Judicial District of the State of Texas, is hereby authorized to supplement the salary paid by the State of Texas to the District Attorney of the 27th Judicial District of the State of Texas, by an additional salary of not less than One Thousand Five Hundred Dollars (\$1,500.00) per year. The amount of any such supplemental salary that may be paid by said Commissioners Court of said County shall be fixed and determined by the Commissioners Court of said Bell County. This supplemental salary that may be paid by the said Commissioners Court of Bell County, Texas, shall be paid in addition to the salary paid said District Attorney by the State of Texas under existing law or any amendments or additions thereto.

Payment of Salaries and Expenses

Sec. 6. Only the Commissioners Court or Commissioners Courts of the counties within the 27th Judicial District that authorize the employment of assistants, investigators and stenographers as provided in Section 1 hereof shall be responsible for the payment of their salaries and payment of expenses thereof and of the District Attorney as provided for in Section 4 of this Act. Any such expense agreed upon by the Commissioners Courts of more than one such county within said district shall be determined according to population of the counties. The salaries of any assistants, investigators, and stenographers as provided in Section 1 of this Act, and any expenditure authorized in Section 4 of this Act, and

the supplemental salary of the District Attorney as provided in Section 5 of this Act, shall be paid from the Officers Salary Fund of the county or counties obligated by the terms of this Act, or the General Fund or any combination thereof at the discretion of the said Commissioners Courts. The compensation paid from county funds of the three counties comprising the 27th Judicial District to any person affected by this Act shall not be set at a figure lower than that actually paid to that person, or to any other person serving in that position, from such funds on the effective date of this Act.

[Acts 1963, 58th Leg., p. 923, ch. 354.]

Art. 326k-44. Borden County District Attorney

Until a resident County Attorney is elected and qualified in Borden County, the District Attorney for Borden County shall represent the State in all criminal cases before the County Court of Borden County, Texas. The County Commissioners Court of Borden County shall supplement the salary of the District Attorney for Borden County, and may pay his reasonable and necessary expenses in connection with his duties in Borden County.

[Acts 1961, 57th Leg., p. 209, ch. 107, § 1.]

Art. 326k-45. 24th Judicial District; Compensation of District Attorney; Assistants, Investigators and Stenographers

Compensation of District Attorney

Sec. 1. The District Attorney of the 24th Judicial District shall be compensated for his services in such amount as may be fixed by the General Law relating to the salary to be paid District Attorneys by the State, and in addition his salary may be supplemented by the Commissioners Courts of the counties comprising such District, in the manner specified in succeeding Sections of this Act.

Supplemental Salary

Sec. 2. The Commissioners Courts of the counties comprising the 24th Judicial District are hereby authorized to pay in equal monthly payments the supplement to the salary paid the District Attorney by the State of Texas in such amounts that they approve and deem proper.

Payment of Salaries and Expenses

Sec. 3. The supplemental salary and the expenses to be paid the District Attorney, and the salary to be paid the investigator or Assistant District Attorney, shall be paid by the Commissioners Courts of the counties comprising the 24th Judicial District, except Victoria County, in proportion to the population of the counties, except Victoria County, according to the last preceding Federal Census.

Stenographer; Appointment and Salary; Office

Sec. 4. The District Attorney of the 24th Judicial District is hereby authorized to appoint one Stenographer whose salary shall be fixed and deter-

mined by the District Attorney with the approval of the Commissioners Court of each County of said Judicial District and the District Attorney shall file with the Commissioners Court of each County in said District a statement specifying the amount of salary to be paid said Stenographer. Said salary shall be paid monthly by the Commissioners Court of each County comprising said District in the manner and on the same pro rata basis as that contained in the order of the District Judge of such Districts for the payment of the salary of the official shorthand reporter.

The Commissioners Court of the County in which the District Attorney resides shall furnish the District Attorney with adequate office space and the supplies necessary to the efficient operation of said office.

Investigator or Assistant; Appointment and Salary

Sec. 5. The District Attorney of the 24th Judicial District is authorized to appoint an Investigator or Assistant District Attorney for the district with the approval and consent of the Commissioners Courts of the counties comprising the 24th Judicial District, except Victoria County. The salary of the Investigator or Assistant District Attorney shall be fixed and determined by the District Attorney with the approval and consent of the Commissioners Courts of the counties comprising the 24th Judicial District, except Victoria County and the District Attorney shall file with the Commissioners Court of each county comprising the district, except Victoria County, a statement specifying the amount of the salary to be paid to the Investigator or Assistant District Attorney. The salary shall be paid monthly by the Commissioners Court of each County in the proportion prescribed by Section 3 of this Act. The Assistant District Attorney must be duly and legally licensed to practice law in the State of Texas, and he is authorized to perform all duties imposed upon the District Attorney by law.

Expenses

Sec. 6. In addition to the salary prescribed by law, the District Attorney of the 24th Judicial District may be allowed the actual and necessary expenses, not to exceed Two Thousand Dollars (\$2,000) per year, incurred by him in the proper discharge of his duties; and each County shall pay a proportion of these expenses as prescribed by Section 3 of this Act.

Additional Employees; Appointment and Salary

Sec. 7. Should the District Attorney of the 24th Judicial District be of the opinion that the number of investigators, assistants, stenographers, clerks, or employees as provided is not adequate for the proper investigation and prosecution of crime and the effective performance of the duties of his office, he may with the approval of the Commissioners Court of each County comprising the District, except Victoria County, appoint additional investiga-

tors, assistants, stenographers, clerks or employees and pay same such compensation as may be fixed by the Commissioners Courts of said District, except Victoria County.

[Acts 1961, 57th Leg., p. 671, ch. 310, eff. June 14, 1961. Amended by Acts 1971, 62nd Leg., p. 1587, ch. 431, § 1, eff. May 26, 1971.]

Art. 326k-45a. Calhoun County Criminal District Attorney

Creation of Office; Qualifications; Oath; Bond

Sec. 1. (a) The constitutional office of Criminal District Attorney of Calhoun County is created.

(b) The criminal district attorney shall possess the qualifications, take the oath, and give the bond required by the constitution and laws of this state of district attorneys.

Powers and Duties; Fees, Commissions and Perquisites

Sec. 2. (a) The criminal district attorney or his assistants shall be in attendance on each term and all sessions of any district court in Calhoun County held for the transaction of criminal business and in attendance on each term and all sessions of the inferior courts of Calhoun County held for the transaction of criminal business, except the city court of an incorporated city. The criminal district attorney or his assistants shall exclusively represent the State of Texas in all criminal matters before such courts and shall represent Calhoun County in all matters before such courts or any other court where Calhoun County has pending business of any kind, matter, or interest. However, nothing in this Act shall be construed as preventing Calhoun County from retaining other legal counsel in civil matters at any time it sees fit to do so.

(b) The criminal district attorneys shall have and exercise, in addition to the specific powers given and duties imposed on him and his assistants by this Act, all powers, duties, and privileges within Calhoun County conferred on district attorneys and county attorneys in the various counties and judicial districts of this state relative to criminal and civil matters for and in behalf of the county and State of Texas.

(c) The criminal district attorney shall collect such fees, commissions, and perquisites as are provided by law for similar services rendered by district and county attorneys of this state.

Salary; Payment

Sec. 3. The Criminal District Attorney of Calhoun County shall receive as compensation an annual salary from the State of Texas in such amount as may be fixed by the general laws of this state relating to the salary to be paid to the district attorneys of this state. In addition, the commissioners court may, in its discretion, supplement the salary paid by the state. The sum paid by the county shall be paid out of the officers salary fund

of the county, if adequate, and if inadequate, the commissioners court shall transfer the necessary funds from the general fund of the county to the officers salary fund.

Assistants and Stenographers; Appointment and Compensation; Expenses

Sec. 4. (a) The criminal district attorney, for the purpose of conducting the affairs of his office, may appoint such assistant criminal district attorneys as the Calhoun County Commissioners Court may authorize. An assistant criminal district attorney shall be paid a salary of not less than \$4,800 per annum to be fixed by the criminal district attorney with the approval of the commissioners court. In addition to the salaries paid the criminal district attorney and his assistants, the commissioners court may allow the criminal district attorney and his assistants such necessary expenses as within the discretion of the court seem reasonable, which expenses shall be paid as provided by law for other such claims of expenses.

(b) The criminal district attorney may employ as many stenographers as the Commissioners Court of Calhoun County may authorize and fix their salaries at not less than \$3,000, with the approval of the commissioners court.

(c) The salaries provided for in this section shall be paid by the county out of the officers' salary fund, if adequate, and if inadequate, the commissioners court shall transfer the necessary funds from the general revenue fund to the officers' salary fund.

Oath of Assistants; Powers and Duties

Sec. 5. An assistant criminal district attorney appointed under the provisions of this Act shall take the constitutional oath of office, shall be a person licensed to practice law in this state, and may perform any duty devolving on the criminal district attorney of Calhoun County.

Abolition of County Attorney's Office

Sec. 6. The office of County Attorney of Calhoun County is abolished from and after the effective date of this Act.

Appointment; Election and Term

Sec. 7. (a) On the effective date of this Act, the governor shall appoint a criminal district attorney for Calhoun County, who shall hold office until the next general election and until his successor is duly elected and has qualified.

(b) At the general election in 1974 and every four years thereafter, this officer shall be elected to a regular four-year term as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(c) Any vacancy occurring in the office of Criminal District Attorney for Calhoun County shall be filled by appointment by the governor, and the

appointee shall hold office until the next general election and until his successor is elected and has qualified.

District Attorney of 24th Judicial District; Application of Act

Sec. 8. (a) From and after the effective date of this Act, the District Attorney of the 24th Judicial District shall only represent the State of Texas in the counties of Jackson, DeWitt, Refugio, and Goliad. The provisions of this Act apply only to Calhoun County and do not affect the office of district attorney or the duties and powers of the district attorney in the counties of Jackson, DeWitt, Refugio, and Goliad. The District Attorney of the 24th Judicial District shall continue to fulfill the duties of district attorney in the counties of Jackson, DeWitt, Refugio, and Goliad, but his duties in the County of Calhoun are divested from him and invested in the Criminal District Attorney of Calhoun County.

(b) From and after the effective date of this Act, the District Attorney of the 24th Judicial District shall only stand for election and be elected from the counties of Jackson, DeWitt, Refugio, and Goliad. The present district attorney for the 24th Judicial District shall continue in office as the district attorney in the counties of Jackson, DeWitt, Refugio, and Goliad until the general election in 1976 and until his successor is elected and qualified.

[Acts 1973, 63rd Leg., p. 822, ch. 373, eff. Aug. 27, 1973.]

Art. 326k-46. 38th and Second 38th Judicial Districts; Compensation of District Attorneys

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

[Acts 1961, 57th Leg., p. 759, ch. 350, § 1.]

Art. 326k-47. 23rd Judicial District; Compensation of District Attorney

Sec. 1. The District Attorney of the 23rd Judicial District shall be compensated for his services in such amount as may be fixed by the General Law relating to the salary paid to District Attorneys by the state, and in addition his salary may be supplemented by the Commissioners Courts of the coun-

ties comprising the District of the District Attorney of the 23rd Judicial District, so that the total salary of the District Attorney of the 23rd Judicial District may be the sum of Twelve Thousand Dollars (\$12,000.00) per annum.

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

Sec. 3. The supplemental salary to be paid the District Attorney of the 23rd Judicial District by the Commissioners Courts of the counties comprising the District of said District Attorney shall be paid on a pro rata basis according to the population of each county listed in the last preceding Federal Census.

[Acts 1961, 57th Leg., 1st C.S., p. 129, ch. 26.]

Art. 326k-47a. 23rd Judicial District; Duties of District Attorney

The district attorney of the 23rd Judicial District shall represent the state and perform the duties of district attorney in all the district courts in Matagorda and Wharton Counties.

[Acts 1979, 66th Leg., p. 1021, ch. 453, § 1, eff. June 7, 1979.]

Art. 326k-48. 81st Judicial District; Compensation of District Attorney

The District Attorney of the 81st Judicial District shall be compensated for his services in such amount as may be fixed by the general law relating to the salary paid to District Attorneys by the State, and in addition his salary may be supplemented by the Commissioners Courts of the counties comprising the 81st Judicial District, or any one or more of such Commissioners Courts; providing, however, that the total salary of such District Attorney shall not be supplemented to exceed the sum of Nineteen Thousand Dollars (\$19,000.00) per annum. The Commissioners Courts of the counties comprising the 81st Judicial District or any one or more of them, are hereby authorized to pay the supplemental salary herein authorized, in such amount within the limit fixed above.

[Acts 1963, 58th Leg., p. 419, ch. 143, § 1, eff. Aug. 23, 1963. Amended by Acts 1967, 60th Leg., p. 1010, ch. 440, § 1, eff. Aug. 28, 1967; Acts 1971, 62nd Leg., p. 704, ch. 69, § 1, eff. Aug. 30, 1971; Acts 1973, 63rd Leg., p. 844, ch. 380, § 1, eff. June 12, 1973.]

Art. 326k-48a. 81st Judicial District; Stenographer or Clerk

The District Attorney of the 81st Judicial District of Texas is hereby authorized to employ a stenogra-

pher or clerk who may receive a salary not to exceed Four Thousand Five Hundred Dollars (\$4,500.00) per annum, to be fixed by the District Attorney of the said Judicial District and approved by the combined majority of the Commissioners Courts of the counties composing his Judicial District. The salary of such stenographer or clerk provided for in this Act shall be paid monthly by the Commissioners Court of each county composing the Judicial District, prorated apportionately to the population of the county.

Sec. 2. The Commissioners Court in each county of the Judicial District affected by this Act may enter an order so as to increase the compensation being paid by the county to such stenographer in an amount not to exceed thirty-five per cent (35%) of the sum being paid at the effective date of this Act.

[Acts 1967, 60th Leg., p. 1009, ch. 439, eff. Aug. 28, 1967.]

Art. 326k-49. 1st Judicial District; Compensation of District Attorney

Sec. 1. The District Attorney of the 1st Judicial District shall be compensated for his services in such amounts as may be fixed by the General Law relating to the salary paid to district attorneys by the state, and in addition his salary may be supplemented by the Commissioners Courts of the counties comprising the district of the District Attorney of the 1st Judicial District, so that the total salary of the District Attorney of the 1st Judicial District may be the sum of Eleven Thousand Dollars (\$11,000) per annum.

Sec. 2. The Commissioners Courts of the counties comprising the District of the District Attorney of the 1st Judicial District are hereby authorized to pay said supplement to the salary paid the District Attorney of the 1st Judicial District by the state, out of the Officer's Salary Funds of said counties, if adequate; if inadequate, the said Commissioners Courts shall transfer the necessary funds from the General Funds of said counties to the Officer's Salary Funds of said counties.

Sec. 3. The supplemental salary to be paid the District Attorney of the 1st Judicial District by the Commissioners Courts of the counties comprising the district of said District Attorney shall be paid on a pro rata basis according to the population of each county listed in the last preceding Federal Census.

[Acts 1963, 58th Leg., p. 926, ch. 356.]

Art. 326k-49a. 112th Judicial District; Compensation of District Attorney

Sec. 1. The District Attorney of the 112th Judicial District shall be compensated for his services in such amount as may be fixed by the General Law relating to the salary paid to District Attorneys by the state, and the counties comprising the District of the District Attorney of the 112th Judicial District may supplement the same by an additional salary of Four Thousand Eight Hundred Dollars (\$4,800.00).

Sec. 2. The Commissioners Courts of the counties, or any one or more of them, comprising the District of the Attorney of the 112th Judicial District are hereby authorized to pay said supplement to the salary paid the District Attorney of the 112th Judicial District by the state, out of the Officer's Salary Funds of said counties, if adequate; if inadequate, the said Commissioners Courts shall transfer the necessary funds from the General Funds of said counties to the Officer's Salary Funds of said counties.

[Acts 1969, 61st Leg., p. 2127, ch. 731, eff. Sept. 1, 1969.]

Art. 326k-50. Bexar County Criminal District Attorney

Purpose of Act

Sec. 1. In view of the fact that presently there are a large number of statutes which regulate the office of Criminal District Attorney of Bexar County, Texas, some contained in numerous bracket laws and others in enactments involving the creation of various courts of Bexar County, and, in view of the fact that such statutes governing the operation of this office should be harmonized and one clear mode for operation of this office should be set out, the following is hereby enacted by the Legislature of this state as a Special Law after due publication in accordance with the Constitution of Texas.

Creation of Office; Election and Term; Qualifications; Oath; Bond

Sec. 2. In Bexar County, there is hereby created the office of Criminal District Attorney of Bexar County, which officer shall be a Constitutional Criminal District Attorney. The present Criminal District Attorney of Bexar County shall fill this office until the 1st day of January, 1967, or until his successor is elected, and qualified, unless a vacancy in this office shall occur by death, resignation or other lawful cause, whereupon the remaining term of this office shall be filled in accordance with the law. Thereafter such officer shall be elected every four years in accordance with the Constitution of this state. The said Criminal District Attorney of Bexar County shall possess the qualifications and take the oath and give the bond required by the Constitution and laws of this state of other District Attorneys.

Powers and Duties

Sec. 3. It shall be the duty of said Criminal District Attorney of Bexar County, or his assistants as herein provided, to be in attendance upon each term and all sessions of the District and County and Justice Courts of Bexar County, as hereinafter provided, held for the transaction of criminal business, and to exclusively represent the State of Texas in all matters pending before said courts and to represent Bexar County in all matters pending before such courts and any other court where Bexar County has pending business of any kind, matter or

interest. The Criminal District Attorney of Bexar County shall have and exercise, in addition to the specific powers given and the duties imposed upon him by this Act, all such powers, duties and privileges within such county, as are now by law conferred or which may hereafter be conferred upon District and County Attorneys under any law of this state. He shall collect such fees, commissions and perquisites as is now or may hereafter be provided by law for similar services rendered by District and County Attorneys of this state which funds shall be paid into the proper county funds as provided by law.

Compensation and Commission

Sec. 4. Repealed by Acts 1973, 63rd Leg., p. 1293, ch. 482, § 2, eff. Aug. 27, 1973.

District Attorney of 37th, 45th, 57th, 73rd, 131st, 144th, 150th and 175th Judicial Districts

Sec. 5. The Criminal District Attorney of Bexar County shall be and function as the District Attorney of the 37th, 45th, 57th, 73rd, 131st, 150th, 144th, and 175th Judicial District Courts of Texas, and in addition thereto shall be and function as the District Attorney for any future Judicial District which may be created which has as its territorial jurisdiction that area that lies within the boundaries of Bexar County, Texas.

Assistants and Employees; Salaries; Removal

Sec. 6. The Criminal District Attorney of Bexar County shall appoint assistants, stenographers, investigators and other employees of this office. The number of such positions in each class of employment, and the amount of salary that shall be paid to the person holding each position shall be designated by the Criminal District Attorney and be subject to the approval of the Commissioners Court of Bexar County. All of the salaries shall be paid from the Officers Salary Fund if adequate; if inadequate, the Commissioners Court may pay salaries out of the General Fund, the Jury fund, or any other funds available for the purpose. All employees of the office of Criminal District Attorney of Bexar County, whether assistants, stenographers, investigators; or any other class of employment, shall be removable at the will of the Criminal District Attorney.

Assistants and Investigators; Oath; Powers and Duties

Sec. 7. The Assistant Criminal District Attorneys of Bexar County, and the investigators, when so appointed, shall take the Constitutional Oath of office and the said Criminal District Attorney of Bexar County and his assistants shall have the exclusive right and it shall be their duty, to represent the State of Texas in all Criminal cases pending in any and all of the Courts of Bexar County, Texas, except in the Corporation Courts of the various cities and towns in Bexar County. Said Assistant Criminal District Attorneys of Bexar County are hereby authorized to administer oaths, file informa-

tion, examine witnesses before the grand jury and generally perform any duty devolving upon the Criminal District Attorney of Bexar County, which assistants shall act subject to and under the direction of the Criminal District Attorney of Bexar County.

Office Space

Sec. 8. The Commissioners Court is authorized upon the request of the Criminal District Attorney to provide office space for such officers, his assistants, investigators and other staff.

Automobile Expense

Sec. 9. The Commissioners Court is hereby authorized to allow such automobile expense to any officer, investigator, or employee in the performance of his official duties as they may deem necessary.

Qualifications of Assistants and Investigators

Sec. 10. The assistants to the Criminal District Attorney of Bexar County must be duly and legally licensed to practice law in the State of Texas; however, the investigators or other classes of employees need not be duly and legally licensed to practice law in the State of Texas.

Special Counsel

Sec. 11. The Commissioners Court of Bexar County shall have the authority to employ special counsel, learned in the law, to represent the county in all suits brought by or against such county involving condemnations or eminent domain proceedings, and particularly with authority to render aid and work with the Commissioners Court, the County Engineer and other county employees in the preparation of documents necessary in the acquisition of rights-of-way for the county, or in cases where the county is required to obtain rights-of-way for state highways, or to assist in the acquisition of such rights-of-way; to represent the county in all condemnation proceedings for the acquisition of rights-of-way for highways, and other proper purposes where the right of eminent domain is given to counties. The Commissioners Court of Bexar County and the Criminal District Attorney of Bexar County, acting in conjunction and upon the approval of both, shall employ any such special counsel and such employment shall be made for such time and on such terms as they may jointly deem necessary, expedient and proper. Termination of employment of such special counsel shall be governed by the law regulating removal of Assistant Criminal District Attorneys, investigators and other classes of employees of the office of the Criminal District Attorney of Bexar County, as provided in this Act.

[Acts 1963, 58th Leg., p. 1312, ch. 501. Amended by Acts 1965, 59th Leg., p. 1627, ch. 697, § 3; Acts 1973, 63rd Leg., p. 1293, ch. 482, § 2, eff. Aug. 27, 1973.]

Acts 1963, 58th Leg., p. 1312, ch. 501, § 12 amended article 322; section 13 provided:

"Sections 12, 13, 14, 15, 15a and 16 of Article 52-161, Vernon's Code of Criminal Procedure [see, now, art. 199(37)], all of which relate to the Criminal District Attorney of Bexar County, if not repealed by Chapter 262, page 730 #4, 54th Legislature, are hereby repealed, and any other law in direct conflict with this Act is hereby repealed to the extent of such conflict."

Sections 14 and 15 of Acts 1963, 58th Leg., p. 1312, ch. 501 repealed two sentences in article 199(37) and (150) relating to the criminal district attorney of Bexar County as district attorney of the 37th, 45th, 57th, 73rd, 131st and 150th judicial district courts; section 16 of the act was a savings provision; section 17 provided: "That this is a Special Law passed in accordance with the Constitution relating to the office of Criminal District Attorney of Bexar County only, and shall not be construed to repeal nor is it intended by the Legislature to repeal any laws relating to the District Attorneys or Criminal District Attorneys in any other area, and shall be construed as cumulative of all other existing statutes not specifically in conflict herewith."

Art. 326k-51. Upshur County Criminal District Attorney

Creation of Office; Qualifications; Oath; Bond

Sec. 1. The constitutional office of Criminal District Attorney of Upshur County, Texas, is hereby created. The Criminal District Attorney of Upshur County shall possess all the qualifications and shall take the oath of office and give the bond required by the Constitution and laws of this State of other district attorneys.

Election and Term

Sec. 2. There shall be elected by the qualified electors of Upshur County at the General Election in November, 1964, a Criminal District Attorney of Upshur County for the remainder of the constitutional term of office expiring on December 31, 1966. At the General Election in 1966 and every four (4) years thereafter, there shall be elected a Criminal District Attorney of Upshur County for the full constitutional term of four (4) years.

Powers and Duties; Fees, Commissions and Perquisites

Sec. 3. It shall be the duty of the Criminal District Attorney of Upshur County or his assistant as herein provided to be in attendance upon each term and all sessions of the district courts of Upshur County and all of the sessions and terms of the inferior courts of Upshur County held for the transaction of criminal business, and to exclusively represent the State of Texas in all criminal matters pending before said courts, and to represent Upshur County in all matters pending before such courts or any other court where Upshur County has pending business of any kind, matter or interest. In addition to the specified powers given and the duties imposed upon him by this Act, he is invested with such powers, duties and privileges within Upshur County as are by law now conferred, or which may hereafter be conferred upon the district and county attorneys in the various counties and judicial districts of this State. He shall collect such fees, commissions and perquisites as are now, or may hereafter be provided by law for similar services rendered by district and county attorneys of this State.

Commission and Salary

Sec. 4. The Criminal District Attorney of Upshur County shall be commissioned by the Governor. He shall be compensated for his services in such amount as may be fixed by the General Law relating to the salary paid to District Attorneys by the State. The Commissioners Court of Upshur County may supplement the amount paid to the Criminal District Attorney. The total annual salary paid by the county and the state may not exceed \$16,000.

Assistants, Investigators, Etc.; Appointment and Salary

Sec. 5. The Criminal District Attorney of Upshur County, with the approval of the Commissioners Court, may appoint assistants, investigators, stenographers, clerks, and other personnel for the purpose of conducting the affairs of his office. All personnel employed under authority of this Section shall receive a salary to be fixed by the Commissioners Court of Upshur County.

Oath of Assistant; Powers and Duties

Sec. 6. The Assistant Criminal District Attorney of Upshur County, when so appointed, shall take the constitutional oath of office, and shall be authorized to administer oaths, file informations, examine witnesses before the grand jury, and generally to exercise any power and perform any duty devolving upon the Criminal District Attorney of Upshur County.

Expenses

Sec. 7. In addition to the salaries provided the Criminal District Attorney and his assistant, the Commissioners Court of Upshur County may allow the Criminal District Attorney and his assistant such necessary expenses as within its discretion seems reasonable, to be paid as provided by law for such other claims of expenses.

Appointment and Term; Abolition of County Attorney's Office

Sec. 8. Upon the effective date of this Act, the Governor of Texas shall immediately appoint a Criminal District Attorney of Upshur County, who shall hold office until the next General Election and until his successor is duly elected and qualified. The office of County Attorney of Upshur County is abolished from and after the effective date of this Act.

[Acts 1963, 58th Leg., p. 1345, ch. 508, eff. Aug. 23, 1963. Amended by Acts 1971, 62nd Leg., p. 2467, ch. 806, § 1, eff. June 8, 1971.]

Art. 326k-52. 64th Judicial District; Stenographer

(a) The district attorney of the 64th Judicial District may hire a stenographer.

(b) The district attorney shall, with the approval of a majority of the commissioners courts in the

district, set the stenographer's salary at not more than \$3,000 a year.

(c) The commissioners court of each county in the 64th Judicial District shall pay a proportionate part of the salary based on the ratio of the population of the county to the population of the district.

(d) The commissioners court of any one or more of the counties in the 64th Judicial District may supplement the salary of the district attorney's stenographer.

(e) The total annual compensation of the district attorney's stenographer may not exceed \$4,200.

[Acts 1965, 59th Leg., p. 371, ch. 177, § 1.]

Art. 326k-53. 132nd Judicial District; Compensation of District Attorney and District Judge

The District Attorney and the District Judge of the 132nd Judicial District shall be compensated for their services in such amounts as may be fixed by the general law relating to the salaries paid to district attorneys and district judges by the state, and in addition their salaries may be supplemented by the commissioners courts of the counties comprising the 132nd Judicial District, or any one or more of such commissioners courts. The total amount of each supplemental salary to be paid by the commissioners court or courts for the district attorney and the district judge shall not exceed the sum of \$3,000 per year. The commissioners courts of the counties comprising the 132nd Judicial District, or any one or more of them, may pay the supplemental salaries herein authorized, in such amount within the limit fixed above, out of the officers salary fund of such county or counties, if adequate; if inadequate, the commissioners courts may transfer the necessary funds from the general funds of such counties to the officers salary funds.

[Acts 1965, 59th Leg., p. 429, ch. 215, § 1.]

Art. 326k-54. 118th Judicial District; Stenographer

The stenographer of the district attorney of the 118th Judicial District is entitled to an annual salary of not more than \$3,600, to be fixed by the district attorney and approved by the combined majority of the commissioners courts of the counties composing the district. The salary shall be paid monthly by the commissioners court of each county, prorated proportionally to the population of the county.

[Acts 1965, 59th Leg., p. 430, ch. 216, § 1.]

Art. 326k-55. 36th Judicial District; Compensation of District Attorney

(a) The general law of the State of Texas regarding compensation of district attorneys shall apply to the District Attorney of the 36th Judicial District.

(b) The commissioners court of any one or more of the counties in the 36th Judicial District may

supplement the compensation paid the District Attorney under the general law.

(c) The District Attorney's total annual compensation may not exceed \$11,000.

[Acts 1965, 59th Leg., p. 973, ch. 468, § 1, eff. June 16, 1965.]

Art. 326k-56. 19th, 54th, 74th and 170th Judicial Districts; Compensation of District Attorney

(a) The General Law of the State of Texas regarding compensation of district attorneys shall apply to the district attorney of the 19th, 54th, 74th, and 170th Judicial Districts.

(b) The commissioners court of McLennan County may supplement the compensation paid the district attorney of the 19th, 54th, 74th, and 170th Judicial Districts under the General Law over and above that paid by the State of Texas.

(c) There is hereby appropriated from the General Revenue Fund of the state an amount equal to that sum set in the General Appropriation Bill as the state's portion of the salary of the district attorneys of the State of Texas.

[Acts 1965, 59th Leg., p. 1663, ch. 716, § 1, eff. Aug. 30, 1965. Amended by Acts 1967, 60th Leg., p. 178, ch. 92, § 1, eff. April 22, 1967; Acts 1971, 62nd Leg., p. 2461, ch. 800, § 1, eff. June 8, 1971.]

Art. 326k-56a. Repealed by Acts 1983, 68th Leg., p. 4976, ch. 889, § 30, eff. Sept. 1, 1983

Art. 326k-57. 25th Judicial District; Compensation of District Attorney

The District Attorney of the 25th Judicial District shall be compensated for his services in such amount as may be fixed by the general law relating to the salary paid to district attorneys by the state, and in addition his salary may be supplemented by the commissioners courts of the counties comprising the 25th Judicial District, or any one or more of such commissioners courts; providing, however, that the total salary of such district attorney shall not be supplemented to exceed the sum of \$11,000 per annum. The commissioners courts of the counties comprising the 25th Judicial District or any one or more of them, are hereby authorized to pay the supplemental salary herein authorized, in such amount within that fixed above.

[Acts 1967, 60th Leg., p. 115, ch. 59, § 1, eff. Aug. 28, 1967.]

Art. 326k-58. Bowie County Criminal District Attorney

Creation of Office

Sec. 1. The office of criminal district attorney of Bowie County is created, effective January 1, 1969.

WTSC Civil Statutes—11

Election and Term

Sec. 2. A criminal district attorney shall be elected by the qualified electors of Bowie County in the general election of November 1968. The term of office of the first elected criminal district attorney expires on December 31, 1970.

Duties

Sec. 3. The criminal district attorney shall represent the state in all cases in the district and inferior courts of Bowie County, and he shall perform all other duties required of district and county attorneys by general law.

Applicability of General Laws

Sec. 4. All general laws relating to county and district attorneys apply to the criminal district attorney of Bowie County.

Salary

Sec. 5. The criminal district attorney shall receive from the state as salary such amount as may be provided in the general appropriations act. The commissioners court shall supplement any salary paid by the state in the amount required to make his total salary \$12,500 a year. If the state fails to appropriate funds for the salary of the criminal district attorney the county shall pay the total salary of \$12,500 a year. The salary paid by the county shall be paid from the officers salary fund of the county in 12 equal monthly installments.

Assistants, Investigators, Etc.

Sec. 6. (a) The criminal district attorney of Bowie County, for the purpose of conducting the affairs of that office, may appoint assistant criminal district attorneys, investigators, court reporters, stenographers, secretaries, and other employees he deems adequate and necessary, subject to the approval of the commissioners court. All persons appointed under this section are entitled to be paid out of county funds the salaries, other compensation, and reimbursements approved by the criminal district attorney and the commissioners court of Bowie County.

(b) The assistant criminal district attorneys of Bowie County, and investigators, when appointed, shall take the constitutional oath of office, and the assistant criminal district attorneys shall exercise the powers and perform the duties conferred and imposed by law upon the criminal district attorney, under the supervision and direction of the criminal district attorney of Bowie County.

Abolition of County Attorney's Office

Sec. 7. The office of county attorney of Bowie County is abolished, effective January 1, 1969.

Abolition of District Attorney's Office

Sec. 8. The office of district attorney of the Fifth Judicial District is abolished, effective January 1, 1969.

[Acts 1967, 60th Leg., p. 853, ch. 362, eff. Aug. 28, 1967.]

Art. 326k-59. Victoria County Criminal District Attorney**Creation of Office; Qualifications; Oath; Bond**

Sec. 1. The constitutional office of Criminal District Attorney for Victoria County is hereby created and said Criminal District Attorney of Victoria County shall possess all the qualifications and take the oath of office and give the bond required by the Constitution and laws of this state of other district attorneys.

Appointment; Election and Term

Sec. 2. Upon the effective date of this Act, the Governor of Texas shall immediately appoint a Criminal District Attorney for Victoria County, Texas, who shall hold office until the next general election, and until his successor is duly elected and qualified. The Criminal District Attorney for Victoria County shall stand for election and be elected by the qualified electors of Victoria County at the general election in November, 1968, and every four years thereafter. The office of County Attorney of Victoria County is abolished from and after the effective date of this Act.

Powers and Duties; Fees, Commissions and Perquisites

Sec. 3. It shall be the duty of the Criminal District Attorney of Victoria County or his assistants as herein provided to be in attendance upon each term and all sessions of the district courts of Victoria County and all of the sessions and terms of the inferior courts of Victoria County held for the transaction of criminal business, and to exclusively represent the State of Texas in all criminal matters pending before said courts and to represent Victoria County in all matters pending before such courts and any other court where Victoria County has pending business of any kind, matter or interest, and in addition to the specified powers given and the duties imposed upon him by this Act all such powers, duties, and privileges within Victoria County as are by law now conferred, or which may hereafter be conferred upon the district and county attorneys in the various counties and judicial districts of this state. He shall collect such fees, commissions, and perquisites as are now, or may hereafter be, provided by law for similar services rendered by district and county attorneys of this state.

Salary; Payment

Sec. 4. The criminal district attorney shall receive as compensation an annual salary from the State of Texas in such amount as may be fixed by the general laws of this state relating to the salary

to be paid to the district attorneys of this state. In addition, the commissioners court may, in its discretion, supplement the salary paid by the state. The sum paid by the county shall be paid out of the officers' salary fund of Victoria County, if adequate; if inadequate, the commissioners court shall transfer the necessary funds from the general fund of the county to the officers' salary fund.

Assistant and Stenographers; Appointment and Salary; Expenses

Sec. 5. The Criminal District Attorney of Victoria County, for the purpose of conducting the affairs of his office, and with the approval of the commissioners court shall be and is hereby authorized to appoint one assistant and fix the salary as follows: Said assistant shall receive not less than \$4,800 per annum.

The Criminal District Attorney of Victoria County may employ two stenographers and fix their salaries at not less than \$3,000 per annum, and he may employ one chief clerk and fix her salary at not less than \$3,600 per annum. All of the salaries mentioned in this section shall be payable from the officers' salary fund, if adequate; if inadequate the commissioners court shall transfer the necessary funds from the general fund of the county to the officers' salary fund.

In addition to the salaries provided the criminal district attorney and his assistant, the Commissioners Court of Victoria County may allow such criminal district attorney, and his assistants, such necessary expenses as within the discretion of the court seems reasonable and said expenses shall be paid as provided by law for other such claims of expenses.

Additional Assistants, Clerks and Stenographers

Sec. 6. Should the criminal district attorney be of the opinion that the number of assistants, stenographers, or clerks as provided above is not adequate for the proper investigation and prosecution of crime and the effective performance of the duties of his office, he may with the approval of the commissioners court appoint additional assistants, clerks, or stenographers and pay said employees such compensation as may be fixed by the Commissioners Court of Victoria County, Texas.

Oath of Assistant; Powers and Duties

Sec. 7. The Assistant Criminal District Attorney of Victoria County, when so appointed shall take the constitutional oath of office, and said Criminal District Attorney of Victoria County and his assistant shall have the exclusive right and it shall be their duty to represent the State of Texas in all criminal cases pending in any and all of the courts of Victoria County, Texas, and any and all civil matters in any court anywhere involving interest, crime or right of Victoria County as well as perform the other statutory or constitutional duties of district county attorneys.

District Attorney of 24th Judicial District

Sec. 8. Upon the effective date of this Act the District Attorney of the 24th Judicial District of Texas shall only represent the State of Texas in the counties of Jackson, Calhoun, DeWitt, Refugio, and Goliad.

The provisions of this Act shall not affect the office of district attorney or the duties and powers of such district attorney in the counties of Jackson, Calhoun, DeWitt, Refugio, and Goliad, and the District Attorney of the 24th Judicial District shall continue to perform his duties in the counties of Jackson, Calhoun, DeWitt, Refugio, and Goliad as before, and it is specifically understood that this bill applies only to Victoria County and not to the counties of Jackson, Calhoun, DeWitt, Refugio, and Goliad.

From the effective date of this bill the District Attorney of the 24th Judicial District shall continue to fulfill the duties of District Attorney in the counties of Jackson, Calhoun, DeWitt, Refugio, and Goliad, but his duties in the County of Victoria shall be divested from him and invested in the resident Criminal District Attorney of Victoria County, Texas, as created by this bill.

The District Attorney of the 24th Judicial District shall only stand for election and be elected from the counties of Jackson, Calhoun, DeWitt, Refugio, and Goliad at the next general election, and a District Attorney for the 24th Judicial District shall be elected every four years from the counties of Jackson, Calhoun, DeWitt, Refugio, and Goliad at the general election every four years thereafter, but it is specifically understood that the present District Attorney of the 24th Judicial District shall continue in office as such District Attorney in the counties of Calhoun, Jackson, DeWitt, Refugio, and Goliad until the next general election and until his successor is elected and qualified.

[Acts 1967, 60th Leg., p. 907, ch. 398, eff. Aug. 28, 1967. Amended by Acts 1975, 64th Leg., p. 1951, ch. 642, § 1, eff. Sept. 1, 1975.]

Art. 326k-60. 88th Judicial District; Stenographer

(a) The District Attorney of the 88th Judicial District of Texas is authorized to employ a stenographer or clerk who may receive a salary not to exceed Six Thousand, Five Hundred Dollars (\$6,500.00) per annum, to be fixed by the District Attorney and approved by the combined majority of the Commissioners Courts of Hardin and Tyler counties. The salary of such stenographer or clerk provided for in this Act shall be paid monthly by the Commissioners Courts of Hardin and Tyler counties, prorated apportionately to the population of the county.

(b) The Commissioners Courts of Hardin and Tyler counties may enter an order so as to increase the compensation being paid by the counties to such stenographer in an amount not to exceed twenty-

five per cent (25%) of the sum being paid at the effective date of this Act.

[Acts 1967, 60th Leg., p. 1200, ch. 537, § 1, eff. June 14, 1967. Amended by Acts 1973, 63rd Leg., p. 238, ch. 113, § 2, eff. May 18, 1973.]

Art. 326k-60a. 88th Judicial District; Compensation of District Attorney

The District Attorney of the 88th Judicial District shall be compensated for his services in such amount as may be fixed by the general law relating to salaries paid to district attorneys by the state, and in addition his salary may be supplemented by the commissioners court of Hardin County. The total amount of supplemental salary to be paid by the commissioners court for the district attorney shall not exceed \$5,000 per year. Any supplemental salary shall be paid by the Hardin County Commissioners Court out of the officers' salary fund of such county, if adequate; if inadequate, the commissioners court may transfer the necessary funds from the general fund of the county to the officers' salary fund.

[Acts 1973, 63rd Leg., p. 238, ch. 113, § 1, eff. May 18, 1973. Amended by Acts 1983, 68th Leg., p. 5327, ch. 979, § 11, eff. Sept. 1, 1983.]

Art. 326k-61. 85th Judicial District; District Attorney, Assistants and Personnel

Sec. 1. The office of district attorney in the 85th Judicial District of Texas composed of Brazos County is created.

Sec. 2. The qualified electors of the 85th Judicial District shall elect a district attorney at the next general election after the effective date of this Act and at every second general election thereafter.

Sec. 3. The district attorney in the 85th Judicial District shall represent the state in all criminal cases in the 85th District Court and perform other duties as are or may be provided by law governing district attorneys.

Sec. 4. The district attorney is entitled to compensation for his services in an amount as may be fixed by the general law relating to the salary paid to district attorneys by the state. In addition to the salary paid the district attorney by the state, the Commissioners Court of Brazos County may supplement the salary of the district attorney in an amount to be fixed by the commissioners court.

Sec. 5. (a) The district attorney, with the approval of the Commissioners Court of Brazos County, may appoint such assistant district attorneys, investigators, stenographers, secretaries, clerks, and other personnel as he deems necessary to carry out the duties of his office.

(b) An assistant district attorney shall be licensed to practice law in this state and may perform for the state and the county all duties conferred and imposed by law on the district attorney. An investigator need not be licensed to practice law. An

investigator shall have authority, under the direction of the district attorney, to make arrests and execute process in criminal cases and shall have all the rights and duties of a peace officer in criminal cases and in cases growing out of the enforcement of all laws.

(c) Each assistant district attorney, investigator, stenographer, secretary, clerk, and other personnel may be required by the district attorney to make bond in such amount as the district attorney may direct, and all personnel are subject to removal at the will of the district attorney. Each assistant district attorney and investigator, when appointed, shall take the constitutional oath of office.

(d) Salaries of the assistant district attorneys, investigators, stenographers, secretaries, clerks, and other personnel shall be fixed by the district attorney, subject to the approval of the Commissioners Court of Brazos County. In addition to their salaries, the district attorney and each assistant district attorney, investigator, stenographer, secretary, clerk, and other personnel shall be allowed the actual and necessary travel expenses incurred in the proper discharge of their duties, and other necessary expenses incident to carrying out the official duties of the district attorney and his office, subject to the approval of the district attorney and the commissioners court. The salaries and expenses may be paid by the county from county funds or from a grant or funds from other sources available for this purpose.

(e) The Commissioners Court of Brazos County is authorized to furnish telephone service, typewriters, office furniture, office space, law library, supplies, and such other items and equipment as are necessary to carry out the official duties of the district attorney's office and to pay the expenses incident to the operation of the district attorney's office. The commissioners court is further authorized to furnish automobiles for the use of the district attorney's office for the purpose of conducting the official duties of the office and to provide the maintenance thereof. The commissioners court is further authorized to pay an automobile expense allowance to the district attorney, assistant district attorneys, investigators, stenographers, secretaries, clerks, and other personnel.

(f) The Commissioners Court of Brazos County may accept gifts and grants from any individual, partnership, corporation, trust, foundation, association, or political subdivision for the purpose of financing adequate and effective prosecution, crime prevention, or rehabilitation programs within the county or district, approved and administered by the district attorney.

[Acts 1967, 60th Leg., p. 1794, ch. 683, eff. Aug. 28, 1967. Amended by Acts 1975, 64th Leg., p. 364, ch. 156, §§ 1 and 2, eff. Sept. 1, 1975.]

Art. 326k-61a. 229th Judicial District Attorney

Creation of Office; Powers and Duties; Appointment; Election and Term

(a) The office of District Attorney for the 229th Judicial District is established. The district attorney has the powers and duties prescribed by law for district attorneys. On the effective date of this Act, the Governor shall appoint a district attorney for the 229th Judicial District who shall serve until the general election in 1970, and until his successor is elected and has qualified. A District Attorney for the 229th Judicial District shall be elected at the general election in 1970 for the remainder of a term expiring on December 31, 1972. Thereafter, beginning with the general election in 1972, he shall be elected every four years for a four-year term beginning on January 1 following his election.

Supplemental Salary; Payment

(b) The District Attorney of the 229th Judicial District may be paid a supplemental salary, at the discretion of the District Judge of the 229th Judicial District, in an amount not to exceed \$5,100 per annum. The Commissioners Courts of Duval, Starr, and Jim Hogg counties are authorized to pay the salary in supplementation of the salary paid by the state, in equal monthly payments out of the county funds by warrants drawn on the county funds.

Assistant; Appointment; Qualifications; Bond; Oath; Powers and Duties; Compensation; Removal

(c) The district attorney is hereby authorized to appoint one assistant district attorney for the 229th Judicial District provided that the district attorney shall furnish data to the Commissioners Courts of Duval, Starr, and Jim Hogg counties, that he is in need of an assistant and that it is necessary and to the best interests of the state and the counties that an assistant district attorney be appointed. The assistant district attorney shall be a qualified resident of the 229th Judicial District and shall give bond and take the official oath; and the assistant district attorney shall be a qualified licensed attorney and shall have authority to perform all the acts and duties of the district attorney in the 229th Judicial District under the laws of this state. The appointment shall be for such time as the district attorney shall deem best in the enforcement of the law, not to be less than one month. The assistant district attorney shall be paid by Duval, Starr, and Jim Hogg counties at a rate not to exceed \$8,400 per annum, in 12 equal monthly installments out of county funds by warrants drawn upon such county funds. The district attorney, at any time he deems the assistant unnecessary or finds that he is not attending to his duties as required by law, may remove the person from office by giving written notice to the assistant and to the commissioners courts to that effect.

**Additional Assistants; Appointment; Compensation;
Powers and Duties; Removal**

(d) The district attorney is hereby authorized to appoint one part-time assistant and one full-time assistant to serve in addition to his regular assistant, provided for in this Act, which assistants need not be licensed to practice law. The assistants shall be known as special investigators, and shall perform such duties as may be assigned to them by the district attorney. The part-time assistant shall receive as compensation a salary not to exceed \$3,600 per annum, and the full-time assistant shall receive as compensation a salary not to exceed \$7,200 per annum, payable monthly out of county funds by warrants drawn on such county funds. The special investigators shall have authority under the direction of the district attorney to make arrests and execute process in criminal cases and shall have all the rights and duties of a peace officer in criminal cases and in cases growing out of the enforcement of all laws. They shall serve at the will of the district attorney and may be removed from office by written notice by the district attorney to the special investigator concerned and to the commissioners courts to that effect.

**Stenographer-Secretary; Appointment
and Compensation**

(e) The district attorney is hereby authorized to appoint one stenographer-secretary, who shall keep the records of the district attorney's office and perform the necessary stenographic and secretarial work, as may be assigned by the district attorney, and who shall receive as compensation a salary not to exceed \$4,800 per annum, payable monthly out of county funds by warrants drawn on such county funds.

Payment and Apportionment of Salaries

(f) The supplemental salary of the district attorney, the salaries of the assistants and secretary, and the operating expenses of the office shall be paid by Duval, Starr, and Jim Hogg counties and shall be apportioned among the counties according to the following formula: The percentage of the total to be paid by each county shall be the same as that county's percentage of the total population of the three counties according to the last federal census. The judge of the 229th Judicial District shall determine the percentage for each county and notify the commissioners court of the amount to be paid by each county to each employee, and the amount of each county's share of the operating expenses.

[Acts 1969, 61st Leg., p. 697, ch. 239, § 6, eff. Sept. 1, 1969.]

Art. 326k-61b. 235th Judicial District Attorney

(a) The office of district attorney for the 235th Judicial District is established. The district attorney shall have the powers and duties prescribed by law for district attorneys.

(b) On the effective date of this Act, the Governor shall appoint a district attorney for the 235th Judicial District who shall serve until the general election in 1972 and until his successor is elected and has qualified. Thereafter, beginning with the general election in 1972, he shall be elected every four years for a four-year term beginning on January 1 following his election.

[Acts 1971, 62nd Leg., p. 1807, ch. 535, § 4, eff. Sept. 1, 1971.]

**Art. 326k-62. 42nd and 104th Judicial Districts;
Criminal District Attorney**

Creation of Office

(a) The office of criminal district attorney for the 42nd and 104th Judicial Districts is created.

Election and Term

(b) At the general election in November 1970, and every four years thereafter, the qualified electors of Taylor County shall elect a criminal district attorney.

Qualifications; Bond; Vacancy

(c) The criminal district attorney for the 42nd and 104th Judicial Districts must have the qualifications prescribed for district attorneys by general law. The criminal district attorney shall execute the bond required of district attorneys. A vacancy in the office of the criminal district attorney is filled in the same manner as a vacancy in the office of a district attorney.

Duties

(d) The criminal district attorney shall perform in the 42nd and 104th Judicial Districts all duties required of district attorneys by general law, except that the county attorney of Callahan County shall represent the State of Texas in all matters pending before the district court in Callahan County. The criminal district attorney of the 42nd and 104th Judicial Districts shall also perform the duties of county attorney in Taylor County and shall assist the county attorney in Callahan County on his request or, in the event of his inability to act, on appointment by the judge of the district court in Callahan County. If there is no county attorney in Callahan County, the criminal district attorney of the 42nd and 104th Judicial Districts shall represent the State of Texas in all matters pending before the district court in Callahan County.

**Office Space; Employment of Assistants,
Investigators, Etc.**

(e) The Commissioners Court of Taylor County shall provide suitable office space for the criminal district attorney in the county courthouse. The criminal district attorney, with the prior approval of the commissioners court, may employ as many assistant criminal district attorneys, investigators, court reporters, stenographers, clerks, and other

personnel as are necessary to carry out the duties of his office.

Compensation and Expenses

(f) The criminal district attorney is entitled to the compensation paid district attorneys by the state which is provided in the general appropriations act. The Commissioners Court of Taylor County shall supplement his state compensation in an amount not less than \$4,000 a year. The criminal district attorney of the 42nd and 104th Judicial Districts is entitled to the expenses and allowances provided in the general appropriations act for district attorneys who serve more than one county. The county attorney of Callahan County shall receive from the state an annual salary of \$5,000, and the Commissioners Court of Callahan County shall supplement the state salary. The Commissioners Court of Taylor County shall also determine and pay the salaries of all employees of the criminal district attorney. The commissioners court may reimburse the criminal district attorney and his employees for their reasonable and necessary expenses incurred while performing the duties of the office.

[Acts 1967, 60th Leg., p. 1201, ch. 538, § 1(6), eff. Aug. 28, 1967. Amended by Acts 1977, 65th Leg., p. 2158, ch. 860, § 9, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 2087, ch. 478, § 1, eff. Sept. 1, 1981.]

Art. 326k-63. Navarro County Criminal District Attorney

Creation of Office; Powers and Duties

Sec. 1. There is hereby created the Constitutional office of Criminal District Attorney of Navarro County. It shall be the duty of the criminal district attorney, or his assistants, as provided herein, to be in attendance upon each term and all sessions of the district court of Navarro County. The criminal district attorney and his assistants shall have the right and it shall be their primary duty to represent the State of Texas in criminal and civil cases pending in the district court and inferior courts of Navarro County. He shall have and exercise in addition to the specific powers given and duties imposed upon him and his assistants by this Act, all powers, duties, and privileges within Navarro County as are now by law conferred and which may hereafter be conferred on county attorneys and district attorneys in various counties and judicial districts of this state relative to criminal and civil matters for and in behalf of the county and the State of Texas.

Qualifications; Oath; Bond

Sec. 2. The criminal district attorney shall possess the qualifications and take the oath and give bond required by the constitution and laws of this state of other district attorneys.

Assistants; Appointment; Compensation; Qualifications; Removal

Sec. 3. The criminal district attorney shall appoint a first assistant criminal district attorney and

other assistants necessary to the proper performance of his official duties. The assistants shall be paid a salary to be determined and paid by the commissioners court. The assistants must be duly and legally licensed to practice law in this state. The assistants shall be subject to removal at the will of the criminal district attorney and shall be and are hereby authorized to perform any official act devolving upon or authorized to be performed by the criminal district attorney.

Special Investigator; Appointment; Qualifications; Compensation; Powers and Duties; Removal

Sec. 4. The criminal district attorney is hereby authorized to appoint one assistant in addition to his legal assistants provided for in this Act, which assistant shall not be required to possess the qualifications prescribed by law for district or county attorneys. The assistant shall be known as special investigator, shall perform such duties as may be assigned to him by the criminal district attorney, and shall receive as compensation a salary set by the commissioners court and payable out of the county funds. The special investigator shall be subject to removal at the will of the criminal district attorney. The special investigator shall have authority under the direction of the criminal district attorney to make arrests and execute process in criminal cases and shall have all the rights and duties of a peace officer in criminal cases and in cases growing out of the enforcement of all laws.

Stenographer; Appointment; Compensation; Removal

Sec. 5. The criminal district attorney is hereby authorized to appoint one stenographer who may or may not possess the qualifications prescribed by law for district and county attorneys, who shall perform the necessary stenographic work as may be assigned by the criminal district attorney, and who shall receive as compensation a salary set by the commissioners court and payable out of the county funds. The stenographer shall be subject to removal at the will of the criminal district attorney.

Expenses

Sec. 6. Navarro County is hereby authorized to set aside each year a sum of money to be expended by the criminal district attorney in the preparation and conduct of criminal affairs of the office.

Compensation

Sec. 7. The criminal district attorney shall be compensated for his services by the state in such manner and in such amount as may be fixed by the general law relating to the salary to be paid to district attorneys by the state, and in addition his salary may be supplemented by the commissioners court in such amount as it deems advisable.

County Attorney; Interim Status

Sec. 8. The present County Attorney of Navarro County shall fill the office of criminal district attorney

ney herein created until January 1, 1971, and until his successor is elected and has qualified, unless a vacancy in the office of criminal district attorney shall occur by death, resignation, or other lawful cause, whereupon the remaining term of this office shall be filled in accordance with the law.

Severability

Sec. 9. If any paragraph, phrase, clause, or section of this statute be held invalid, it shall not affect the balance of said statute, but it is expressly declared to be the intention of the Legislature that it would have passed the balance of said Act without such portion as may be held invalid.

Abolition of County Attorney's Office

Sec. 10. The office of County Attorney of Navarro County is abolished from and after the effective date of this Act.

[Acts 1969, 61st Leg., p. 2656, ch. 876, eff. Sept. 1, 1969.]

Art. 326k-64. Deaf Smith County Criminal District Attorney

Creation of Office; Powers and Duties

Sec. 1. There is hereby created the constitutional office of Criminal District Attorney of Deaf Smith County, Texas, to become operative on the date provided in Section 12 of this Act. It shall be the duty of the Criminal District Attorney, or his assistants, as provided herein to be in attendance upon each term and all sessions of the District Court of Deaf Smith County. The Criminal District Attorney and his assistants shall have the right and it shall be their primary duty to represent the State of Texas in criminal and civil cases pending in the District Court and inferior courts of Deaf Smith County. He shall have and exercise in addition to the specific powers given and duties imposed upon him and his assistants by this Act, all powers, duties, and privileges within Deaf Smith County as are now by law conferred and which may hereafter be conferred on County Attorneys and District Attorneys in various counties and judicial districts of this State relative to criminal and civil matters for and in behalf of the County and the State of Texas.

Qualifications; Oath; Bond

Sec. 2. The Criminal District Attorney shall possess the qualifications and take the oath and give bond required by the constitution and laws of this State of other District Attorneys.

Assistants; Appointment; Compensation; Qualifications; Removal

Sec. 3. The Criminal District Attorney may appoint a first assistant Criminal District Attorney and other assistants necessary to the proper performance of his official duties. The assistants shall be paid a salary to be determined and paid by the Commissioners Court. The assistants must be duly and legally licensed to practice law in this State.

The assistants shall be subject to removal at the will of the Criminal District Attorney and shall be and are hereby authorized to perform any official act devolving upon or authorized to be performed by the Criminal District Attorney.

Special Investigator; Appointment; Qualifications; Compensation; Powers and Duties; Removal

Sec. 4. The Criminal District Attorney is hereby authorized to appoint one assistant in addition to his legal assistants provided for in this Act, which assistant shall not be required to possess the qualifications prescribed by law for District or County Attorneys. The assistant shall be known as special investigator, shall perform such duties as may be assigned to him by the Criminal District Attorney, and shall receive as compensation a salary set by the Commissioners Court and payable out of the County funds. The special investigator shall be subject to removal at the will of the Criminal District Attorney. The special investigator shall have authority under the direction of the Criminal District Attorney to make arrests and execute process in criminal cases and shall have all the rights and duties of a peace officer in criminal cases and in cases growing out of the enforcement of all laws.

Stenographer; Appointment; Qualifications; Compensation; Duties; Removal

Sec. 5. The Criminal District Attorney is hereby authorized to appoint one stenographer who may or may not possess the qualifications prescribed by law for District and County Attorneys, who shall perform the necessary stenographic work as may be assigned by the Criminal District Attorney, and who shall receive as compensation a salary set by the Commissioners Court and payable out of the County funds. The stenographer shall be subject to removal at the will of the Criminal District Attorney.

Expenses

Sec. 6. Deaf Smith County is hereby authorized to set aside each year a sum of money to be expended by the Criminal District Attorney in the preparation and conduct of criminal affairs of the office.

Compensation and Expenses

Sec. 7. The criminal district attorney is entitled to the compensation paid district attorneys by the state which is provided for in the General Appropriations Act. The Commissioners Court of Deaf Smith County may supplement his state compensation. In addition, the District Attorney of Deaf Smith County, Texas, shall receive the same travel, office, and other necessary expenses as provided for district attorneys in the General Appropriations Act from the State of Texas.

Election and Term

Sec. 8. (a) The qualified electors of Deaf Smith County shall, by majority vote, elect a Criminal

District Attorney at a special election on May 18, 1971, for a term ending on December 31, 1974. The election shall be held jointly with the special election on proposed constitutional amendments which is ordered for that date. The election shall be ordered by the Governor and it shall be conducted under the procedures applying to a special election to fill a vacancy in the Legislature as prescribed in Section 32a and Subdivisions 1, 2, 3 and 5 of Section 32c, Texas Election Code (Article 4.10 and Subdivisions 1, 2, 3, and 5 of Article 4.12, Vernon's Texas Election Code), except that the certificate of election shall be issued by the Governor instead of the Secretary of State. The person elected is entitled to take office immediately upon receiving the certificate of election. If no candidate receives a majority of the votes in the first election, a second election shall be called and held in accordance with the provisions of Subdivision 3 of Section 32c of the Election code. Each candidate in the first election shall pay a filing fee of \$100, which shall accompany his application.

(b) At the general election in 1974 and every four years thereafter, the Criminal District Attorney shall be elected for a four-year term as provided in Section 30, Article V, and Section 65, Article XVI, Constitution of Texas.

**District Attorney of 69th Judicial District;
Application of Act**

Sec. 9. Upon the date that the office of Criminal District Attorney becomes operative, the District Attorney of the 69th Judicial District of Texas shall only represent the State of Texas in the Counties of Oldham, Moore, Hartley, Sherman, and Dallam. The provisions of this Act shall not affect the office of District Attorney or the duties and powers of such District Attorney in the Counties of Oldham, Moore, Hartley, Sherman, and Dallam, and the District Attorney shall continue to perform his duties in those counties as before, and it is specifically understood that this Act only applies to Deaf Smith County and not to the Counties of Oldham, Moore, Hartley, Sherman, and Dallam.

Severability

Sec. 10. If any paragraph, phrase, clause, or section of this statute be held invalid, it shall not affect the balance of said statute, but it is expressly declared to be the intention of the Legislature that it would have passed the balance of said Act without such portion as may be held invalid.

Abolition of County Attorney's Office

Sec. 11. The office of County Attorney of Deaf Smith County is abolished from and after the date that the office of the Criminal District Attorney becomes operative.

Operative Date

Sec. 12. The office of Criminal District Attorney of Deaf Smith County becomes operative upon the

date that the initial holder of the office qualifies and assumes office following his election.

[Acts 1971, 62nd Leg., p. 65, ch. 34, eff. March 22, 1971. Amended by Acts 1975, 64th Leg., p. 578, ch. 234, § 1, eff. May 20, 1975.]

Art. 326k-64a. Representation of State in Oldham County District Court

Sec. 1. The County Attorney of Oldham County shall represent the State of Texas in all matters pending before the district court in Oldham County. The Criminal District Attorney of Deaf Smith County shall assist the county attorney in Oldham County on his request or, in the event of his inability to act, on appointment by the judge of the district court in Oldham County. If there is no county attorney in Oldham County, the Criminal District Attorney of Deaf Smith County shall represent the State of Texas in all matters pending before the district court in Oldham County on appointment by the judge of the district court in Oldham County.

Sec. 2. The Criminal District Attorney of Deaf Smith County shall be entitled to the expenses and allowances as provided in the General Appropriations Act for district attorneys who serve more than one county. The state shall pay Oldham County a sum equal to 30 percent of the salary paid to district attorneys by the state.

[Acts 1975, 64th Leg., p. 1965, ch. 649, §§ 1 and 2, eff. Sept. 1, 1975.]

Section 3 of the 1975 Act provided:

"There is appropriated out of the General Revenue Fund the sum of \$7,000 for the fiscal year ending August 31, 1976, and the sum of \$7,000 for the fiscal year ending August 31, 1977, for expenses and allowances to the Criminal District Attorney of Deaf Smith County as provided in Section 2 of this Act. There is appropriated out of the General Revenue Fund the sum of \$6,990 for the fiscal year ending August 31, 1976, and the sum of \$7,440 for the fiscal year ending August 31, 1977, as payment to Oldham County as provided in Section 2 of this Act."

Art. 326k-65. 22nd Judicial District; Assistants and Employees

Appointment of Assistants and Employees

Sec. 1. The District Attorney of the 22nd Judicial District is hereby authorized to appoint such assistants, secretaries, stenographers, investigators, deputies and other necessary employees as the Commissioners Court of the county in the district where said employee would serve may authorize. Such employees shall serve at the pleasure of the District Attorney.

Number and Compensation of Employees

Sec. 2. The number of positions in each class of employment, and the salary or hourly wage payable to the person holding each position, shall be designated by the District Attorney with the consent of the Commissioners Courts of the counties within the district; provided that the County Commissioners Court of any county in the district may authorize additional employees, at the expense of such county,

and designate the salary or hourly wage payable to such employees.

Office and Travel Expenses; Budget

Sec. 3. The District Attorney of the 22nd Judicial District, with the joint consent of the Commissioners Courts in the district, is hereby authorized to pay all necessary and proper expenses of the District Attorney's office, including but not limited to office equipment, rent, law books, supplies, postage, telephone, investigating equipment, and vehicles for transportation. And, in addition to their salaries, the District Attorney, his assistants and investigators may be allowed necessary travel expenses incurred in the proper discharge of their duties. Provided, however, that as a condition to receiving the consent of the Commissioners Courts for the expenditure of any funds for expenses, the District Attorney shall supply each Commissioners Court in the district with a budget of the proposed expenditures.

Payment of Salaries and Expenses

Sec. 4. All salaries, hourly wages and expenses provided for in this Act shall be borne by the counties composing the 22nd Judicial District in proportion to the population of each at the last preceding Federal Census, and shall be paid monthly from the officers salary fund, the general fund, or any other available county funds, or any combination thereof, at the discretion of the Commissioners Court; provided that salaries, hourly wages and expenses of any additional employees authorized in Section 2 of this Act shall be borne solely by the county which said employee serves. Salaries shall be paid in twelve (12) equal monthly installments.

Assistants; Qualifications; Oath; Bond; Powers and Duties

Sec. 5. Assistant District Attorneys of the 22nd Judicial District shall be residents of a county within the district and shall be duly licensed to practice law in the State of Texas. They shall, when appointed, give bond and take the constitutional oath of office, which bond and oath shall be approved by the District Judge of the 22nd Judicial District and be filed with the County Clerk of the assistant's residence. Assistant District Attorneys who have complied with the provisions of this Act are hereby authorized to represent the State of Texas in the 22nd Judicial District and its courts, and to perform for the State and the several counties of the district all duties imposed by law on the District Attorney.

Compensation by State

Sec. 6. Nothing in this Act shall be construed so as to deprive the District Attorney or the counties of the district of any salary, compensation or expense allowance that is now, or may in the future be, paid by the State of Texas.

County Employment of Assistants, Etc.

Sec. 7. Nothing in this Act shall be construed as prohibiting any county or counties within the district from employing at its or their expense, assistant district attorneys, secretaries, stenographers, investigators, deputies or other employees, or from paying salaries, wages or expenses of such persons in the same manner and from the same funds as provided in Section 2 and Section 4 of this Act. [Acts 1971, 62nd Leg., p. 898, ch. 125, eff. May 10, 1971.]

Art. 326k-66. 69th Judicial District; Compensation of District Attorney; Assistants, Investigators and Stenographers

Compensation of District Attorney

Sec. 1. The district attorney of the 69th Judicial District shall be compensated for his services by the State of Texas in an amount fixed by the general law relating to the salary to be paid to district attorneys by the state, and in addition his salary may be supplemented by the commissioners courts of the counties comprising the 69th Judicial District, in an amount not to exceed \$8,500 per year.

The commissioners court of each county in the 69th Judicial District, in its discretion, may pay the supplemental salary herein authorized. The supplemental salary paid by each county shall be in such amount as the commissioners court may determine but shall not exceed the amount paid the county attorney in the county. If more than one county should pay a supplemental salary, then the amount of supplemental salary to be paid by each county shall be determined by a proration of the case load in the counties paying the supplemental salary, not to exceed the amount paid the county attorneys in the counties participating.

Application for Appointment of Assistants, Investigators or Stenographers; Order Authorizing Employment; Appointment

Sec. 2. Whenever the district attorney of the 69th Judicial District shall require the services of assistants, investigators, or stenographers in the performance of his duty, he shall apply to the commissioners court or commissioners courts of the county or counties in the 69th Judicial District where the services are needed for authority to appoint the assistants, investigators, or stenographers, stating by sworn application the number needed, the position to be filled, the amount to be paid, and whether the services will apply to one or more counties. The district attorney may make application for such services to be used in one or all of the counties under his jurisdiction, but application shall be made only to the counties where such services will be used. Upon receipt of such application, the commissioners court or commissioners courts of the county or counties where the application is made may enter an order authorizing the employment of the assistants, deputies, and stenographers and fix the compensation to be paid them

within the limitations herein prescribed and determine the number to be appointed as in the discretion of the commissioners court or commissioners courts may be deemed proper, provided that in no case shall the commissioners court or commissioners courts or any member thereof attempt to influence the employment of any person as assistant, investigator, or stenographer. Upon entry of the order, the district attorney of the 69th Judicial District may employ the assistants, investigators, and stenographers as authorized by the commissioners court or commissioners courts, provided that the compensation paid them shall not exceed the maximum amount prescribed in Section 3 of this Act.

Compensation of Assistants, Investigators and Stenographers; Qualifications and Duties

Sec. 3. Each stenographer of the district attorney in the 69th Judicial District shall be paid an annual salary of not less than \$2,400 and not more than \$8,250 as determined by the commissioners courts affected thereby.

Each assistant and each investigator of the district attorney of the 69th Judicial District shall be paid an annual salary of not less than \$4,800 and not more than \$15,000, as determined by the commissioners courts affected thereby.

The assistants to the district attorney of the 69th Judicial District shall be duly and legally licensed to practice law in the State of Texas and shall be authorized to perform all duties imposed upon the district attorney provided by law. The investigators need not be duly and legally licensed to practice law in the State of Texas.

Expenses

Sec. 4. The investigators or assistants provided for in this Act shall be allowed their reasonable and necessary expenses incurred in their official duties. The expenses shall be paid only after approval of the district attorney and the commissioners courts affected thereby.

Payment of Salaries

Sec. 5. All salaries and supplemental salaries provided for herein shall be paid out of the officers salary fund of the respective counties of the 69th Judicial District, if adequate; if inadequate, the commissioners courts shall transfer the necessary funds from the general fund to the officers salary fund.

Bond; Powers of Arrest and Process

Sec. 6. The investigators and assistants provided for in this Act may be required to give bond and shall have authority under the discretion of the district attorney to make arrests and execute pro-

cess in criminal cases and in cases growing out of the enforcement of all laws.

[Acts 1971, 62nd Leg., p. 1620, ch. 449, eff. May 26, 1971. Amended by Acts 1973, 63rd Leg., p. 11, ch. 9, § 1, eff. March 12, 1973; Acts 1977, 65th Leg., p. 1457, ch. 595, § 1, eff. Aug. 29, 1977.]

Art. 326k-67. Collin County Criminal District Attorney

Creation of Office; Powers and Duties

Sec. 1. (a) The constitutional office of Criminal District Attorney of Collin County is created.

(b) The criminal district attorney or his assistants shall be in attendance upon each term and all sessions of any district court in Collin County held for the transaction of criminal business. The criminal district attorney shall represent the state in criminal and civil cases, unless otherwise provided by law, pending in the district court and inferior courts having jurisdiction in Collin County.

(c) The criminal district attorney shall have and exercise, in addition to the specific powers given and duties imposed upon him and his assistants by this Act, all powers, duties, and privileges within Collin County conferred on district attorneys and county attorneys in the various counties and judicial districts of this state relative to criminal and civil matters for and in behalf of the county and the State of Texas.

Qualifications; Oath; Bond; Private Practice of Law

Sec. 2. (a) The criminal district attorney shall possess the qualifications, take the oath, and give the bond required by the Constitution and laws of this state of district attorneys.

(b) The criminal district attorney shall not, after January 1, 1979, actively engage in the private practice of law while serving as criminal district attorney in and for Collin County.

Salary

Sec. 3. The Criminal District Attorney of Collin County shall receive an annual salary to be set by the commissioners court in an amount not to exceed \$15,000.

Assistants and Other Personnel; Expenses

Sec. 4. (a) The criminal district attorney, for the purpose of conducting the affairs of his office, may appoint assistant criminal district attorneys, investigators, stenographers, clerks, and other personnel as the commissioners court may provide. All salaries of the assistant criminal district attorneys, investigators, stenographers, clerks and other personnel shall be paid by the commissioners court in equal monthly installments from the officers salary fund of Collin County.

(b) In addition to the salary provided the criminal district attorney, his assistants, investigators, stenographers, clerks, and other personnel, the com-

missioners court may allow the criminal district attorney, his assistants and investigators such necessary expenses as the commissioners court deems reasonable. The expenses shall be paid as provided by law for other such claims of expenses.

Office; Payment of Expenses

Sec. 5. The commissioners court shall provide and furnish suitable office space and such office furniture, supplies, and equipment as necessary to carry out the duties of the criminal district attorney. The commissioners court shall pay the necessary expenses incident to carrying out the duties of the criminal district attorney.

Abolition of County Attorney's Office

Sec. 6. The office of County Attorney of Collin County is abolished from and after the effective date of this Act.

County Attorney Commissioned; Election and Term; Vacancy

Sec. 7. (a) Upon the effective date of this Act, the county attorney of Collin County shall be commissioned as the criminal district attorney of Collin County. He shall fill the office of criminal district attorney until the general election in 1972 and until his successor is elected and has qualified.

(b) At the general election in 1972, there shall be elected a criminal district attorney for Collin County for a term ending on December 31, 1974. At the general election in 1974 and every four years thereafter, this officer shall be elected for a regular four-year term as provided in Section 30, Article V, and Section 65, Article XVI, Constitution of Texas.

(c) Any vacancy occurring in the office of the Criminal District Attorney of Collin County shall be filled by the Commissioners Court of Collin County, and the appointee shall hold office until the next general election and until his successor is elected and has qualified.

[Acts 1971, 62nd Leg., p. 1775, ch. 519, eff. May 31, 1971. Amended by Acts 1975, 64th Leg., p. 1355, ch. 512, § 1, eff. Sept. 1, 1975.]

Art. 326k-68. Eastland County Criminal District Attorney

Creation of Office; Powers and Duties

Sec. 1. There is hereby created the constitutional office of Criminal District Attorney of Eastland County, Texas, to become operative on the date provided in Section 12 of this Act. It shall be the duty of the Criminal District Attorney, or his assistants, as provided herein, to be in attendance upon each term and all sessions of the District Court of Eastland County. The Criminal District Attorney and his assistants shall have the right and it shall be their primary duty to represent the State of Texas in criminal and civil cases pending in the District Court and inferior courts of Eastland County. He shall have and exercise in addition to the

specific powers given and duties imposed upon him and his assistants by this Act, all powers, duties, and privileges within Eastland County as are now by law conferred and which may hereafter be conferred on county attorneys and district attorneys in various counties and judicial districts of this State relative to criminal and civil matters for and in behalf of the county and the State of Texas.

Qualifications; Oath; Bond

Sec. 2. The Criminal District Attorney shall possess the qualifications and take the oath and give bond required by the constitution and laws of this State of other district attorneys.

Assistants; Appointment; Compensation; Qualifications; Removal

Sec. 3. The Criminal District Attorney may appoint a first assistant Criminal District Attorney and other assistants necessary to the proper performance of his official duties. The assistants shall be paid a salary to be determined and paid by the Commissioners Court. The assistants must be duly and legally licensed to practice law in this State. The assistants shall be subject to removal at the will of the Criminal District Attorney and shall be and are hereby authorized to perform any official act devolving upon or authorized to be performed by the Criminal District Attorney.

Special Investigator; Appointment; Qualifications; Compensation; Powers and Duties; Removal

Sec. 4. The Criminal District Attorney is hereby authorized to appoint one assistant in addition to his legal assistants provided for in this Act, which assistant shall not be required to possess the qualifications prescribed by law for district or county attorneys. The assistant shall be known as special investigator, shall perform such duties as may be assigned to him by the Criminal District Attorney, and shall receive as compensation a salary set by the Commissioners Court and payable out of the county funds. The special investigator shall be subject to removal at the will of the Criminal District Attorney. The special investigator shall have authority under the direction of the Criminal District Attorney to make arrests and execute process in criminal cases and shall have all the rights and duties of a peace officer in criminal cases and in cases growing out of the enforcement of all laws.

Stenographer; Appointment; Compensation; Removal

Sec. 5. The Criminal District Attorney is hereby authorized to appoint one stenographer who may or may not possess the qualifications prescribed by law for district and county attorneys, who shall perform the necessary stenographic work as may be assigned by the Criminal District Attorney, and who shall receive as compensation a salary set by the Commissioners Court and payable out of the county funds. The stenographer shall be subject to removal at the will of the Criminal District Attorney.

Office Expenses

Sec. 6. Eastland County is hereby authorized to set aside each year a sum of money to be expended by the Criminal District Attorney in the preparation and conduct of criminal affairs of the office.

Commission; Compensation; Payment

Sec. 7. The Criminal District Attorney of Eastland County, Texas, shall be commissioned by the Governor. The Criminal District Attorney is entitled to the compensation paid district attorneys by the state as provided in the General Appropriations Act. The Commissioners Court of Eastland County may supplement his state compensation in an amount not to exceed \$9,700 a year. The sum paid by the county shall be paid out to the Officers Salary Fund of Eastland County, if adequate; if inadequate, the Commissioners Court shall transfer the necessary funds from the General Fund of the county to the Officers Salary Fund.

Appointment; Election and Term

Sec. 8. On the effective date of this Act, the Governor shall appoint a Criminal District Attorney for Eastland County who shall serve until the general election in 1972 and until his successor is elected and qualified. There shall be elected by the qualified electors of Eastland County at the general election in November, 1972, a Criminal District Attorney in and for Eastland County for a term ending on December 31, 1974. At the general election in 1974 and every four years thereafter this officer shall be elected for a regular four-year term as provided in Section 30, Article V, and Section 65, Article XVI, Constitution of Texas.

Service on Juvenile Board

Sec. 9. Upon the effective date of this Act the Criminal District Attorney of Eastland County, Texas, shall thereafter serve on the Eastland County Juvenile Board in lieu of the Eastland County Attorney.

Severability

Sec. 10. If any paragraph, phrase, clause, or section of this statute be held invalid, it shall not affect the balance of said statute, but it is expressly declared to be the intention of the Legislature that it would have passed the balance of said Act without such portion as may be held invalid.

Abolition of County Attorney's Office

Sec. 11. The office of County Attorney of Eastland County is abolished from and after the date that the office of the Criminal District Attorney becomes operative.

Operative Date

Sec. 12. The office of Criminal District Attorney of Eastland County becomes operative upon the

date that the initial holder of the office qualifies and assumes office following his election.

[Acts 1971, 62nd Leg., p. 2377, ch. 738, eff. June 8, 1971. Amended by Acts 1975, 64th Leg., p. 393, ch. 172, § 1, eff. Sept. 1, 1975.]

Art. 326k-69. Lubbock County Criminal District Attorney**Creation of Office; Qualifications; Oath; Bond**

Sec. 1. The office of the Criminal District Attorney for Lubbock County, Texas, is created. The Criminal District Attorney for Lubbock County shall be at least 25 years of age, a practicing attorney in this State for four years, and a resident of Lubbock County. He shall possess all the qualifications, take the oath of office, and give the bond required of district attorneys by the constitution and general laws of this state. He shall reside in Lubbock County during his term of office.

Election and Term

Sec. 2. There shall be elected by the qualified electors of Lubbock County at the general election in November, 1972, a Criminal District Attorney in and for Lubbock County for a term beginning on January 1, 1973, and ending on December 31, 1974. At the general election in 1974 and every four years thereafter, this officer shall be elected for a regular four-year term as provided in Section 30, Article V, and Section 65, Article XVI, Constitution of Texas.

Powers and Duties; Fees, Commissions and Perquisites

Sec. 3. It shall be the duty of the Criminal District Attorney in and for Lubbock County or his assistants, as herein provided, to be in attendance upon each term and all sessions of the district courts in Lubbock County, and all of the sessions and terms of the inferior courts of Lubbock County held for the transaction of criminal business, and exclusively to represent the State of Texas in all criminal matters pending before those courts and perform such other duties as may be conferred by law upon the district and county attorneys in the various counties and judicial districts of this state. He shall collect such fees, commissions, and perquisites as are now, or may hereafter be provided by law for similar services rendered by district and county attorneys of this state.

Commission; Compensation; Payment

Sec. 4. The Criminal District Attorney in and for Lubbock County shall be commissioned by the Governor, and shall receive as compensation an annual salary, payable in equal monthly installments. Such salary shall include the amount paid District Attorneys by the State of Texas, and shall be paid by the Comptroller of Public Accounts, as appropriated by the Legislature. In addition, the Criminal District Attorney of Lubbock County shall be paid in equal monthly installments out of the Officers' Salary Fund of Lubbock County an amount which,

when added to the amount paid by the State of Texas as above, would equal an amount not less than 90 percent of the total salaries paid to the Judge of the 72nd Judicial District of Texas by the State of Texas and Lubbock County.

Assistants, Investigators, Etc.; Appointment and Compensation; Expenses

Sec. 5. The Criminal District Attorney in and for Lubbock County, for the purpose of conducting the affairs of his office, is hereby authorized to appoint assistant criminal district attorneys, investigators, stenographers, clerks, and other personnel as the Commissioners Court of Lubbock County may provide. All salaries of the assistant criminal district attorneys, investigators, stenographers, clerks, and other personnel shall be paid by the Commissioners Court of Lubbock County in equal monthly installments from the Officers' Salary Fund of Lubbock County.

In addition to the salary provided the Criminal District Attorney, his assistants, investigators, stenographers, clerks, and other personnel, the Commissioners Court of Lubbock County may allow the Criminal District Attorney, his assistants and investigators such necessary expenses as the commissioners court deems reasonable. The expenses shall be paid as provided by law for other such claims of expenses.

Oath of Assistants; Powers and Duties

Sec. 6. The assistant criminal district attorneys of Lubbock County shall take, upon appointment, the constitutional oath of office. The criminal district attorney and his assistants shall have the exclusive right, and it shall be their duty, to represent the State of Texas in all criminal cases pending in any and all of the courts of Lubbock County, as well as perform other statutory or constitutional duties imposed upon district and county attorneys of this state. The assistant criminal district attorneys in and for Lubbock County are authorized to administer oaths, file informations, examine witnesses before the grand jury, and generally perform any duty devolving upon the Criminal District Attorney in and for Lubbock County and exercise any power and perform any duty conferred by law upon the Criminal District Attorney in and for Lubbock County.

Abolition of District and County Attorneys' Offices; Transfer of Duties

Sec. 7. On January 1, 1973, the office of District Attorney for the 72nd Judicial District and the office of County Attorney of Lubbock County are abolished. On January 1, 1973, the duties heretofore prescribed by law for the District Attorney of the 72nd Judicial District in Crosby County are transferred to the County Attorney of Crosby County. From and after January 1, 1973, the County Attorney of Crosby County shall perform all the

duties of both district and county attorneys for the 72nd Judicial District in Crosby County.

Repealer

Sec. 8. All laws or parts of laws in conflict with the provisions of the Act are hereby expressly repealed.

Severability

Sec. 9. If any provisions of the Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are declared to be severable.

Private Practice of Law

Sec. 10. The Criminal District Attorney in and for Lubbock County, Texas, and his assistants, shall not engage in the private practice of law while serving as Criminal District Attorney, or assistant criminal district attorney, in and for Lubbock County, Texas.

[Acts 1971, 62nd Leg., p. 2428, ch. 776, eff. June 8, 1971. Amended by Acts 1981, 67th Leg., p. 1850, ch. 433, § 1, eff. Aug. 31, 1981.]

Art. 326k-70. 84th Judicial District; Appointment and Compensation of Assistant

Appointment of Assistant

Sec. 1. The district attorney for the 84th Judicial District, with the approval of the commissioners courts of the several counties included within the 84th Judicial District, may appoint an assistant district attorney for the 84th Judicial District.

Qualifications and Duties

Sec. 2. An assistant district attorney appointed under the provisions of this Act shall be a person licensed to practice law in this state and may perform for the state and the several counties included within the 84th Judicial District all duties imposed by law on the district attorney.

Salary and Bond

Sec. 3. The person appointed to the office of assistant district attorney may be paid a salary set by the district attorney, with the approval of the commissioners courts of the several counties included within the 84th Judicial District. The assistant district attorney shall execute a bond, in an amount fixed by the district attorney, conditioned on the faithful performance of his duties.

Travel Expenses

Sec. 4. In addition to a salary, the assistant district attorney may be allowed the actual and necessary travel expenses incurred in the proper discharge of the duties of the office, subject to the approval of all claims by the district attorney.

Payment of Salary or Expenses

Sec. 5. The salary or expenses provided for by the Act shall be paid by the counties included within the 84th Judicial District in proportion to the population of each for the last preceding federal census. The salary shall be paid in 12 equal monthly installments. Expense claims shall be paid at the end of each month upon approval by the district attorney. [Acts 1973, 63rd Leg., p. 121, ch. 61, eff. April 26, 1973.]

Art. 326k-71. Kaufman County Criminal District Attorney**Creation of Office**

Sec. 1. The constitutional office of Criminal District Attorney of Kaufman County is created.

Qualifications; Oath; Bond; Residence

Sec. 2. The Criminal District Attorney of Kaufman County shall be at least 25 years of age, a practicing attorney in this state for five years, and a resident of Kaufman County. He shall possess all the qualifications, take the oath of office, and give the bond required of district attorneys by the constitution and general laws of this state. He shall reside in Kaufman County during his term of office.

Duties; Fees, Commissions and Perquisites

Sec. 3. It is the duty of the Criminal District Attorney of Kaufman County or his assistants to be in attendance on each term and all sessions of the district courts in Kaufman County and all sessions and terms of the inferior courts of Kaufman County held for the transaction of criminal business, and exclusively to represent the State of Texas in all criminal matters pending before those courts and perform such other duties as may be conferred by law on the district and county attorneys in the various counties and judicial districts of this state. He shall collect such fees, commissions, and perquisites as are provided by law for similar services rendered by district and county attorneys of this state.

Commission; Compensation; Payment

Sec. 4. The Criminal District Attorney of Kaufman County shall be commissioned by the governor, and shall receive as compensation an annual salary payable in equal monthly installments. The salary shall include the amount equal to the amount paid district attorneys by the State of Texas, and shall be paid by the comptroller of public accounts, as appropriated by the legislature. In addition, the Criminal District Attorney of Kaufman County shall be paid in equal bimonthly installments out of the officers' salary fund of Kaufman County an amount which, when added to the amount paid by the State of Texas, equals an amount not less than 90 percent of the total salaries paid to the Judge of the 86th Judicial District by the State of Texas and Kaufman, Van Zandt, and Rockwall counties.

Assistants, Investigators, Etc.; Appointment and Compensation; Expenses

Sec. 5. The Criminal District Attorney of Kaufman County, for the purpose of conducting the affairs of his office, may appoint a staff composed of assistant criminal district attorneys, investigators, stenographers, clerks, and other personnel as the Commissioners Court of Kaufman County may authorize. All salaries of assistant criminal district attorneys, investigators, stenographers, clerks, and other personnel shall be an amount set by the criminal district attorney with the approval of the commissioners court and shall be paid by the commissioners court in equal bimonthly installments from the officers' salary fund of Kaufman County. In addition to the salary provided the criminal district attorney, his assistants, investigators, stenographers, clerks, and other personnel, the Commissioners Court of Kaufman County may allow the criminal district attorney, his assistants and investigators such necessary expenses as the Commissioners Court deems reasonable. The expenses shall be paid as provided by law for other such claims of expenses.

Oath of Assistants; Powers and Duties

Sec. 6. The assistant criminal district attorneys of Kaufman County shall take, on appointment, the constitutional oath of office. The criminal district attorney and his assistants shall have the exclusive right and duty to represent the State of Texas in all criminal cases pending in any court of Kaufman County, as well as perform other statutory or constitutional duties imposed on district and county attorneys of this state. The assistant criminal district attorneys of Kaufman County are authorized to administer oaths, file information, examine witnesses before the grand jury, and generally perform any duty devolving upon the Criminal District Attorney of Kaufman County and exercise any power and perform any duty conferred by law on the Criminal District Attorney of Kaufman County.

Private Practice of Law

Sec. 7. The Criminal District Attorney of Kaufman County and his assistants shall not engage in the private practice of law while serving as criminal district attorney or assistant criminal district attorney of Kaufman County. This section becomes effective on January 1, 1975.

Abolition of County Attorney's Office

Sec. 8. The office of County Attorney of Kaufman County is abolished from and after the effective date of this Act.

County Attorney Commissioned; Election and Term; Vacancy

Sec. 9. (a) On the effective date of this Act, the County Attorney of Kaufman County shall be commissioned as the Criminal District Attorney of Kaufman County. He shall fill the office of crimi-

nal district attorney until the general election in 1974 and until his successor is lawfully elected and has qualified.

(b) At the general election in 1974 and every four years thereafter, this officer shall be elected for a regular four-year term as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(c) Any vacancy occurring in the office of Criminal District Attorney of Kaufman County after the office is filled initially by the County Attorney of Kaufman County, as provided in Subsection (a) of this section, shall be filled by appointment by the governor, and the appointee shall hold office until the next general election and until his successor is elected and has qualified.

[Acts 1973, 63rd Leg., p. 122, ch. 62, eff. Aug. 27, 1973.]

Art. 326k-72. 145th Judicial District Attorney

Secs. 1 to 3. [Amends art. 199, subds. 2 and 145; art. 326l-1].

Creation of Office

Sec. 4. The office of district attorney for the 145th Judicial District is created.

Powers and Duties

Sec. 5. The district attorney for the 145th Judicial District shall represent the state in all criminal cases in the district court for the 145th Judicial District and perform the other duties provided by law governing district attorneys.

Salary

Sec. 6. The district attorney shall receive from the state the annual salary provided in the General Appropriations Act for district attorneys.

Appointment; Election and Term

Sec. 7. On the effective date of this Act, the governor shall appoint a district attorney for the 145th Judicial District, who shall serve until the next general election and until his successor is elected and has qualified.

Assistants, Investigators and Stenographers; Appointment and Compensation

Sec. 8. (a) The district attorney for the 145th Judicial District, with the approval of the Commissioners Court of Nacogdoches County, may appoint such assistant district attorneys, investigators, and stenographers as are necessary to carry out the duties of his office.

(b) An assistant district attorney appointed under the provisions of this Act shall be a person licensed to practice law in this state and may perform for the state and the county all duties imposed by law on the district attorney. An investigator appointed under the provisions of this Act need not be licensed to practice law.

(c) Each assistant district attorney, investigator, and stenographer shall receive a salary fixed by the district attorney, subject to the approval of the Commissioners Court of Nacogdoches County. In addition to a salary, each assistant district attorney and investigator may be allowed the actual and necessary travel expenses incurred in the proper discharge of his duties, subject to the approval of all claims by the district attorney.

(d) The salaries and expenses provided for by this Act may be paid by the county from county funds or from a grant or fund from other sources available for this purpose.

[Acts 1973, 63rd Leg., p. 790, ch. 353, eff. June 12, 1973.]

Art. 326k-73. 173rd Judicial District Attorney

Creation of Office

Sec. 1. The office of district attorney for the 173rd Judicial District is created.

Representation of State and Other Duties

Sec. 2. The district attorney for the 173rd Judicial District shall represent the state in Henderson County in all cases in the district courts having jurisdiction in Henderson County and perform the other duties provided by law governing district attorneys.

Salary

Sec. 3. The district attorney shall receive from the state the annual salary provided in the General Appropriations Act for district attorneys.

Appointment; Election and Term

Sec. 4. On the effective date of this Act, the governor shall appoint a district attorney for the 173rd Judicial District, who shall serve until the next general election and until his successor is elected and has qualified.

Assistants, Investigators and Personnel; Appointment and Compensation

Sec. 5. (a) The district attorney, with the approval of the commissioners courts of the counties comprising the 173rd Judicial District, may appoint assistants, investigators, and office personnel as he deems necessary. The salary of each person appointed shall be set by the district attorney with the approval of the commissioners courts. The salary of each person appointed by the district attorney and the other operating expenses of the office of district attorney shall be paid by the commissioners courts of the counties comprising the 173rd Judicial District out of the general funds of the counties, prorated according to the population of the counties comprising the judicial district, as determined by the last preceding federal census.

(b) An assistant district attorney and investigator, when appointed, shall take the constitutional oath of office, and the assistant district attorney

shall exercise the powers and perform the duties conferred and imposed by law upon the district attorney, under the supervision and direction of the district attorney of the 173rd Judicial District.

[Acts 1973, 63rd Leg., p. 1228, ch. 442, eff. June 14, 1973. Amended by Acts 1983, 68th Leg., p. 4970, ch. 889, § 14, eff. Jan. 1, 1984.]

Art. 326k-74. 29th Judicial District Attorney

Representation of State and Other Duties

Sec. 1. The district attorney for the 29th Judicial District shall represent the State of Texas in all criminal cases in the district court for the 29th Judicial District and perform other duties provided by law.

Assistants, Investigators, Secretaries, and other Personnel; Employment

Sec. 2. The district attorney may employ such assistant district attorneys, investigators, secretaries, and other office personnel as, in his judgment, are required for the proper and efficient operation and administration of the office.

Assistants; Qualifications; Oath; Duties

Sec. 3. Assistant district attorneys must be legally licensed to practice law in the State of Texas, shall take the constitutional oath of office, and shall be authorized to perform all duties imposed by law on the district attorney.

Bond of Assistants, Investigators and Secretaries; Removal of Personnel

Sec. 4. Assistant district attorneys, investigators, and secretaries to the district attorney may be required by the district attorney to have bond in such amount as the district attorney may direct, and all personnel shall be subject to removal at the will of the district attorney.

Salaries

Sec. 5. Salaries of the assistant district attorneys, investigators, secretaries and other office personnel shall be fixed by the district attorney, subject to the approval of the commissioners court of the county or counties composing the district.

Expenses

Sec. 6. Assistant district attorneys and investigators, in addition to their salaries, may be allowed actual and necessary travel expenses incurred in the discharge of their duties, not to exceed the amount fixed by the district attorney and approved by the commissioners court of the county or the counties composing the district. All claims for travel expenses may be paid from the general fund, officers' salary fund, or any other available funds of the county.

Office Equipment and Expenses; Automobiles

Sec. 7. The commissioners court of the county or the counties composing the district is authorized to furnish telephone services, typewriters, office furniture, office space, supplies, and such other items and equipment as are necessary to carry out the official duties of the district attorney's office, and to pay the expenses incident to the operation of the district attorney's office. The commissioners courts are further authorized to furnish automobiles for the use of the district attorney's office for the purpose of conducting the official duties of the office, and to provide the maintenance thereof.

Gifts and Grants

Sec. 8. The commissioners court of the county or the counties composing the district may accept gifts and grants from any foundation, association, or political subdivision for the purpose of financing adequate and effective prosecution programs within the county or district. For the purposes of this Act, municipalities within the county or district are specifically authorized to allocate and grant such sums of money as their respective governing bodies may approve to their county government for the support and maintenance of an effective prosecution program.

[Acts 1973, 63rd Leg., p. 1358, ch. 515, eff. June 14, 1973.]

Art. 326k-75. Hays County Criminal District Attorney

Creation of Office

Sec. 1. The constitutional office of Criminal District Attorney of Hays County is created.

Qualifications; Oath; Bond; Residence

Sec. 2. The Criminal District Attorney of Hays County shall be at least 25 years of age, a practicing attorney in this state for five years, and a resident of Hays County. He shall possess all the qualifications, take the oath of office, and give the bond required of district attorneys by the constitution and general laws of this state. He shall reside in Hays County during his term of office.

Duties; Fees, Commissions and Perquisites; District Attorney of 22nd Judicial District; Application of Act

Sec. 3. (a) It is the duty of the Criminal District Attorney of Hays County or his assistants to be in attendance on each term and all sessions of the district courts in Hays County and all sessions and terms of the inferior courts of Hays County held for the transaction of criminal business, and exclusively to represent the State of Texas in all criminal matters pending before those courts and perform such other duties as may be conferred by law on the district and county attorneys in the various counties and judicial districts of this state. He shall collect such fees, commissions, and perquisites as are pro-

vided by law for similar services rendered by district and county attorneys of this state.

(b) From and after the effective date of this Act, the District Attorney of the 22nd Judicial District shall only represent the State of Texas in the counties of Caldwell and Comal. The provisions of this Act apply only to Hays County and do not affect the office of district attorney or the duties and powers of the district attorney in the counties of Caldwell and Comal. The District Attorney of the 22nd Judicial District shall continue to fulfill the duties of district attorney in the counties of Caldwell and Comal, but his duties in the County of Hays are divested from him and invested in the Criminal District Attorney of Hays County.

Appointment; Election and Term

Sec. 4. (a) On the effective date of this Act, the governor shall appoint a criminal district attorney for Hays County, who shall hold office until the general election in 1976 and until his successor is duly elected and has qualified. At the general election in 1976, there shall be elected a criminal district attorney for Hays County for a term ending on December 31, 1978. At the general election in 1978 and every four years thereafter, this officer shall be elected for a regular four-year term as provided in Article V, Section 30, and Article XVI, Section 65 of the Texas Constitution.

(b) A vacancy occurring in the office of Criminal District Attorney of Hays County shall be filled by appointment by the governor, and the appointee shall hold office until the next general election and until his successor is elected and has qualified.

(c) From and after the effective date of this Act, the District Attorney of the 22nd Judicial District shall only stand for election and be elected from the counties of Caldwell and Comal. The present district attorney for the 22nd Judicial District shall continue in office as the district attorney in the counties of Caldwell and Comal until the general election in 1976 and until his successor is elected and qualified.

Compensation

Sec. 5. The Criminal District Attorney of Hays County shall be compensated for his services by the state in such a manner and in such amount as may be fixed by the general law relating to the salary to be paid to district attorneys by the state, and in addition his salary may be supplemented by the commissioners court in such amount as it deems advisable.

Abolition of County Attorney's Office

Sec. 6. The office of County Attorney of Hays County is abolished from and after the effective date of this Act.

[Acts 1975, 64th Leg., p. 1038, ch. 402, eff. June 19, 1975.]

Art. 326k-76. Fort Bend County Criminal District Attorney

Creation of Office

Sec. 1. The constitutional office of Criminal District Attorney of Fort Bend County is created.

Powers and Duties

Sec. 2. The criminal district attorney or his assistants shall be in attendance on each term and all sessions of any district court in Fort Bend County. The criminal district attorney and his assistants shall represent the state in criminal and civil cases, unless otherwise provided by law, pending in the district courts and inferior courts having jurisdiction in Fort Bend County. He shall have and exercise, in addition to the specific powers given and duties imposed on him and his assistants by this Act, all powers, duties, and privileges within Fort Bend County conferred on district attorneys and county attorneys in the various counties and judicial districts of this state relative to criminal and civil matters for and in behalf of the county and the State of Texas.

Qualifications; Oath; Bond

Sec. 3. The criminal district attorney shall possess the qualifications, take the oath, and give the bond required by the constitution and laws of this state of district attorneys.

Assistants; Appointment; Compensation; Removal

Sec. 4. The criminal district attorney shall appoint assistant criminal district attorneys and other assistants necessary to the proper performance of his official duties, with the approval of the commissioners court. The assistants shall be paid a salary to be set and approved by the commissioners court and paid out of the general fund of the county. The assistants are subject to removal at the will of the criminal district attorney and are authorized to perform any duty conferred by law on the criminal district attorney.

Stenographers; Appointment; Compensation; Removal

Sec. 5. The criminal district attorney may appoint stenographers, who may or may not possess the qualifications prescribed by law for district and county attorneys, who shall perform the necessary stenographic work assigned by the criminal district attorney, and who shall receive as compensation a salary set by the commissioners court payable out of the county funds. The stenographers are subject to removal at the will of the criminal district attorney.

Offices Expenses

Sec. 6. Fort Bend County is authorized to set aside each year a sum of money to be expended by the criminal district attorney in the preparation and conduct of criminal affairs of the office.

Compensation

Sec. 7. The criminal district attorney shall be compensated for his services by the state in such manner and amount as may be fixed by the general law relating to the salary to be paid to district attorneys by the state, and in addition, his salary may be supplemented by the commissioners court in such amount as it deems advisable.

Abolition of County Attorney's Office

Sec. 8. The office of County Attorney of Fort Bend County is abolished from and after the effective date of this Act.

Appointment; Election and Term; Vacancy; Private Practice of Law

Sec. 9. (a) On the effective date of this Act, the governor shall appoint a criminal district attorney for Fort Bend County, who shall hold office until the general election in 1976 and until his successor is duly elected and has qualified. At the general election in 1976, there shall be elected a criminal district attorney for Fort Bend County for a term ending on December 31, 1978. At the general election in 1978 and every four years thereafter, this officer shall be elected for a regular four year term as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(b) Any vacancy occurring in the office of the Criminal District Attorney of Fort Bend County shall be filled by the Commissioners Court of Fort Bend County, and the appointee shall hold office until the next general election and until his successor is elected and has qualified.

(c) After January 1, 1977, the Criminal District Attorney of Fort Bend County and any assistant criminal district attorneys may not actively engage in the private practice of law while serving as criminal district attorney or assistant criminal district attorney in and for Fort Bend County.

District Attorney of 23rd Judicial District

Sec. 10. (a) On the effective date of this Act the District Attorney of the 23rd Judicial District of Texas shall only represent the State of Texas in the counties of Wharton and Matagorda.

The provisions of this Act shall not affect the office of district attorney or the duties and powers of the district attorney in the counties of Wharton and Matagorda, and the District Attorney of the 23rd Judicial District shall continue to perform his duties in the counties of Wharton and Matagorda. This Act applies only to Fort Bend County. From the effective date of this Act, the duties of the District Attorney of the 23rd Judicial District in Fort Bend County are divested from him and invested in the Criminal District Attorney of Fort Bend County, who shall represent the state in all district courts having jurisdiction in Fort Bend County.

(b) From and after the effective date of this Act, the District Attorney of the 23rd Judicial District

shall only stand for election and be elected from the counties of Wharton and Matagorda. The present district attorney of the 23rd Judicial District shall continue in office as the district attorney in the counties of Wharton and Matagorda until the general election in 1976 and until his successor is elected and has qualified.

Effective Date

Sec. 11. The effective date of this Act is September 1, 1975.

[Acts 1975, 64th Leg., p. 1333, ch. 497, eff. Sept. 1, 1975.]

Art. 326k-77. Rockwall County Criminal District Attorney**Creation of Office**

Sec. 1. The constitutional office of Criminal District Attorney of Rockwall County is created.

Qualifications; Oath; Bond; Residence

Sec. 2. The Criminal District Attorney of Rockwall County shall be a practicing attorney in this state and a resident of Rockwall County. He shall possess all the qualifications, take the oath of office, and give the bond required of district attorneys by the constitution and general laws of this state. He shall reside in Rockwall County during his term of office.

Duties; Fees, Commissions and Perquisites

Sec. 3. It is the duty of the Criminal District Attorney of Rockwall County or his assistants to be in attendance on each term and all sessions of the district courts in Rockwall County and all sessions and terms of the inferior courts of Rockwall County held for the transaction of criminal business, and exclusively to represent the State of Texas in all criminal matters pending before those courts and perform such other duties as may be conferred by law on the district and county attorneys in the various counties and judicial districts of this state. He shall collect such fees, commissions, and perquisites as are provided by law for similar services rendered by district and county attorneys of this state.

Commission; Compensation; Payment; Private Practice of Law

Sec. 4. (a) The Criminal District Attorney of Rockwall County shall be commissioned by the governor and shall receive as compensation an annual salary payable in equal monthly installments. The salary shall include the amount equal to the amount paid district attorneys by the State of Texas and shall be paid by the comptroller of public accounts as appropriated by the legislature. In addition, the Criminal District Attorney of Rockwall County may be paid in equal bimonthly installments out of the officers' salary fund of Rockwall County an amount which, when added to the amount paid by the State of Texas, equals an amount not to exceed 90 percent

of the total salaries paid to the Judge of the 86th Judicial District by the State of Texas and Rockwall, Kaufman, and Van Zandt counties.

(b) The Criminal District Attorney of Rockwall County shall not engage in the private practice of law.

Assistants, Investigators, etc.; Appointment and Compensation; Expenses

Sec. 5. The Criminal District Attorney of Rockwall County may appoint a staff composed of assistant criminal district attorneys, investigators, stenographers, clerks, and other personnel as are required for the proper and efficient operation and administration of the office. All salaries of assistant criminal district attorneys, investigators, stenographers, clerks, and other personnel shall be an amount set by the criminal district attorney with the advice and consent of the commissioners court and shall be paid by the commissioners court in equal bimonthly installments from the officers' salary fund of Rockwall County. In addition to the salary provided the criminal district attorney, his assistants, investigators, stenographers, clerks, and other personnel, the Commissioners Court of Rockwall County may allow the criminal district attorney, his assistants, and investigators such necessary expenses as the commissioners court deems reasonable. The expenses shall be paid as provided by law for other such claims of expenses.

Oath of Assistants; Powers and Duties

Sec. 6. The assistant criminal district attorneys of Rockwall County shall take, on appointment, the constitutional oath of office. The assistant criminal district attorneys of Rockwall County are authorized to administer oaths, file information, examine witnesses before the grand jury, and generally perform any duty devolving on the Criminal District Attorney of Rockwall County and exercise any power and perform any duty conferred by law on the Criminal District Attorney of Rockwall County.

Abolition of County Attorney's Office

Sec. 7. The office of County Attorney of Rockwall County is abolished from and after the effective date of this Act.

Election and Term; Vacancy

Sec. 8. (a) At the general election in 1976, there shall be elected by the qualified voters of Rockwall County a Criminal District Attorney for Rockwall County for a two-year term beginning on January 1, 1977.

(b) At the general election in 1978 and every four years thereafter, the criminal district attorney shall be elected for a regular four-year term, as provided by the Texas Constitution.

(c) A vacancy occurring in the office of criminal district attorney shall be filled by appointment by the governor, and the appointee shall hold office

until the next general election and until his successor is elected and has qualified.

Effective Date

Sec. 9. Except as provided by Section 8 of this Act, the provisions of this Act take effect on January 1, 1977.

[Acts 1975, 64th Leg., p. 1923, ch. 625, eff. Jan. 1, 1977.]

Art. 326k-78. Van Zandt County Criminal District Attorney

Creation of Office

Sec. 1. The constitutional office of Criminal District Attorney of Van Zandt County is created to become effective on September 1, 1975.

Qualifications; Oath; Bond; Residence

Sec. 2. (a) The Criminal District Attorney of Van Zandt County shall be at least 25 years of age, a practicing attorney in this state for two years, and a resident of Van Zandt County. He shall possess all the qualifications, take the oath of office, and give the bond required of district attorneys by the constitution and general laws of this state. He shall reside in Van Zandt County during his term of office.

(b) If no person with the qualifications of age and experience required in Subsection (a) has filed for this office 30 days prior to the filing deadline these qualifications of age and experience will be waived for the election involved only.

Duties; Fees, Commissions and Perquisites

Sec. 3. It is the duty of the Criminal District Attorney of Van Zandt County or his assistants to be in attendance on each term and all sessions of the district courts in Van Zandt County and all sessions and terms of the inferior courts of Van Zandt County held for the transaction of criminal business and exclusively to represent the State of Texas in all criminal matters pending before those courts and perform such other duties as may be conferred by law on the district and county attorneys in the various counties and judicial districts of this state. He shall collect such fees, commissions, and perquisites as are provided by law for similar services rendered by district and county attorneys of this state.

Commission; Compensation; Payment

Sec. 4. The Criminal District Attorney of Van Zandt County shall be commissioned by the governor and shall receive as compensation an annual salary payable in equal monthly installments. The salary shall include the amount equal to the amount paid district attorneys by the State of Texas and shall be paid by the comptroller of public accounts, as appropriated by the legislature. In addition, the Criminal District Attorney of Van Zandt County shall be paid in equal monthly or bimonthly installments, as determined by the Commissioners Court

of Van Zandt County, out of the officers' salary fund of Van Zandt County an amount which, when added to the amount paid by the State of Texas, equals an amount not less than 90 percent of the total salaries paid to the Judge of the 86th Judicial District by the State of Texas and Kaufman, Van Zandt, and Rockwall counties.

Assistants, Investigators, etc.; Appointment and Compensation; Expenses

Sec. 5. The Criminal District Attorney of Van Zandt County, for the purpose of conducting the affairs of his office, may appoint a staff composed of assistant criminal district attorneys, investigators, stenographers, clerks, and other personnel as the Commissioners Court of Van Zandt County may authorize. All salaries of assistant criminal district attorneys, investigators, stenographers, clerks, and other personnel shall be an amount set by the criminal district attorney with the approval of the commissioners court and shall be paid by the commissioners court in equal monthly or bimonthly installments from the officers' salary fund of Van Zandt County. In addition to the salary provided the criminal district attorney, his assistants, investigators, stenographers, clerks, and other personnel, the Commissioners Court of Van Zandt County may allow the criminal district attorney, his assistants and investigators such necessary expenses as the commissioners court deems reasonable. The expenses shall be paid as provided by law for other such claims of expenses.

Oath of Assistants; Powers and Duties

Sec. 6. The assistant criminal district attorneys of Van Zandt County shall take, on appointment, the constitutional oath of office. The criminal district attorney and his assistants shall have the exclusive right and duty to represent the State of Texas in all criminal cases pending in any court of Van Zandt County, as well as perform other statutory or constitutional duties imposed on district and county attorneys of this state. The assistant criminal district attorneys of Van Zandt County are authorized to administer oaths, file information, examine witnesses before the grand jury, and generally perform any duty devolving upon the Criminal District Attorney of Van Zandt County and exercise any power and perform any duty conferred by law on the Criminal District Attorney of Van Zandt County.

Private Practice of Law

Sec. 7. The Criminal District Attorney of Van Zandt County and his assistants shall not engage in the private practice of law while serving as criminal district attorney or assistant criminal district attorney of Van Zandt County. This section becomes effective on September 1, 1975.

Abolition of County Attorney's Office

Sec. 8. The office of County Attorney of Van Zandt County is abolished from and after the effective date of this Act.

County Attorney Commissioned; Election and Term; Vacancy

Sec. 9. (a) On the effective date of this Act, the County Attorney of Van Zandt County shall be commissioned as the Criminal District Attorney of Van Zandt County. He shall fill the office of criminal district attorney until the general election in 1976 and until his successor is lawfully elected and has qualified. The person elected at the general election in 1976 shall fill the office of criminal district attorney until the general election in 1978 and until his successor is lawfully elected and has qualified.

(b) At the general election in 1978 and every four years thereafter, this officer shall be elected for a regular four-year term as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(c) Any vacancy occurring in the office of Criminal District Attorney of Van Zandt County after the office is filled initially by the County Attorney of Van Zandt County, as provided in Subsection (a) of this section, shall be filled by appointment by the governor, and the appointee shall hold office until the next general election and until his successor is elected and has qualified.

[Acts 1975, 64th Leg., p. 1959, ch. 646, §§ 1 to 9, eff. Sept. 1, 1975.]

Section 10 of the 1975 Act provided:

"If any paragraph, phrase, clause, or section of this statute be held invalid, it shall not affect the balance of this statute, but it is expressly declared to be the intention of the legislature that it would have passed the balance of the Act without such portion as may be held invalid."

Art. 326k-79. Wood County Criminal District Attorney

Creation of Office

Sec. 1. The constitutional office of Criminal District Attorney of Wood County is created to become effective on September 1, 1977.

Qualifications; Oath; Bond; Residence

Sec. 2. (a) The Criminal District Attorney of Wood County shall be at least 25 years of age, a practicing attorney in this state for five years, and a resident of Wood County. He shall possess all the qualifications, take the oath of office, and give the bond required of district attorneys by the constitution and general laws of this state. He shall reside in Wood County during his term of office.

(b) If no person with the qualifications of age and experience required in Subsection (a) has filed for this office 30 days prior to the filing deadline, these qualifications of age and experience will be waived for the election involved only.

Duties; Fees, Commissions and Perquisites

Sec. 3. It is the duty of the Criminal District Attorney of Wood County or his assistants to be in attendance on each term and all sessions of the district courts in Wood County and all sessions and terms of the inferior courts of Wood County held for the transaction of criminal business and exclusively to represent the State of Texas in all criminal matters pending before those courts and perform such other duties as may be conferred by law on the district and county attorneys in the various counties and judicial districts of this state. He shall collect such fees, commissions, and perquisites as are provided by law for similar services rendered by district and county attorneys of this state.

Commission; Compensation; Payment

Sec. 4. The Criminal District Attorney of Wood County shall be commissioned by the governor and shall receive as compensation an annual salary payable in equal monthly installments. The salary shall include the amount equal to the amount paid district attorneys by the State of Texas and shall be paid by the comptroller of public accounts, as appropriated by the legislature. In addition, the Criminal District Attorney of Wood County shall be paid in equal monthly or bimonthly installments, as determined by the Commissioners Court of Wood County, out of the officers' salary fund of Wood County an amount which, when added to the amount paid by the State of Texas, equals an amount not less than 90 percent of the total salaries paid to the Judge of the 115th Judicial District by the State of Texas and Marion, Wood, and Upshur counties.

Assistants, Investigators, etc.; Appointment and Compensation; Expenses

Sec. 5. The Criminal District Attorney of Wood County, for the purpose of conducting the affairs of his office, may appoint a staff composed of assistant criminal district attorneys, investigators, stenographers, clerks, and other personnel as the Commissioners Court of Wood County may authorize. All salaries of assistant criminal district attorneys, investigators, stenographers, clerks, and other personnel shall be an amount set by the criminal district attorney with the approval of the commissioners court and shall be paid by the commissioners court in equal monthly or bimonthly installments from the officers' salary fund of Wood County. In addition to the salary provided the criminal district attorney, his assistants, investigators, stenographers, clerks, and other personnel, the Commissioners Court of Wood County may allow the criminal district attorney, his assistants and investigators such necessary expenses as the commissioners court deems reasonable. The expenses shall be paid as provided by law for other such claims of expenses. The provisions contained in this section shall in no way limit the authority of the legislature to provide for assistant district attorneys, investigators, stenographers, secretaries, or any other staff

out of state funds when the legislature deems such supplementation of staff to be necessary.

Oath of Assistants; Powers and Duties

Sec. 6. The assistant criminal district attorneys of Wood County shall take, on appointment, the constitutional oath of office. The criminal district attorney and his assistants shall have the exclusive right and duty to represent the State of Texas in all criminal cases pending in any court of Wood County, as well as perform other statutory or constitutional duties imposed on district and county attorneys of this state. The assistant criminal district attorneys of Wood County are authorized to administer oaths, file information, examine witnesses before the grand jury, and generally perform any duty devolving on the Criminal District Attorney of Wood County and exercise any power and perform any duty conferred by law on the Criminal District Attorney of Wood County.

Private Practice of Law

Sec. 7. The Criminal District Attorney of Wood County and his assistants shall not engage in the private practice of law while serving as criminal district attorney or assistant criminal district attorney of Wood County. This section becomes effective on January 1, 1978.

Abolition of County Attorney's Office

Sec. 8. The office of County Attorney of Wood County is abolished from and after September 1, 1977.

County Attorney Commissioned; Election and Term; Vacancy

Sec. 9. (a) On September 1, 1977, the County Attorney of Wood County shall be commissioned as the Criminal District Attorney of Wood County. He shall fill the office of criminal district attorney until the general election in 1978 and until his successor is lawfully elected and has qualified.

(b) At the general election in 1978 and every four years thereafter, this officer shall be elected for a regular four-year term as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(c) Any vacancy occurring in the office of Criminal District Attorney of Wood County after the office is filled initially by the County Attorney of Wood County, as provided in Subsection (a) of this section, shall be filled by appointment by the governor, and the appointee shall hold office until the next general election and until his successor is elected and has qualified.

[Acts 1977, 65th Leg., p. 244, ch. 113, §§ 1 to 9, eff. Sept. 1, 1977.]

Section 10 of the 1977 Act provided:

"If any paragraph, phrase, clause, or section of this statute be held invalid, it is expressly declared to be the intention of the legislature that it would not have passed the balance of the Act

without such portion and the provisions of this Act are not severable."

Art. 326k-80. Walker County Criminal District Attorney

Creation of Office; Qualifications; Oath; Bond; Residence

Sec. 1. (a) The constitutional office of Criminal District Attorney of Walker County is created.

(b) The Criminal District Attorney of Walker County shall be at least 25 years of age, a practicing attorney in this state for three years, and a resident of Walker County for two years prior to his appointment or election. He shall possess all the qualifications, take the oath of office, and give the bond required of district attorney by the constitution and general laws of this state. He shall reside in Walker County during his term of office.

Powers and Duties; Private Practice of Law

Sec. 2. (a) The criminal district attorney or his assistants shall be in attendance on each term and all sessions of any district court in Walker County held for the transaction of criminal business and in attendance on each term and all sessions of the inferior courts of Walker County held for the transaction of criminal business, except the city court of an incorporated city. The criminal district attorney or his assistants shall exclusively represent the State of Texas in all criminal matters before such courts and shall represent Walker County in all matters before such courts or any other court where Walker County has pending business of any kind, matter, or interest. However, nothing in this Act shall be construed as requiring the criminal district attorney to represent the county in delinquent tax suits or condemnation proceedings or as preventing Walker County from retaining other legal counsel in civil matters at any time it sees fit to do so.

(b) The criminal district attorney shall have and exercise, in addition to the specific powers given and duties imposed on him and his assistants by this Act, all powers, duties, and privileges within Walker County conferred on district attorneys and county attorneys in the various counties and judicial districts of this state relative to criminal and civil matters for and in behalf of the county and State of Texas.

(c) The criminal district attorney shall not engage in the private practice of law while serving as criminal district attorney.

Commission; Compensation; Payment

Sec. 3. The Criminal District Attorney of Walker County shall be commissioned by the governor. The Criminal District Attorney of Walker County shall receive as compensation an annual salary from the State of Texas in such amount as may be fixed by the general laws of this state relating to the salary to be paid to the district attorneys of this

state. In addition, the commissioners court may, in its discretion, supplement the salary paid by the state. The sum paid by the county shall be paid out of the general fund of the county.

Assistants, Investigators, etc.; Appointment and Compensation; Expenses

Sec. 4. The Criminal District Attorney of Walker County, for the purpose of conducting the affairs of his office, may appoint a staff composed of assistant criminal district attorneys, investigators, stenographers, clerks, and other personnel as the Commissioners Court of Walker County may authorize. The assistants, investigators, stenographers, clerks, and other personnel shall serve at the will of the criminal district attorney. All salaries of assistant criminal district attorneys, investigators, stenographers, clerks, and other personnel shall be an amount set by the criminal district attorney with the approval of the commissioners court and shall be paid by the commissioners court in equal monthly installments from the general fund of Walker County. In addition to the salary provided the criminal district attorney, his assistants, investigators, stenographers, clerks and other personnel, the Commissioners Court of Walker County may allow the criminal district attorney, his assistants and investigators such necessary expenses as the commissioners court deems reasonable. The expenses shall be paid as provided by law for other such claims of expenses.

Oath of Assistants; Duties

Sec. 5. An assistant criminal district attorney appointed under the provisions of this Act shall take the constitutional oath of office, shall be a person licensed to practice law in this state, and may perform any duty devolving on the Criminal District Attorney of Walker County.

Abolition of County Attorney's Office

Sec. 6. The office of County Attorney of Walker County is abolished from and after the effective date of this Act.

Appointment; Election and Term; Vacancy

Sec. 7. (a) On the effective date of this Act, the governor shall appoint a Criminal District Attorney of Walker County, who shall hold office until the next general election and until his successor is duly elected and has qualified.

(b) At the general election in 1978 and every four years thereafter, this officer shall be elected to a regular four-year term as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(c) Any vacancy occurring in the office of criminal district attorney for Walker County shall be filled by appointment by the governor, and the appointee shall hold office until the next general election and until his successor is elected and has qualified.

District Attorney of 12th Judicial District

Sec. 8. (a) From and after the effective date of this Act, the District Attorney of the 12th Judicial District shall only represent the State of Texas in the counties of Grimes, Madison, Leon, and Trinity. The provisions of this Act apply only to Walker County and do not affect the office of district attorney or the duties and powers of the district attorney in the counties of Grimes, Madison, Leon, and Trinity. The District Attorney of the 12th Judicial District shall continue to fulfill the duties of the district attorney in the counties of Grimes, Madison, Leon and Trinity, but his duties in the county of Walker are divested from him and invested in the Criminal District Attorney of Walker County.

(b) From and after the effective date of this Act, the District Attorney of the 12th Judicial District shall only stand for election and be elected from the counties of Grimes, Madison, Leon, and Trinity.

Effective Date

Sec. 9. The effective date of this Act is September 1, 1977.

[Acts 1977, 65th Leg., p. 857, ch. 323, eff. Sept. 1, 1977.]

Art. 326k-81. Bastrop County Criminal District Attorney**Creation of Office; Qualifications; Oath; Bond**

Sec. 1. The constitutional office of Criminal District Attorney of Bastrop County is hereby created. The Criminal District Attorney of Bastrop County shall possess all the qualifications, take the oath, and give the bond required by the constitution and laws of this state of other district attorneys.

Appointment; Election and Term; Abolition of County Attorney's Office

Sec. 2. On the effective date of this Act, the Governor of Texas shall appoint a Criminal District Attorney of Bastrop County, who shall hold office until the next general election and until his successor is duly elected and has qualified. The Criminal District Attorney of Bastrop County shall be elected by the qualified voters of Bastrop County at the general election in November, 1978, and every four years thereafter. The office of County Attorney of Bastrop County is abolished from and after the effective date of this Act.

Duties; Fees, Commissions and Perquisites

Sec. 3. It shall be the duty of the Criminal District Attorney of Bastrop County or his assistants as herein provided to be in attendance on each term and all sessions of the district court in Bastrop County and all of the sessions and terms of the inferior courts of Bastrop County held for the transaction of criminal business and to exclusively represent the State of Texas in all criminal matters pending before such courts and any other court where Bastrop County has pending business of any

kind, matter, or interest. In addition to the specified powers given and duties imposed upon him by this Act, he shall have all powers, duties, and privileges within Bastrop County as are now by law conferred, or which may hereafter be conferred, on the district and county attorneys in the various counties and judicial districts of this state. He shall collect such fees, commissions, and perquisites as are now or may hereafter be provided by law for similar services rendered by the district and county attorneys of this state.

Compensation; Payment; Private Practice of Law

Sec. 4. The Criminal District Attorney of Bastrop County shall receive as compensation an annual salary from the State of Texas in such amount as may be fixed by the general laws of this state relating to the salary to be paid to the district attorneys of this state. In addition, the commissioners court may, in its discretion, supplement the salary paid by the state. The sum paid by the county shall be paid out of the officers' salary fund of the county, if adequate, and if inadequate, the commissioners court shall transfer the necessary funds from the general fund of the county to the officers' salary fund. The criminal district attorney is prohibited from any private practice of law without regard to whether or not he receives any compensation therefor.

Assistants and Stenographers; Appointment and Compensation; Expenses

Sec. 5. (a) The criminal district attorney may appoint such assistant criminal district attorneys as the commissioners court may authorize. An assistant criminal district attorney shall be paid a salary fixed by the criminal district attorney with the approval of the commissioners court. In addition to the salaries paid the criminal district attorney and his assistants, the commissioners court may allow the criminal district attorney and his assistants such expenses as within the discretion of the court seem reasonable, which expenses shall be paid as provided by law for other such claims of expenses.

(b) The criminal district attorney may employ such stenographers as the commissioners court may authorize and fix their salaries, with the approval of the commissioners court.

(c) The salaries provided for in this section shall be paid by the county out of the officers' salary fund, if adequate, and, if inadequate, the commissioners court shall transfer the necessary funds from the general revenue fund to the officers' salary fund.

Oath of Assistants; Duties

Sec. 6. An assistant criminal district attorney shall take the constitutional oath of office, shall be licensed to practice law in this state, and may perform any duty devolving on the criminal district attorney.

District Attorney of 21st Judicial District

Sec. 7. (a) From and after the effective date of this Act, the District Attorney of the 21st Judicial District shall represent the State of Texas only in the counties of Washington, Lee, and Burleson. The provisions of this Act apply only to Bastrop County and do not affect the office of district attorney or the duties or powers of the district attorney in the counties of Washington, Lee, and Burleson. The District Attorney of the 21st Judicial District shall continue to fulfill the duties of the district attorney in the counties of Washington, Lee, and Burleson, but his duties in the County of Bastrop are divested from him and invested in the Criminal District Attorney of Bastrop County.

(b) From and after the effective date of this Act, the District Attorney of the 21st Judicial District shall only stand for election and be elected from the counties of Washington, Lee, and Burleson. The present district attorney for the 21st Judicial District shall continue in office as the district attorney in the counties of Washington, Lee, and Burleson until the general election in 1980 and until his successor is duly elected and has qualified.

[Acts 1977, 65th Leg., p. 1743, ch. 695, eff. Aug. 29, 1977.]

Art. 326k-82. 97th Judicial District Attorney**Creation of Office**

Sec. 1. There is hereby created the office of district attorney in the 97th Judicial District composed of Archer, Clay, and Montague Counties.

Duties

Sec. 2. The district attorney for the 97th Judicial District shall represent the state in all criminal cases in the district court for the 97th Judicial District and perform other duties provided by law governing district attorneys.

Qualifications; Oath; Bond

Sec. 3. The district attorney of the 97th Judicial District shall be a practicing attorney in this state and a resident of any county included in the 97th Judicial District from the time of appointment or filing for election until the end of his term of office. He shall possess all the qualifications, take the oath of office, and give the bond required of district attorneys by the constitution and general laws of this state.

Compensation

Sec. 4. The district attorney shall receive compensation for his services in an amount as may be fixed by the general law relating to the salaries paid to district attorneys by the state.

Election; Term of Office

Sec. 5. On the effective date of this Act, the Governor of Texas shall appoint a district attorney of the 97th Judicial District, who shall serve until

January 1 following the general election in 1980 and until his successor is duly elected and has qualified. Thereafter, beginning with the general election in 1980, he shall be elected every four years for a four-year term beginning January 1 following his election.

Staff; Appointment and Compensation

Sec. 6. The district attorney, with the approval of the commissioners courts of Archer, Clay, and Montague Counties, may appoint assistants, investigators, and office personnel as he deems necessary. The salary of each person appointed shall be set by the district attorney with the approval of the commissioners courts of Archer, Clay, and Montague Counties.

Payment of Compensation of Staff and Operating Expenses from County Funds

Sec. 7. The salary of each person appointed by the district attorney and the other operating expenses of the office of district attorney shall be paid from county funds by the commissioners courts of Archer, Clay, and Montague Counties.

[Acts 1979, 66th Leg., p. 729, ch. 322, §§ 1 to 7, eff. June 6, 1979.]

Section 8 of the 1979 Act provided:

"If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provisions or applications, and to this end the provisions of this Act are severable."

Art. 326k-83. Jasper County Criminal District Attorney**Creation**

Sec. 1. The constitutional office of criminal district attorney of Jasper County is created.

Qualifications

Sec. 2. The criminal district attorney shall be at least 25 years of age, a practicing attorney in this state for five years, and a resident of Jasper County. The criminal district attorney shall possess all the qualifications, take the oath of office, and give the bond required of district attorneys by the constitution and general laws of this state. The criminal district attorney shall reside in Jasper County during his or her term of office.

Duties

Sec. 3. It is the duty of the criminal district attorney or his or her assistants to be in attendance on each term and all sessions of the district courts in Jasper County and all sessions and terms of the inferior courts of Jasper County held for the transaction of criminal business and exclusively to represent the State of Texas in all criminal matters pending before those courts and perform such other duties as may be conferred by law on the district and county attorneys in the various counties and judicial districts of this state. The criminal district

attorney shall collect the fees, commissions, and perquisites that are provided by law for similar services rendered by district and county attorneys of this state.

Compensation

Sec. 4. The criminal district attorney shall be commissioned by the governor and shall receive as compensation an annual salary payable in equal monthly installments. The salary shall include the amount equal to the amount paid district attorneys by the State of Texas and shall be paid by the comptroller of public accounts, as appropriated by the legislature. In addition, the criminal district attorney shall be paid in equal monthly or bimonthly installments, as determined by the Commissioners Court of Jasper County, an amount which, when added to the amount paid by the state, equals at least 90 percent of the total salary paid to each of the judges of the district courts in Jasper County.

Staff

Sec. 5. The criminal district attorney, for the purpose of conducting the affairs of the office, may appoint a staff composed of assistant criminal district attorneys, investigators, stenographers, clerks, and other personnel that the commissioners court may authorize. All salaries of assistant criminal district attorneys, investigators, stenographers, clerks, and other personnel shall be an amount recommended by the criminal district attorney and approved by the commissioners court and shall be paid by the commissioners court in equal monthly or bimonthly installments from the funds of the county. In addition to the salary provided the criminal district attorney, the assistants, investigators, stenographers, clerks, and other personnel, the commissioners court may allow the criminal district attorney and the assistants and investigators the necessary expenses that the commissioners court deems reasonable. The expenses shall be paid as provided by law for other such claims of expenses. The provisions of this section do not limit the authority of the legislature to provide for assistant district attorneys, investigators, stenographers, secretaries, or other staff out of state funds when the legislature deems such supplementation of staff to be necessary.

Assistant Criminal District Attorneys

Sec. 6. The assistant criminal district attorneys shall take, on appointment, the constitutional oath of office. The criminal district attorney and his or her assistants shall have the exclusive right and duty to represent the State of Texas in all criminal cases pending in any court of Jasper County, as well as to perform other statutory or constitutional duties imposed on district and county attorneys of this state. The assistant criminal district attorneys are authorized to administer oaths, file informations, examine witnesses before the grand jury, and generally perform any duty devolving on the crimi-

nal district attorney and exercise any power and perform any duty conferred by law on the criminal district attorney.

Practice of Law Prohibited

Sec. 7. The criminal district attorney shall not engage in the private practice of law or receive a fee for the referral of a case while serving as criminal district attorney.

Election; Vacancies

Sec. 8. (a) On the effective date of this Act, the governor shall appoint a criminal district attorney for Jasper County, with the advice and consent of the senate, who shall hold office until the next general election and until his or her successor is duly elected and has qualified. At the general election in 1982 and every four years thereafter, there shall be elected a criminal district attorney for a regular four-year term as provided by Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(b) A vacancy occurring in the office of criminal district attorney shall be filled by appointment by the governor, with the advice and consent of the senate, and the appointee shall hold office until the next general election and until his or her successor is elected and has qualified.

County Attorney Abolished

Sec. 9. The office of county attorney of Jasper County is abolished.

Duties of District Attorney

Sec. 10. On and after the effective date of this Act, the district attorney of the 1st Judicial District shall represent the state only in the counties of Newton, Sabine, and San Augustine and shall be elected only from the counties of Newton, Sabine, and San Augustine. The present district attorney shall continue in office as the district attorney in the counties of Newton, Sabine, and San Augustine until the general election in 1980 and until his or her successor is elected and has qualified.

[Acts 1979, 66th Leg., p. 1031, ch. 462, eff. Sept. 1, 1979.]

Art. 326k-84. Denton County Criminal District Attorney

Creation of Office; Qualifications; Oath; Bond

Sec. 1. (a) The constitutional office of criminal district attorney of Denton County is created.

(b) The criminal district attorney shall be at least 28 years of age, a practicing attorney in this state for five years, and a resident of Denton County for three years prior to his or her appointment or election. The criminal district attorney shall possess all of the qualifications, take the oath of office, and give the bond required of district attorneys by the constitution and general laws of this state. The

criminal district attorney shall reside in Denton County during his or her term of office.

Powers and Duties

Sec. 2. (a) The criminal district attorney or his or her assistants shall be in attendance on each term and all sessions of any district court in Denton County held for the transaction of criminal business and in attendance on each term and all sessions of the inferior courts of Denton County held for the transaction of criminal business, except the city court of an incorporated city. The criminal district attorney or his or her assistants shall exclusively represent the State of Texas in all criminal matters before these courts and shall represent Denton County in all matters before these courts or any other court where Denton County has pending business of any nature, matter, or interest. This Act does not prevent Denton County from obtaining other legal counsel in civil matters at any time it sees fit to do so.

(b) The criminal district attorney shall have and exercise, in addition to the specific powers given and duties imposed by this Act, all powers, duties, and privileges within Denton County that are conferred on district attorneys and county attorneys in various counties and judicial districts of this state relative to criminal and civil matters for and in behalf of the county and the state.

(c) The criminal district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar services rendered by district and county attorneys of this state.

Compensation

Sec. 3. The criminal district attorney shall receive as compensation an annual salary from the state in the amount fixed by the general laws of this state relating to the salary to be paid to the district attorneys of this state. In addition, the commissioners court may, in its discretion, supplement the salary paid by the state. The sum paid by the county shall be paid out of the officer's salary fund of the county, if adequate, and if inadequate, the commissioners court shall transfer the necessary funds from the general funds of the county to the officer's salary fund. The criminal district attorney is prohibited from the private practice of law without regard to whether or not he or she receives compensation therefor.

Staff

Sec. 4. (a) The criminal district attorney, for the purpose of conducting the affairs of the office, may appoint the assistant criminal district attorneys, investigators, stenographers, clerks, and other personnel that the Denton County Commissioners Court may authorize. All salaries of assistant criminal district attorneys, investigators, stenographers, clerks, and other personnel shall be an amount set by the criminal district attorney with the approval of the commissioners court and shall be paid by the

commissioners court in equal monthly or bi-monthly installments from the officer's salary fund of Denton County.

(b) In addition to the salary provided the criminal district attorney and the assistants, investigators, stenographers, clerks, and other personnel, the commissioners court may allow the criminal district attorney and the assistants and investigators the necessary expenses that the commissioners court deems reasonable. The expenses shall be paid as provided by law for other claims of expenses. This section does not limit supplementation provided by the legislature for assistant district attorneys, investigators, stenographers, secretaries, or other staff out of state funds if the legislature deems such supplementation of staff to be necessary.

Assistant Criminal District Attorneys

Sec. 5. An assistant criminal district attorney will take the constitutional oath of office, shall be a person licensed to practice law in this state, and may perform any duty devolving on the criminal district attorney of Denton County.

Election and Terms; Vacancy

Sec. 6. (a) At the primary and general elections in 1980, there shall be elected, by the qualified voters of Denton County, a criminal district attorney for Denton County for a two-year term beginning January 1, 1981.

(b) At the general election in 1982 and every four years thereafter, the criminal district attorney shall be elected for a regular four-year term, as provided by Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(c) A vacancy occurring in the office of criminal district attorney shall be filled by appointment by the governor and the appointee shall hold office until the next general election and until his or her successor is elected and has qualified.

County Attorney Abolished

Sec. 7. The office of county attorney of Denton County is abolished from and after the effective date of this Act.

Sec. 8. [Amends § 1 of art. 332b]

Effective date

Sec. 9. Except as provided by Subsection (a), Section 6, this Act takes effect on January 1, 1981. [Acts 1979, 66th Leg., p. 1148, ch. 553, §§ 1 to 7, 9, eff. Jan. 1, 1981.]

Art. 326k-85. Jackson County Criminal District Attorney

(a) The constitutional office of criminal district attorney of Jackson County is created.

(b) The criminal district attorney shall possess all the qualifications, take the oath of office, and give the bond required of district attorneys by the consti-

tution and general laws of this state. The criminal district attorney shall reside in Jackson County during his term of office.

(c) It is the duty of the criminal district attorney or his assistants to be in attendance on each term and all sessions of the district courts in Jackson County and all sessions and terms of the inferior courts of Jackson County held for the transaction of criminal business and exclusively to represent the State of Texas in all criminal matters pending before those courts and perform such other duties as may be conferred by law on the district and county attorneys in the various counties and judicial districts of this state. The criminal district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar services rendered by district and county attorneys of this state.

(d) The criminal district attorney shall be commissioned by the governor and shall receive an annual salary from the state, to be paid by the comptroller of public accounts in equal monthly installments, in an amount equal to the amount paid district attorneys by the state, as appropriated by the legislature. In addition, the commissioners court may, in its discretion, supplement the salary paid by the state.

(e) The criminal district attorney may appoint the staff required for the proper and efficient operation and administration of the office, as provided by general law.

(f) On the effective date of this Act, the governor shall appoint a criminal district attorney of Jackson County, who shall hold office until the next general election and until a successor is elected and has qualified. At the general election in 1982 and every four years thereafter, this officer shall be elected to a regular four-year term as provided by Article XVI, Section 65, of the Texas Constitution. A vacancy occurring in the office of the criminal district attorney of Jackson County shall be filled by appointment by the governor, and the appointee shall hold office until the next general election and until a successor is elected and has qualified.

(g) The office of county attorney of Jackson County is abolished.

(h) From and after the effective date of this Act, the district attorney of the 24th Judicial District shall continue to fulfill the duties of the district attorney in the counties of DeWitt, Goliad, and Refugio, but his duties in the County of Jackson are divested from him and invested in the criminal district attorney of Jackson County. From and after the effective date of this Act, the district attorney of the 24th Judicial District shall be elected only from the counties of DeWitt, Goliad, and Refugio.

[Acts 1981, 67th Leg., p. 1845, ch. 429, § 13, eff. Sept. 1, 1981.]

Art. 326k-86. Caldwell County Criminal District Attorney

(a) The constitutional office of criminal district attorney of Caldwell County is created.

(b) The criminal district attorney shall be at least 25 years of age, a practicing attorney in this state for 5 years, and a resident of Caldwell County. The criminal district attorney shall possess all the qualifications, take the oath of office, and give the bond required of district attorneys by the constitution and general laws of this state. The criminal district attorney shall reside in Caldwell County during his term of office.

(c) It is the duty of the criminal district attorney or the criminal district attorney's assistants to be in attendance on each term and all sessions of the district courts in Caldwell County and all sessions and terms of the inferior courts of Caldwell County held for the transaction of criminal business and exclusively to represent the State of Texas in all criminal matters pending before those courts and perform other duties as may be conferred by law on the district and county attorneys in the various counties and judicial districts of this state. The criminal district attorney shall collect the fees, commissions and perquisites that are provided by law for similar services rendered by district and county attorneys of this state.

(d) The criminal district attorney shall be commissioned by the governor and shall receive an annual salary from the state, to be paid by the comptroller in equal monthly installments in an amount equal to 90 percent of the compensation that is provided for a district judge in the General Appropriations Act. In addition, the commissioners court may, in its discretion, supplement the salary paid by the state.

(e) The criminal district attorney may appoint the staff required for the proper and efficient operation and administration of the office, as provided by general law.

(f) On the effective date of this Act, the governor shall appoint a criminal district attorney of Caldwell County, who shall hold office until the general election in 1982 and until a successor is elected and has qualified. At the general election in 1982 and every four years thereafter, this officer shall be elected to a regular four-year term as provided by Article XVI, Section 65, of the Texas Constitution. A vacancy occurring in the office of criminal district attorney of Caldwell County shall be filled by appointment by the governor, and the appointee shall hold office until the next general election and until a successor is elected and has qualified.

(g) The office of county attorney of Caldwell County is abolished.

(h) From and after the effective date of this Act, the district attorney of the 22nd Judicial District shall continue to fulfill the duties of the district attorney in Comal County and shall be elected only from Comal County, but his duties in Caldwell

County are divested from him and invested in the criminal district attorney of Caldwell County.

[Acts 1981, 67th Leg., p. 1846, ch. 429, § 14, eff. Sept. 1, 1981.]

Art. 326k-87. 156th Judicial District Attorney

Secs. 1 to 9. [Amend art. 199a].

Secs. 10 to 13. [Amend art. 199].

Secs. 14 to 21. [Amend arts. 326k-73, 326l-3, 1916a, 1926a, 5139CC, 5139AAA, and 6819a-42].

Sec. 22. (a) The office of district attorney for the 156th Judicial District is created.

(b) The district attorney for the 156th Judicial District shall perform the duties and have the authority conferred on district attorneys by the general laws of the state, shall represent the state in all criminal cases in the district courts in the counties of Bee, Live Oak, and McMullen, and shall be elected only from those counties. The district attorney for the 36th Judicial District shall perform the duties and have the authority conferred on district attorneys by the general laws of the state, shall represent the state in all criminal cases in the district courts in the counties of Aransas and San Patricio, and shall be elected only from those counties.

Sec. 23. The present district attorney for the 36th Judicial District shall continue in office until the general election in 1984 and until his successor is elected and has qualified.

Sec. 24. (a) The district attorney of the Third Judicial District shall be elected only from Anderson County.

(b) The district attorney of the Third Judicial District shall perform the duties imposed and have the authority conferred on district attorneys by general law in Anderson County. The district attorney may not perform any duties and has no authority conferred on district attorneys in Henderson or Houston County.

[Acts 1983, 68th Leg., p. 4973, ch. 889, §§ 22, 23, eff. Sept. 1, 1983; § 24, eff. Jan. 1, 1984.]

Art. 326k-88. Tyler County Criminal District Attorney

Creation

Sec. 1. The constitutional office of criminal district attorney of Tyler County is created effective January 1, 1985.

Qualifications; Residency Requirement

Sec. 2. (a) The criminal district attorney must meet the qualifications, take the oath of office, and give the bond required of a district attorney by the constitution and general law of this state.

(b) The criminal district attorney must reside in Tyler County during the term of office.

General Powers and Duties

Sec. 3. (a) The criminal district attorney shall represent the state in all matters in the district and inferior courts in the county. The criminal district attorney shall perform the other duties that are conferred by general law on district and county attorneys in this state.

(b) The criminal district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar services rendered by a district or county attorney in this state.

Commission; Compensation

Sec. 4. (a) The governor shall commission the criminal district attorney.

(b) The criminal district attorney is entitled to receive compensation from the state, paid by the comptroller of public accounts in equal monthly installments, in an amount equal to the amount fixed by the state for the compensation of district attorneys.

Staff

Sec. 5. With the approval of the commissioners court, the criminal district attorney may appoint the staff required for the proper and efficient operation and administration of the office.

Election

Sec. 6. At the general election in 1986 and every fourth year thereafter, a criminal district attorney shall be elected to a regular four-year term as provided by Article XVI, Section 65, of the Texas Constitution.

Vacancy

Sec. 7. A vacancy in the office of criminal district attorney of Tyler County is filled by appointment by the governor, and the appointee serves until the next general election and until a successor is elected and has qualified.

Abolition of Office of County Attorney

Sec. 8. The office of county attorney of Tyler County is abolished effective January 1, 1985.

District Attorney

Sec. 9. The district attorney of the 88th Judicial District shall continue to fulfill the duties of the district attorney in Hardin County, but the duties of the district attorney in Tyler County are divested from the district attorney and are vested in the criminal district attorney of Tyler County. The district attorney of the 88th Judicial District shall be elected from Hardin County.

[Acts 1983, 68th Leg., p. 5324, ch. 979, §§ 1 to 9, eff. Sept. 1, 1983.]

Section 13 of the 1983 Act provides:

"Initial election. The qualified voters of Tyler County shall elect a criminal district attorney at the general election in 1984 for a two-year term beginning January 1, 1985."

Art. 3261. 72nd Judicial District; Assistant District Attorney

Sec. 1. The District Attorney of the 72nd Judicial District of Texas, is hereby authorized to appoint one Assistant District Attorney.

Sec. 2. The Assistant District Attorney provided for in Section 1 of this Act shall be a duly licensed Attorney at Law and shall be a bona fide resident of one of the counties composing the said 72nd Judicial District. Said Assistant District Attorney, when appointed, shall take the oath of office and shall be authorized to represent the State in any Court or proceeding in which the District Attorney is or shall be authorized to represent the State, said authority to be exercised by said Assistant under the direction of the District Attorney. The District Attorney shall have the power and authority to dismiss said Assistant, at his discretion, and to appoint another person to fill out the unexpired term, provided that any person appointed to fill out said term, shall possess the same qualifications as above mentioned.

Sec. 3. The Assistant District Attorney in the 72nd Judicial District of Texas shall receive an annual salary of Thirty-Eight Hundred (\$3800.00) Dollars, payable monthly, out of the General Revenue Fund of the state not otherwise appropriated, upon the sworn account of such Assistant District Attorney, approved by the District Attorney of said 72nd Judicial District.

[Acts 1929, 41st Leg., p. 406, ch. 187. Amended by Acts 1931, 42nd Leg., p. 745, ch. 292; Acts 1947, 50th Leg., p. 397, ch. 225, § 1.]

Abolition of office

Acts 1971, 62nd Leg., p. 2428, ch. 776, § 7, abolished the office of district attorney for the 72nd Judicial District, effective January 1, 1973. See article 3261-69, § 7.

Art. 3261-1. Repealed by Acts 1973, 63rd Leg., p. 228, ch. 104, § 1, eff. May 18, 1973

[This article was also amended by Acts 1973, 63rd Leg., p. 791, ch. 353, § 3. See article 3261-1, post.]

Art. 3261-1. 2nd Judicial District; Assistants, Investigators and Stenographers

Sec. 1. The district attorney for the 2nd Judicial District, with the approval of the commissioners court, may appoint such assistant district attorneys, investigators, and stenographers as are necessary to carry out the duties of his office.

Sec. 2. An assistant district attorney appointed under the provisions of this Act shall be a person licensed to practice law in this state and may perform for the state and the county all duties imposed by law on the district attorney. An investigator appointed under the provisions of this Act need not be licensed to practice law.

Sec. 3. Each assistant district attorney, investigator, and stenographer shall receive a salary fixed by the district attorney, subject to the approval of the commissioners court. In addition to a salary, each assistant district attorney and investigator may be allowed the actual and necessary travel expenses incurred in the proper discharge of his duties, subject to the approval of all claims by the district attorney.

Sec. 4. The salaries and expenses provided for by this Act may be paid by the county from county funds or from a grant or fund from other sources available for this purpose.

[Acts 1965, 59th Leg., p. 1498, ch. 649, eff. June 17, 1965; Acts 1969, 61st Leg., 2nd C.S., p. 94, ch. 23, § 5.004, eff. Sept. 19, 1969; Acts 1973, 63rd Leg., p. 791, ch. 353, § 3, eff. June 12, 1973.]

[This article was also repealed by Acts 1973, 63rd Leg., p. 228, ch. 104, § 1. See article 3261-1, ante.]

Art. 3261-2. 9th Judicial District; Assistants, Investigators, Secretaries and Employees**Appointment; Removal**

Sec. 1. The district attorney for the 9th Judicial District, with the approval of the commissioners court of one or more of the several counties included in the 9th Judicial District, is authorized to appoint such assistant district attorneys, investigators, secretaries, and other employees as are necessary to carry out the duties of his office. Any assistant district attorney, investigator, secretary, or other employee appointed under the provisions of this Act is removable at the will of the district attorney.

Assistants; Qualifications; Bond

Sec. 2. Each assistant district attorney appointed under the provisions of this Act shall be a person licensed to practice law in this state and shall perform for the state and the several counties which have provided compensation for said attorney, included within the 9th Judicial District all duties imposed by law on the district attorney. Each assistant district attorney shall make bond in the amount fixed by the district attorney.

Investigators; Qualifications; Powers and Duties; Bond

Sec. 3. Each investigator appointed under the provisions of this Act need not be licensed to practice law. Any investigator may make arrests and execute process in criminal cases and has all the authority, rights, and duties of a peace officer. He shall make bond in the amount fixed by the district attorney.

Salary and Expenses

Sec. 4. Each assistant district attorney, investigator, secretary, or other employee shall receive a

salary fixed by the commissioners courts of any county or counties included in the 9th Judicial District as provided in Section 5 of this Act. In addition to a salary, the district attorney and each assistant district attorney and investigator may be allowed the actual and necessary travel expenses incurred in the proper discharge of his duties and other necessary expenses incident to carrying out the official duties of the district attorney and his office, subject to the approval of the district attorney. The provisions of this section do not apply to that portion of the compensation and travel expense paid by the state to district officials and employees.

Payment of Salary and Expenses; Special Assignment

Sec. 5. (a) The salaries and expenses provided for by this Act shall be paid by the counties included in the 9th Judicial District in proportion to the population of each for the last preceding federal census, except as provided in Subsection (b) of this section.

(b) The district attorney of the 9th Judicial District may specially assign an assistant district attorney, investigator, secretary, or other employee, whether one or more, to one or more counties of the 9th Judicial District. The commissioners court of one or more counties of the 9th Judicial District may, in its discretion, pay the whole or any amount greater than the proportionate part of the salary or expenses of an assistant district attorney, investigator, secretary, or other employee who shall be specially assigned by the district attorney of the 9th Judicial District to that particular county or counties. To the extent that one or more counties, through its commissioners court, may agree to pay more than its proportionate part of the salary or expenses of an assistant district attorney, investigator, secretary, or other employee specially assigned to it, the other counties in the 9th Judicial District to which the assistant district attorney, investigator, secretary, or other employee is not specially assigned shall be relieved from their proportionate part of his salary and expenses.

(c) The salaries, expenses, and supplemental compensation of the district attorney, assistant district attorneys, investigators, secretaries, and other employees, provided for in this Act shall be paid, at the regular pay period as used by each respective county, from the officers salary fund or the general fund or any combination thereof at the discretion of the commissioners courts. The compensation paid from county funds of the counties comprising the 9th Judicial District to any person affected by this Act shall not be set at a figure lower than that actually paid to that person, or to any other person serving in that position, from such funds on the effective date of this Act.

Office Equipment

Sec. 6. The commissioners courts of one or more of the counties comprising the 9th Judicial District may furnish telephones, typewriters, office furni-

ture, office space, supplies, and such other items and equipment as are deemed necessary to carry out the official duties of the district attorney's office.

Supplemental Salary

Sec. 7. The Commissioners Court of any county or counties in the 9th Judicial District may supplement the salary paid by the State of Texas to the District Attorney of the 9th Judicial District. The amount of supplemental salary that may be paid by the commissioners court shall be fixed by the Commissioners Court of any county or counties of the 9th Judicial District and shall be paid in addition to the salary paid the district attorney by the State of Texas.

Gifts and Grants

Sec. 8. The commissioners court of one or more of the counties of the 9th Judicial District may accept gifts and grants from any individual, partnership, corporation, trust, foundation, association, or political subdivision for the purpose of financing adequate and effective prosecution, crime prevention, or rehabilitation programs within the county or district approved and administered by the district attorney.

[Acts 1967, 60th Leg., p. 1237, ch. 560, eff. Aug. 28, 1967; Acts 1971, 62nd Leg., p. 2435, ch. 782, § 1 eff. June 8, 1971; Acts 1973, 63rd Leg., p. 1318, ch. 493, § 1, eff. June 14, 1973.]

Art. 3261-3. 3rd Judicial District; Assistant District Attorney

Sec. 1. The district attorney for the Third Judicial District, whose jurisdiction extends to the County of Anderson, is hereby authorized to employ an assistant district attorney with the consent of the commissioners court of Anderson County.

Sec. 2. Said assistant district attorney shall be a qualified licensed attorney and shall have authority to perform all the acts and duties of the district attorney under the laws of this state.

Sec. 3. If the commissioners court of Anderson County consents to the employment of an assistant district attorney, the salary of the same shall be paid by Anderson County.

Sec. 4. The district attorney of the Third Judicial District, subject to the consent of the commissioners court of Anderson County, shall fix the salary of the assistant district attorney.

[Acts 1969, 61st Leg., p. 2336, ch. 791, eff. Sept. 1, 1969. Amended by Acts 1983, 68th Leg., p. 4970, ch. 889, § 15, eff. Jan. 1, 1984.]

Art. 326m. District of 5 Counties with Population of 74,427 to 74,428

Sec. 1. That in all Judicial Districts in this State composed of five counties in which the aggregate population of said District as shown by the Federal Census of 1920 is in excess of 74,427 and not in

excess of 74,428, the duly elected District Attorney shall have the right, with the consent of the Judge of said District Court to appoint an Assistant District Attorney, who shall hold his office one year.

Sec. 2. The Assistant District Attorney provided for in Section 1 of this Act shall receive an annual salary of \$3,000.00 to be paid monthly out of any money not otherwise appropriated, upon the sworn account of such Assistant District Attorney approved by the District Attorney and the Judge of said District.

[Acts 1929, 41st Leg., p. 665, ch. 297.]

Art. 326n. District Attorneys, Assistants and Investigators in Certain Judicial Districts

Compensation of District Attorney; Commissions and Fees

Sec. 1. District Attorneys in all Judicial Districts composed of only one county, in which county there are two or more District Courts with concurrent criminal jurisdiction, and which District Courts have exclusive jurisdiction of all prosecutions for failing or refusing to pay over money belonging to the State under Chapter Two (2) of Title Four (4) of the Penal Code of 1925,¹ and which District Courts further have concurrent jurisdiction with all District Courts in Texas in prosecutions involving the forging and uttering, using or passing of forged instruments in writing which concern or affect the title to land in this State, under Chapter Two (2) of Title Four (4) of the Code of Criminal Procedure of 1925,² shall hereafter receive from the State as pay for their services the sum of Five Hundred Dollars (\$500.00) per annum, as provided by the Constitution, and in addition thereto shall receive the sum of Three Thousand Five Hundred Dollars (\$3,500.00) per annum, said salary to be paid in monthly installments in the same manner as now provided for the payment of the Five Hundred Dollars (\$500.00) fixed by the Constitution. All commissions and fees allowed District Attorneys by law, shall, when collected, be paid to the District Clerk of such counties, who shall pay the same over to the State Treasurer.

Assistant District Attorney

Sec. 2. In such Judicial Districts the District Attorney, with the consent of either of the District Judges, is hereby authorized to appoint one assistant District Attorney, who shall receive as salary Three Thousand Dollars (\$3,000.00) per annum payable by the state monthly.

Qualifications; Oath; Removal

Sec. 3. Said Assistant District Attorney shall have all of the qualifications that are now required by law of District Attorneys, shall take an oath of office before one of the District Judges of such District, shall be subject to removal at the will of the District Attorney and under the direction of the District Attorney, shall be authorized to perform

any official act devolving upon or authorized to be performed by the District Attorney.

Investigators or Assistants and Stenographer; Appointment and Compensation

Sec. 4. In such Judicial Districts the District Attorney, with the consent of the District Judges and the County Judge of such County, is hereby authorized to appoint, at his discretion, not more than two (2) Investigators or Assistants, who may be duly and legally licensed to practice law in the State of Texas; who shall receive a salary of not more than Twenty-seven Hundred (\$2700.00) Dollars per annum, nor less than Eighteen Hundred (\$1800.00) Dollars per annum, the amount of such salary to be fixed by the District Attorney and approved by the said Judges. Such Investigators or Assistants as well as the District Attorney shall be allowed a reasonable amount for expenses, not to exceed Six Hundred (\$600.00) Dollars each per annum. Said District Attorney shall also be authorized to appoint a stenographer who shall receive a salary not to exceed Fifteen Hundred (\$1500.00) Dollars per annum. The salaries of such Investigators or Assistants, and stenographer, and the expenses, provided for in this section shall be paid monthly by the Commissioners' Court of the County comprising such Judicial Districts, out of the General Fund of the County, or in the discretion of the Commissioners' Court, out of the jury fund of said County upon the certificate of the District Attorney. Said Investigators or Assistants may be required to give bond and shall have authority under the direction of the District Attorney to make arrests and execute process in criminal cases and in cases growing out of the enforcement of all laws. Should the District Attorney designate the persons appointed as Assistants, they shall be in addition to and shall have the same authority and qualifications and shall be subject to the same requirements as those Assistants provided for in Section 2 of this Act and Section 2 of Senate Bill No. 528 of the Regular Session of the 44th Legislature.³

[Acts 1931, 42nd Leg., p. 744, ch. 291; Acts 1941, 47th Leg., p. 172, ch. 124, § 1.]

¹ Penal Code, art. 86 et seq. (repealed).

² Code of Criminal Procedure 1925, art. 186 et seq. (repealed; see now, Code of Criminal Procedure, art. 13.01 et seq.).

³ Article 326k-7, § 2 (repealed; see, now, art. 326k-14).

Art. 326o. 77th Judicial District; Abolition of District Attorney's Office

The office of District Attorney in the 77th Judicial District of Texas is hereby abolished and the County Attorney of each county composing said district shall represent the State of Texas in all matters wherein the State of Texas is a party, in his respective county, and shall receive such fees and compensation for his services, as is provided by the General Laws of the State of Texas.

[Acts 1933, 43rd Leg., Spec.L., p. 90, ch. 68.]

Art. 326p. Repealed by Acts 1933, 43rd Leg., Spec.L., p. 150, ch. 107

Art. 326q. Unconstitutional

This article, derived from Acts 1931, 42nd Leg., p. 844, ch. 354, as amended by Acts 1941, 47th Leg., p. 603, ch. 371, § 1, created the office of criminal district attorney in counties with a population of 33,500 to 75,000 and not containing a city of 50,000 inhabitants. It was held invalid in *Hill County v. Sheppard*, 142 T. 353, 178 S.W.2d 261.

Art. 327. Failure to Attend Court

When any district attorney shall fail to attend any term of the district court of any county in his district, the district clerk of such county shall certify the fact of such failure under his official seal to the Comptroller, and unless some satisfactory reason for such failure is shown to the Comptroller, such district attorney shall receive no salary for the time that he has so failed to attend.

[Acts 1925, S.B. 84.]

Art. 328. Vacancy in Office

When a vacancy occurs in the office of district attorney, the Governor shall appoint a qualified person, resident of the district, to fill the same.

[Acts 1925, S.B. 84.]

2. COUNTY ATTORNEYS

Repealer

Acts 1971, 62nd Leg., p. 2019, ch. 622, providing for the setting of compensation, expenses and allowances for certain county and precinct officials and employees by the commissioners courts effective January 1, 1972, provides in section 8 thereof that to the extent any local, special, or general law, including Acts of the 1971 Legislature, prescribes such compensation, expenses and allowances for any official or employee covered by this Act, that law is repealed. See article 3912k.

Art. 329. Election

A county attorney for counties in which there is not a resident criminal district attorney, shall be biennially elected for a term of two years by the qualified voters of each county.

[Acts 1925, S.B. 84.]

Increase in Term of Office

Const. Art. 5, § 21, was amended in November, 1954 to increase the terms of office of County Attorneys and District Attorneys from two to four years.

Art. 330. Bond

Each county attorney shall execute a bond payable to the Governor in the sum of twenty-five hundred dollars, with at least two good and sufficient sureties to be approved by the commissioners

court of his county, conditioned that he will faithfully pay over in the manner prescribed by law all moneys which he may collect or which may come to his hands for the State or any county.

[Acts 1925, S.B. 84.]

Art. 331. Assistants

County attorneys, by consent of the commissioners court, shall have power to appoint in writing one or more assistants, not to exceed three, for their respective counties who shall have the same powers, authority and qualifications as their principals, at whose will they shall hold office. Before entering on the duties of their offices, they shall take the official oath which shall be indorsed upon their appointment, which oaths and appointments shall be recorded and deposited in the county clerk's office.

[Acts 1925, S.B. 84.]

Art. 331a. County of 100,000 to 150,000 with City over 75,000; Assistants and Stenographer

Sec. 1. That in any county having a population of more than 100,000 and less than 150,000, and containing a city of more than 75,000 population, according to the United States Census for the year 1920, the County Attorney is hereby authorized to appoint two Assistant County Attorneys, each having the qualifications required of County Attorneys, one of whom shall receive a salary of \$3000.00 per annum, and one of whom shall receive a salary of \$2400.00 per annum. The said County Attorney is also hereby authorized to appoint one stenographer at a salary not to exceed \$1800.00 per annum. The salaries of the Assistants and stenographer above provided for shall be paid monthly by the county in which such appointments are made.

Sec. 2. Should such County Attorney be of the opinion that the number of assistants above provided for are inadequate for the efficient performance of the duties of said office, he may appoint additional assistants under the provisions and restrictions of Article 3902 of the Revised Civil Statutes of 1925.

[Acts 1929, 41st Leg., p. 198, ch. 83.]

Art. 331b. Counties of 49,600 to 49,700; Assistants to County Attorney Performing Duties of District Attorney

In all counties in which the county attorney performs the duties of the county attorney and district attorney, as provided by law, the county attorney may appoint one or more assistants who need not possess the qualifications required by law of county attorneys. The appointment of the assistants provided for by this act shall be governed by the provisions of Article 3902, whereby the number of assistants to be appointed and the compensation to be paid each shall be determined by the commissioners' court, providing that the provision of this bill shall apply only to counties in this State having a population of not less than 49600 and not more than

49700 according to the last government census of 1920.

[Acts 1929, 41st Leg., p. 512, ch. 246, § 1.]

Art. 331b-1. Counties of 42,900 to 43,000; Assistants to County Attorney Performing Duties of District Attorney

In all counties in which the county attorney performs the duties of the county attorney and district attorney, as provided by law, the county attorney may appoint one or more assistants who need not possess the qualifications required by law of county attorneys. The appointment of the assistants provided for by this act shall be governed by the provisions of Article 3902, whereby the number of assistants to be appointed and the compensation to be paid each shall be determined by the commissioners' court, provided that the provision of this bill shall apply only to counties in this State having a population of not less than 42900 and not more than 43000 according to the last government census of 1920.

[Acts 1929, 41st Leg., 2nd C.S., p. 135, ch. 67, § 1.]

Art. 331b-2. Certain Counties of 46,000 to 46,150; Assistants

Sec. 1. That in any county having a population of more than forty-six thousand (46,000) and less than forty-six thousand, one hundred and fifty (46,150) inhabitants, and containing a total taxable valuation not in excess of Thirty Million, Seven Hundred and Forty-two Thousand, Six Hundred and Sixty Dollars (\$30,742,660), as shown by the tax rolls for the preceding year, and in which there is a city of not more than forty-three thousand, one hundred and thirty-two (43,132) inhabitants, as shown by the last preceding Federal Census, the County Attorney is hereby authorized to appoint one Assistant County Attorney, having the qualifications required of County Attorneys, who shall receive a salary not to exceed Eighteen Hundred Dollars (\$1,800) per annum, said salary to be paid in twelve (12) equal monthly installments (out of county funds) by each county in which such appointment is made, by warrants drawn on the General Fund thereof.

Sec. 2. Should such County Attorney be of the opinion that the efficient performance of the duties of said office necessitates the appointment of more than one Assistant, he may appoint additional Assistant under the provisions and restrictions of Article 3902 of the Revised Civil Statutes of Texas, of 1925.

[Acts 1935, 44th Leg., p. 927, ch. 359.]

Art. 331b-3. Counties of 60,001 to 100,000 Having No District Attorney; Assistants

Sec. 1. In all counties of this State having a population of sixty thousand and one (60,001) and not more than one hundred thousand (100,000) inhabitants, according to the last preceding Federal Census, the county attorneys in such counties which

do not have a district attorney, and where the county attorney performs the duties of county attorney and district attorney, the county attorney in such counties shall apply to the county Commissioners Court of his county for authority to appoint such assistant county attorneys as he may require in the performance of his duties as such county attorney, stating by sworn application the number needed, the position to be filled and the amount to be paid. Said application shall be accompanied by a statement showing the probable receipts from fees, commissions and compensation to be collected by said office during the fiscal year and the probable disbursements which shall include all salaries and expense of said office; and said Court shall make its order authorizing the appointment of such assistant county attorneys and fix the compensation to be paid them within the limitations herein prescribed and determine the number to be appointed as in the discretion of said Court may be proper. The compensation which may be allowed to the assistant county attorneys for their services shall be a reasonable one, not to exceed Thirty-six Hundred Dollars (\$3600) per annum, to be paid out of the officer's salary fund of such counties.

Sec. 2. The provisions of this Act are cumulative of Article 3902 of the Revised Civil Statutes of Texas of 1925, as amended, and in nowise shall be considered as a limitation on the other powers and authority of the Commissioners Court therein prescribed.

[Acts 1945, 49th Leg., p. 253, ch. 187.]

Art. 331c. Counties of 37,500 to 100,00 Having No District Attorney; Fees; Assistants and Stenographer

That in any county having a population of not less than 37,500 and not more than 100,000 inhabitants, as determined by the last preceding Federal census, and each succeeding Federal census thereafter, and in which counties there are one or more Judicial districts where there is no District Attorney, the County Attorney shall be allowed to retain out of the fees earned and collected by him, the sum of \$5,000.00 per annum, as his compensation, exclusive of the compensation of assistants, deputies and stenographers, and shall be allowed to retain any amount as may be incurred as expenses under the authority of Article 3899, Revised Statutes, 1925, and any other expenses allowed by law, including in addition to the items enumerated in the Statutes, expenses incurred in investigating crime and accumulating evidence in Criminal cases, and shall pay over all fees earned by such office in excess of \$5,000.00, and in excess of such expenses herein provided for, during each and every fiscal year, into the County Treasury in accordance with the provisions of the maximum fee bill. In arriving at the amount collected by him, he shall include the fees arising from all classes of Criminal cases, whether felonies or misdemeanors, arising in any court in such county, including habeas corpus hearings and

finances and forfeitures, and including fees for representing the State in Criminal actions in Corporation Courts; such latter fees to be the same as those fixed by law for like services in Justice Courts. Each County Attorney may appoint not to exceed three Assistant County Attorneys, two of which shall receive a salary of not to exceed \$3,600.00 per annum, and one of whom shall receive a salary not to exceed \$2,400.00 per annum. He may appoint one stenographer, who shall receive a salary not to exceed \$1,500.00 per annum. The salaries of the assistants and stenographer shall be paid monthly by the County Attorney out of the fees of office.

[Acts 1929, 41st Leg., 1st C.S., p. 220, ch. 89, § 1.]

Art. 331d. Counties of 27,050 to 27,075 with Two or More District Courts; Assistants

Sec. 1. In any county having a population of not less than twenty-seven thousand and fifty (27,050) and not more than twenty-seven thousand and seventy-five (27,075) inhabitants according to the Federal census for the year 1940 and in which county there are two (2) or more District Courts, the County Attorney is hereby authorized to appoint one Assistant County Attorney who has the qualifications required of County Attorneys, and who shall receive a salary of not more than Four Thousand, Eight Hundred Dollars (\$4,800) per year and not less than Two Thousand, Four Hundred Dollars (\$2,400) per year. The salary of the Assistant above provided for shall be paid in equal monthly installments monthly by the county in which such appointment is made.

Sec. 2. Should such County Attorney be of the opinion that the number of Assistants above provided for is inadequate for the efficient performance of the duties of said office, he may appoint additional Assistants under the provisions and restrictions of Article 3902 of the Revised Civil Statutes of Texas, 1925.

Sec. 3. If any clause, sentence, paragraph or part of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid or ineffective, such judgment shall not affect, impair or invalidate the remainder of this Act, but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment has been rendered.

[Acts 1949, 51st Leg., p. 357, ch. 181.]

Art. 331e. Counties of 50,900 to 60,000 Having No District Attorney; Assistants

Sec. 1. In all counties of this State having a population of fifty thousand, nine hundred (50,900) and not more than sixty thousand (60,000) inhabitants, according to the last preceding Federal Census, the county attorneys in such counties which do not have a district attorney, and where the county attorney also performs the duties of district attorney, the county attorney in such counties shall

apply to the County Commissioners Court of his county for authority to appoint such assistant county attorneys as he may require in the performance of his duties as such county attorney, stating by sworn application the number needed, the position to be filled, and the amount to be paid. Said application shall be accompanied by a statement showing the probable receipts from fees, commissions and compensation to be collected by said office during the fiscal year and the probable disbursements which shall include all salaries and expenses of said office; and said Court shall make its order authorizing the appointment of such assistant county attorneys and fix the compensation to be paid them within the limitations herein prescribed and determine the number to be appointed as in the discretion of said Court may be proper. The compensation which may be allowed to the assistant county attorneys for their services shall be a reasonable one, not to exceed Thirty-six Hundred Dollars (\$3600) per annum, to be paid out of the officer's salary fund of such counties.

Sec. 2. The provisions of this Act are cumulative of Article 3902 of the Revised Civil Statutes of Texas of 1925, as amended, and in nowise shall be considered as a limitation on the other powers and authority of the Commissioners Court therein prescribed.

[Acts 1949, 51st Leg., p. 425, ch. 226.]

Art. 331f. Certain Counties over 13,000 on Mexican Border; Assistant and Secretary

In any county bordering on the international boundary between the United States and the Republic of Mexico, having more than thirteen thousand (13,000) inhabitants according to the last preceding Federal Census and having a taxable property valuation in excess of Twenty Million Dollars (\$20,000,000) according to the latest approved tax rolls and having a county attorney, the Commissioners Court of such county may employ an assistant county attorney and fix his salary at not to exceed Thirty-six Hundred Dollars (\$3600) per annum and may employ a secretary to the county judge and fix his salary at not to exceed Twenty-seven Hundred Dollars (\$2700) per annum, such salaries to be payable out of the General Fund of said county in twelve (12) equal monthly installments.

[Acts 1949, 51st Leg., p. 763, ch. 410, § 1.]

Art. 331f-1. Counties of 64,191 to 100,000 on Mexican Border; Assistant and Secretary

Sec. 1. In all counties of this state having a population of not less than 64,191, and not more than 100,000 inhabitants, according to the last preceding federal census, and which counties border on the International Boundary between the United States and the Republic of Mexico, the county attorneys of such counties may appoint, with the approval of the commissioners court of such counties, an assistant county attorney and a secretary. The

application for such appointment must be sworn to and be in writing stating a need for an assistant county attorney and secretary, if such application includes the services of a secretary. The compensation to be paid must be a reasonable amount fixed at the discretion of the commissioners court of such counties, but shall not exceed \$10,000 per annum for the assistant county attorneys and \$5,800 per annum for the secretaries, to be paid out of the officers' salary funds of such counties in 12 equal monthly installments.

Sec. 2. The provisions of this Act are cumulative of Article 3902 of the Revised Civil Statutes of Texas of 1925, as amended, and in nowise shall be considered as a limitation on the other powers and authority of the commissioners court therein prescribed.

[Acts 1967, 60th Leg., p. 1236, ch. 559, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 1602, ch. 494, eff. Sept. 1, 1969.]

Art. 331g. Counties of Not Less Than 100,000 Having No District Attorney; Assistants and Investigator

Sec. 1. In all counties in this State having a population of not less than one hundred thousand (100,000) or more inhabitants, according to the last preceding Federal Census, in which there is no district attorney and where the county attorney performs the duties of the district attorney, the Commissioners Courts, upon recommendation of the county attorneys, are hereby authorized to appoint assistant county attorneys to aid such county attorneys in the performance of their duties, provided, however, that no Commissioners Court shall be authorized to appoint more than four (4) assistants.

Sec. 2. The Commissioners Court in such counties shall fix the salaries of the assistant county attorneys not to exceed the following amounts: The salaries of the first three (3) assistants, who shall be duly licensed attorneys at law, shall be fixed at any amount not to exceed Five Thousand Dollars (\$5,000) per annum each; the salary of the next assistant, who shall be a duly licensed attorney at law, shall be fixed at a sum not to exceed Forty-five Hundred Dollars (\$4500) per annum.

Sec. 3. The assistant county attorneys provided for in this Act shall perform such duties as may be assigned to them by the county attorney.

Sec. 4. In addition to the assistants provided for in this Act, such Commissioners Courts are hereby authorized to employ an investigator and fix his salary at any sum not to exceed Thirty-six Hundred Dollars (\$3600) per annum, who shall perform such duties as are assigned to him by the county attorney.

Sec. 5. The investigator provided for in this Act, in addition to his salary, may be allowed repair and maintenance expense for any automobile owned and used by such investigator in the actual discharge of official duties never to exceed Fifty Dollars (\$50) per month. The automobile expense provided for

herein shall be paid out of the Officers Fund when approved by the county attorney.

Sec. 6. All salaries provided for in this Act shall be paid by the county out of the Officers Salary Fund.

Sec. 7. If any section, subsection, sentence, clause or phrase of this Act is held unconstitutional, such invalid portion shall not affect the remaining portions of this Act, and the Legislature declares it would have enacted the remaining portion with the invalid portion omitted.

Sec. 8. This Act is hereby declared to be cumulative of all acts relating to the appointment of assistant county attorneys in the counties coming under the terms of this Act.

[Acts 1951, 52nd Leg., p. 365, ch. 230.]

Art. 331g-1. Counties over 37,000; Investigator

Sec. 1. In each county of this State which has a population of more than thirty-seven thousand (37,000) inhabitants, according to the preceding Federal Census, the county attorney may appoint an investigator, with the approval of the Commissioners Court. He may be required to make a bond in an amount to be fixed by the county attorney. He shall receive a salary in an amount to be fixed by the Commissioners Court, not to exceed Two Hundred and Fifty Dollars (\$250) per month, and he may also receive an expense allowance to be fixed by the Commissioners Court in an amount not to exceed Fifty Dollars (\$50) per month.

Sec. 2. This Act is cumulative of all other laws authorizing the appointment of investigators by county attorneys, and is also cumulative of all laws authorizing the appointment of other employees for the county attorney's office; but this Act shall not authorize the appointment of an additional investigator in any county in which an investigator with similar powers may be appointed under existing law.

Sec. 2a. Any investigator appointed by a county attorney under authority of this law shall not by virtue of such appointment be permitted to carry arms in the conduct of his duties but he shall be subject to the prohibitions against carrying arms contained in Article 483 of the Penal Code of the State of Texas, as amended, and similar statutes, the same as any private citizen; and it is further provided that such investigator shall not by virtue of his official position be empowered to make arrests.

[Acts 1955, 54th Leg., p. 1201, ch. 475; Acts 1959, 56th Leg., p. 663, ch. 306, § 1.]

Art. 331g-2. Counties of 11,200 to 11,400; Special Investigator

Sec. 1. The commissioners court of any county having a population of not less than 11,200 nor more than 11,400, according to the last preceding federal census, may appoint a special investigator. The

investigator shall work under the supervision of the county attorney for such law enforcement purposes as designated by the commissioners court.

Sec. 2. An investigator appointed under this Act shall receive an annual salary, not to exceed \$8,000, to be set by the commissioners court and paid in equal monthly installments. He shall receive a reasonable allowance for expenses to be set by the commissioners court.

Sec. 3. The investigator shall have all the authority of a peace officer of this state.

Sec. 4. The investigator shall post a bond in an amount, not to exceed \$10,000, to be set by the commissioners court and conditioned on his faithful performance of his duties under the direction of the county attorney. The bond shall be payable to the county judge.

Sec. 5. The office of such special investigator shall terminate two years from the effective date of this Act.

[Acts 1971, 62nd Leg., p. 2608, ch. 855, eff. June 9, 1971.]

Art. 331h. County Attorney of Harris County

Creation of Office; Qualifications; Oath; Bond

Sec. 1. The Constitutional office of County Attorney of Harris County is created effective September 1, 1953, and said County Attorney of Harris County shall possess all the qualifications, take the oath and give the bond required by the laws of this State of other County Attorneys.

Election and Term

Sec. 2. There shall be elected by the qualified electors of Harris County at the general election in 1954, and at the general election every two years thereafter, an attorney for said county who shall be styled the County Attorney of Harris County and who shall hold office for a period of two years and until his successor is elected and qualified.

Powers and Duties

Sec. 3. It shall be the primary duty of the County Attorney of Harris County or his assistants to represent the State of Texas, Harris County and the officials of such county in all civil matters pending before the courts of Harris County and any other courts where the State of Texas, Harris County and the officials of such county have matters pending. It is understood that the County Attorney will represent the State of Texas, Harris County and the officials of such county in such civil matters as is now required by law of Criminal District Attorneys, District Attorneys, and County Attorneys with the exception that the County Attorney shall represent the Flood Control District of Harris County and perform any and all other duties imposed by this Act without any additional fee, compensation or perquisite other than that paid by Harris County out of its officers salary fund.

Commission and Salary

Sec. 4. The County Attorney of Harris County shall be commissioned in accordance with the law and he shall receive such annual salary as may be provided by general law.

Assistants; Oath; Powers and Duties

Sec. 5. The Assistant County Attorneys of Harris County, when appointed, shall take the constitutional oath of office and are authorized to perform any and all duties devolving upon the County Attorney of Harris County and may exercise any power and perform any duty conferred by law upon the County Attorney of Harris County.

Appointments; Payment of Salaries

Sec. 6. On September 1, 1953, the Commissioners Court of Harris County shall appoint a County Attorney of Harris County who shall hold office until the next general election and until his successor is duly elected and qualified. The Commissioners Court shall have authority from time to time to authorize the appointment of assistants, investigators and secretaries as said Commissioners Court shall deem necessary to the efficient operation of the office of County Attorney. The salaries of the County Attorney and such assistants, investigators and secretaries, as well as the operating expenses of the office, shall be paid out of county funds and in no way be an obligation of the revenues of the State of Texas.

Partial Invalidity

Sec. 7. If any part, Section, Subsection, paragraph, sentence, clause, phrase or word contained in this Act shall be held by the courts to be unconstitutional such holding shall not affect the validity of the remaining portion of the Act and the Legislature hereby declares that it would have passed such remaining portion despite such invalidity.

[Acts 1953, 53rd Leg., p. 786, ch. 316.]

Art. 331i. County Attorney of Midland County; Assistants, Investigators and Stenographers

Application for Appointment of Assistants, Investigators or Stenographers; Order Authorizing Employment; Appointment

Sec. 1. Whenever the County Attorney of Midland County shall require the services of assistants, investigators or stenographers in the performance of his duty, he shall apply to the Commissioners Court of such County for authority to appoint such assistants, investigators or stenographers, stating by sworn application the number needed, the position to be filled, and the amount to be paid. Upon receipt of such application the Commissioners Court of such County may enter an order authorizing the employment of such assistants, investigators and stenographers and fix the compensation to be paid them within the limitations herein prescribed and

determine the number to be appointed as in the discretion of the Commissioners Court may be proper. In no case shall the Commissioners Court or any member thereof attempt to influence the employment of any person as assistant, investigator or stenographer. Upon entry of such order the County Attorney of such County shall be authorized to employ the assistants, investigators and stenographers as authorized by the Commissioners Court of such County provided that the compensation paid each of said employees shall not be less than the minimum nor exceed the maximum amounts prescribed in Sections 2 and 3 of this Act.

Salary of Stenographers

Sec. 2. Each stenographer of the county attorney of such county shall be paid a salary of not less than Four Thousand Dollars (\$4,000) per annum and not more than Seven Thousand Five Hundred Dollars (\$7,500) per annum as determined by the Commissioners Court of such county, to be paid in equal monthly installments out of the officers salary fund, the general fund, or any other available fund of such county.

Salary of Assistants and Investigators

Sec. 3. Each assistant of the county attorney of such county shall be paid a salary of not less than Four Thousand Eight Hundred Dollars (\$4,800) per annum and not more than Twelve Thousand Dollars (\$12,000) per annum as determined by the Commissioners Court of such county to be paid in equal monthly installments out of the officers salary fund, the general fund or any other available fund of such county. Each investigator shall be paid a salary of not less than Four Thousand Eight Hundred Dollars (\$4,800) and not more than Nine Thousand Dollars (\$9,000) per annum as determined by the Commissioners Court of such county to be paid in equal monthly installments out of the officers salary fund, the general fund, or any other available fund of such county.

Qualifications and Duties of Assistants

Sec. 4. The assistants to the County Attorney of such County must be duly and legally licensed to practice law in the State of Texas and shall be authorized to perform all duties imposed on the County Attorney of such County by law.

Investigators; Authority; Expenses

Sec. 5. Investigators for the County Attorney need not be licensed to practice law. They shall have authority to make arrests and execute process in criminal cases, and shall have the rights and duties of a peace officer in criminal cases and in cases growing out of the enforcement of all laws. In addition to their salaries, investigators may be allowed actual and necessary travel expenses incurred in the proper discharge of their duties, not to exceed the amount fixed by the Commissioners Court of such County. All claims for travel ex-

penses for the investigators shall be paid from the General Fund, the Officer's Salary Fund, or any other available fund of such County.

Automobiles; Office Supplies and Equipment

Sec. 6. The Commissioners Court of such County is authorized to furnish an automobile or automobiles for use of the County Attorney's office in carrying out the official duties of the office, and to provide for the maintenance thereof. It is further authorized to furnish telephones, typewriters, office furniture, supplies, and such other items and equipment as it deems necessary to carry out the official duties of the County Attorney's office, and to pay the necessary and essential expenses incident to carrying out the official duties of the County Attorney and his office.

Bond

Sec. 7. The stenographers, special investigators, and assistants to the County Attorney may be required by the Commissioners Court of such County to give bond in such amount as the Court may direct.

Termination of Services

Sec. 8. All stenographers, special investigators and assistant County Attorneys appointed under the provisions hereof may have their services terminated at any time by the County Attorney of such County.

[Acts 1959, 56th Leg., p. 957, ch. 446. Amended by Acts 1969, 61st Leg., p. 841, ch. 278, § 1, eff. May 29, 1969.]

Art. 331j. Counties of 20,000 to 20,500; Secretary

The Commissioners Court of any county having a population of not less than twenty thousand (20,000) nor more than twenty thousand, five hundred (20,500), according to the last preceding federal census, may employ a secretary to the county attorney. The salary shall be paid out of the Officers' Salary Fund of the county in twelve (12) equal monthly installments.

[Acts 1961, 57th Leg., p. 1175, ch. 530, § 1, eff. June 17, 1961. Amended by Acts 1971, 62nd Leg., p. 1845, ch. 542, § 112, eff. Sept. 1, 1971; Acts 1981, 67th Leg., p. 559, ch. 237, § 1, eff. Sept. 1, 1981.]

Section 146 of the 1981 amendatory act provides:

"(a) This Act is not intended to revive a law that was impliedly repealed by a law enacted by the 66th Legislature or a previous legislature.

"(b) To the extent that a law enacted by the 67th Legislature, Regular Session, conflicts with this Act, the other law prevails, regardless of relative date of enactment or relative effective date."

Art. 331k. County Attorney of Polk County

Abolition of Criminal District Attorney's Office

Sec. 1. The office of Criminal District Attorney of Polk County is abolished.

Election of County Attorney

Sec. 2. (a) At the general election in November 1968, and every four years thereafter, the qualified electors of Polk County shall elect a County Attorney of Polk County.

(b) On the effective date of this Act the Commissioners Court of Polk County shall appoint a County Attorney to serve until the County Attorney elected in November 1968, has taken office in January 1969.

Powers, Duties and Functions of County and District Attorneys

Sec. 3. (a) On the effective date of this Act, the County Attorney of Polk County is invested with the powers, duties and functions that were invested in that office before the office was abolished by the Act that created the office of Criminal District Attorney of Polk County.

(b) On the effective date of this Act, the District Attorney of the Ninth Judicial District is invested with the powers, duties, and functions that he exercised in Polk County before the Act creating the office of Criminal District Attorney of Polk County was effective.

Repealer

Sec. 4. Chapter 381, Acts of the 54th Legislature, 1955 (Article 326k-34, Vernon's Texas Civil Statutes) is repealed.

[Acts 1967, 60th Leg., p. 1832, ch. 709, eff. Aug. 28, 1967.]

Art. 331L. Grayson County Attorney; Private Practice of Law

The county attorney of Grayson County and any assistant county attorney shall not actively engage in the private practice of law while serving as county attorney or assistant county attorney in and for Grayson County.

[Acts 1973, 63rd Leg., p. 291, ch. 138, § 1, eff. May 18, 1973.]

Art. 331m. County Attorney of Terry County

The County Attorney of Terry County shall represent the State of Texas in all matters pending before the district court in Terry County.

[Acts 1979, 66th Leg., p. 854, ch. 380, § 1, eff. Aug. 27, 1979.]

3. GENERAL PROVISIONS**Art. 332. Qualifications**

No person who is not a duly licensed attorney at law shall be eligible to the office of district or county attorney. District and county attorneys shall reside in the district and county, respectively, for which they were elected; and they shall, as soon as practicable after their election and qualification, notify the Attorney General and Comptroller of their post-office address.

[Acts 1925, S.B. 84.]

Art. 332a. Assistants and Personnel of Prosecuting Attorneys**"Prosecuting Attorney" Defined**

Sec. 1. For the purpose of this Act, "prosecuting attorney" means a county attorney or a district attorney, and "district attorney" includes "criminal district attorneys."

Employment of Assistants and Personnel

Sec. 2. The prosecuting attorney may employ such assistant prosecuting attorneys, investigators, secretaries, and other office personnel as, in his judgment, are required for the proper and efficient operation and administration of the office.

Qualifications and Duties of Assistants

Sec. 3. Assistant prosecuting attorneys must be duly and legally licensed to practice law in the State of Texas, shall take the Constitutional oath of office, and shall be authorized to perform all duties imposed by law on the prosecuting attorney.

Bond; Removal

Sec. 4. The assistant prosecuting attorneys, investigators, and secretaries to the prosecuting attorney may be required by the prosecuting attorney to have bond in such amount as the prosecuting attorney may direct, and all personnel shall be subject to removal at the will of the prosecuting attorney.

Salaries

Sec. 5. Salaries of assistant prosecuting attorneys, investigators, secretaries and other office personnel shall be fixed by the prosecuting attorney, subject to the approval of the commissioners court of the county or the counties composing the district.

Travel Expenses for Assistants and Investigators

Sec. 6. Assistant prosecuting attorneys and investigators, in addition to their salaries, may be allowed actual and necessary travel expenses incurred in the discharge of their duties, not to exceed the amount fixed by the prosecuting attorney and approved by the commissioners court of the county or the counties composing the district. All claims for travel expenses may be paid from the General Fund, Officers' Salary Fund, or any other available funds of the county.

Office Supplies and Expenses; Automobiles

Sec. 7. The commissioners court of the county or the counties composing the district is authorized to furnish telephone service, typewriters, office furniture, office space, supplies, and such other items and equipment as are necessary to carry out the official duties of the prosecuting attorney's office, and to pay the expenses incident to the operation of the prosecuting attorney's office. Such commissioners courts are further authorized to furnish automobiles for the use of the prosecuting attorney.

ney's office for the purpose of conducting the official duties of the office, and to provide the maintenance thereof.

Accepting Gifts and Grants

Sec. 8. The commissioners court of the county or the counties composing the district is hereby authorized to accept gifts and grants from any foundation or association for the purpose of financing adequate and effective prosecution programs within the county or district.

Repealer

Sec. 9. All laws and parts of laws in conflict with this Act are repealed to the extent of the conflict.

[Acts 1973, 63rd Leg., p. 275, ch. 127, eff. May 18, 1973.]

Art. 332b. Collin and Orange Counties; Compensation of Criminal District or County Attorney

Sec. 1. Collin County and Orange County, in all of which counties there is either the office of criminal district attorney or the office of county attorney performing the duties of a district attorney, shall receive annually from the state an amount equal to the compensation paid by the state to district attorneys as authorized by Article V, Section 21, Constitution of Texas. Such compensation shall be paid into the salary fund of each county in 12 equal monthly installments.

Sec. 1a. Repealed by Acts 1977, 65th Leg., p. 1866, ch. 742, § 3, eff. June 16, 1977.

Sec. 2. Each criminal district attorney or county attorney performing the duties of a district attorney in a county provided for in Section 1 of this Act shall receive as his compensation an amount at least equal to the sum paid into the county by the state under the provisions of this Act, and such additional amount which the commissioners court of the county in its discretion fixes as adequate compensation for the criminal district attorney or county attorney performing the duties of a district attorney.

Sec. 3. The counties included in this Act shall not, in addition to the state compensation provided for in this Act, be entitled to the benefits of Subsection (b), Section 13, Chapter 465, Acts of the 44th Legislature, 2nd Called Session, 1935 (Article 3912e, Vernon's Texas Civil Statutes).

[Acts 1973, 63rd Leg., p. 879, ch. 396, eff. Aug. 27, 1973. Amended by Acts 1975, 64th Leg., p. 1899, ch. 606, § 1, eff. Sept. 1, 1975; Acts 1975, 64th Leg., p. 1951, ch. 642, § 2, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 1866, ch. 742, §§ 2, 3, eff. June 16, 1977; Acts 1979, 66th Leg., p. 1148, ch. 553, § 8, eff. Jan. 1, 1981; Acts 1979, 66th Leg., p. 1710, ch. 705, § 8, eff. Aug. 27, 1979.]

Sections 2 and 3 of Acts 1975, 64th Leg., ch. 606, provided:
"Sec. 2. There is hereby appropriated out of the general revenue fund the sum of \$5,000 for each fiscal year of the biennium for each county attorney, beginning September 1, 1975, to fund the state's cost under this Act.

"Sec. 3. This Act shall become effective on September 1, 1975."

Repealed § 1a related to state compensation for Lamar and Fannin county attorneys.

Art. 332b-1. Marion, Lamb, Terry, Yoakum, Lamar, Crosby, and Ellis Counties; Compensation of Criminal District or County Attorney

In Marion County, Lamb County, Terry County, Yoakum County, Lamar County, Crosby County, and Ellis County, in all of which counties there is either the office of criminal district attorney or the office of county attorney performing the duties of a district attorney, the official performing such services shall be compensated for his services by the State in such manner and in such amount as may be fixed by the general law relating to the salary to be paid to district attorneys by the State. The Commissioners Court may pay such official any compensation it deems advisable and shall pay such official sufficient compensation to insure that his total compensation is not less than the total compensation received by such official on the effective date of this amendment.

[Acts 1975, 64th Leg., p. 1853, ch. 578, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 1866, ch. 742, § 1, eff. June 16, 1977; Acts 1979, 66th Leg., p. 1711, ch. 705, § 9, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 58, ch. 25, § 18, eff. April 8, 1981; Acts 1981, 67th Leg., p. 932, ch. 346, § 2, eff. Sept. 1, 1981; Acts 1983, 68th Leg., p. 4288, ch. 683, § 2, eff. Sept. 1, 1983.]

Art. 332b-2. County Attorney of Castro County; District Attorney of 64th Judicial District

(a) The County Attorney of Castro County shall represent the State of Texas in all matters pending before the district court in Castro County.

(b) On and after the effective date of this Act, the District Attorney of the 64th Judicial District shall represent the state only in the counties of Hale and Swisher. The district attorney shall continue to fulfill the duties of the district attorney in the counties of Hale and Swisher, but his duties in the county of Castro are divested from him and invested in the county attorney. On and after the effective date of this Act, the District Attorney of the 64th Judicial District shall stand for election and be elected only from the counties of Hale and Swisher.

(c) The present District Attorney of the 64th Judicial District shall continue in office as the district attorney in the counties of Hale and Swisher until the general election in 1980 and until his successor is duly elected and has qualified.

[Acts 1977, 65th Leg., p. 1866, ch. 742, § 4, eff. June 16, 1977.]

Art. 332b-3. County Attorney of Ochiltree County; District Attorney of 84th Judicial District

(a) The County Attorney of Ochiltree County shall represent the State of Texas in all matters

pending before the district court in Ochiltree County.

(b) On and after the effective date of this Act, the District Attorney of the 84th Judicial District shall represent the state only in the counties of Hansford and Hutchinson. The district attorney shall continue to fulfill the duties of the district attorney in the counties of Hansford and Hutchinson, but his duties in the county of Ochiltree are divested from him and invested in the county attorney. On and after the effective date of this Act, the District Attorney of the 84th Judicial District shall stand for election and be elected only from the counties of Hansford and Hutchinson.

(c) The present District Attorney of the 84th Judicial District shall continue in office as the district attorney in the counties of Hansford and Hutchinson until the general election in 1980 and until his successor is duly elected and has qualified.

[Acts 1977, 65th Leg., p. 1867, ch. 742, § 5, eff. June 16, 1977.]

Art. 332b-4. Professional Prosecutors Act

Purpose and Title

Sec. 1. This Act shall be known as the Professional Prosecutors Act and is enacted for the purpose of increasing the effectiveness of law enforcement in the State of Texas.

Definition

Sec. 2. In this Act, "district attorney" means each of the district attorneys for the 2nd, 3rd, 9th, 12th, 21st, 26th, 27th, 29th, 30th, 31st, 32nd, 34th, 36th, 38th, 39th, 43rd, 47th, 51st, 52nd, 63rd, 64th, 66th, 69th, 70th, 75th, 76th, 81st, 85th, 90th, 97th, 105th, 106th, 118th, 119th, 145th, 155th, 159th, 173rd, 196th, 198th, 216th, 220th, 229th, 235th, 266th, and 271st Judicial Districts; the criminal district attorney in each of the counties of Bastrop, Bee, Bexar, Brazoria, Caldwell, Cass, Eastland, Fort Bend, Galveston, Gregg, Harrison, Hays, Hidalgo, Jackson, Jefferson, Kaufman, Lubbock, McLennan, Navarro, Randall, Rockwall, Smith, Tarrant, Taylor, Tyler, Upshur, Van Zandt, Victoria, Walker, and Wood; the county attorney performing the duties of the district attorney in each of the counties of Andrews, Cameron, Castro, Falls, Fannin, Freestone, Grayson, Limestone, Morris, Ochiltree, Red River, Robertson, Rusk, and Willacy; and the county attorney or criminal district attorney, as the case may be, of Denton County.

Compensation

Sec. 3. Each district attorney governed by this Act shall receive from the state compensation equal to 90 percent of the compensation that is provided for a district judge in the General Appropriations Act. Each commissioners court may supplement the district attorney's state salary, but shall in no event pay the district attorney an amount less than

the compensation it provides its highest paid district judge.

Expenses and Allowances

Sec. 4. Each district attorney governed by this Act shall receive not less than \$22,500 per annum from the state to be used by the district attorney to help defray the salaries and expenses of the office but not to be used to supplement the district attorney's salary. Each district attorney shall submit annually a sworn account to the comptroller of public accounts showing how this money was spent during the year.

Limitations on Law Practice

Sec. 5. (a) A district attorney governed by this Act may not engage in the private practice of law, but may complete all civil cases that are not in conflict with the interest of any of the counties of the district in which the district attorney serves and that are pending in court on the effective date of this Act or are pending in court before the district attorney takes office. A district attorney may not accept a fee from an attorney to whom the district attorney has referred a case.

(b) Subsection (a) of this section also applies to an assistant of a district attorney governed by this Act if, from all funds received, the assistant district attorney receives a salary that is equal to or greater than 80 percent of the salary paid by the state to the district attorney under this Act.

Construction

Sec. 6. It is the purpose of this Act to increase funds available for use in prosecution. The commissioners court in each county that has a district attorney governed by this Act shall provide the funds necessary to effectuate the purpose of this Act and shall continue to provide funds for the office of the district attorney in an amount that is equal to or greater than the amount of funds provided for the office by the county on the effective date of this Act. This provision does not apply to local supplementation to the salary of the district attorney.

Effect on Art. 3912e

Sec. 7. Subsection (b), Section 13, Chapter 465, Acts of the 44th Legislature, 2nd Called Session, 1935 (Article 3912e, Vernon's Texas Civil Statutes), continues in force only as to those counties and those district attorneys that are not subject to this Act.

[Acts 1979, 66th Leg., p. 1709, ch. 705, §§ 1 to 7, eff. Aug. 27, 1979. Amended by Acts 1981, 67th Leg., p. 931, ch. 346, § 1, eff. Sept. 1, 1981; Acts 1981, 67th Leg., p. 1847, ch. 429, § 15, eff. Sept. 1, 1981; Acts 1983, 68th Leg., p. 1236, ch. 264, § 2, eff. Jan. 1, 1984; Acts 1983, 68th Leg., p. 4287, ch. 683, § 1, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 4624, ch. 789, § 1, eff. June 19, 1983; Acts 1983, 68th Leg., p. 5326, ch. 979, § 10, eff. Sept. 1, 1983.]

Art. 332b-5. County Attorney of Andrews County; District Attorney of 109th Judicial District

Sec. 1. The county attorney represents the state in all matters before the district court in Andrews County.

Sec. 2. [Amends art. 332b-4, § 2].

Sec. 3. The district attorney of the 109th Judicial District shall be elected from Crane and Winkler counties and shall represent the state only in those counties.

[Acts 1983, 68th Leg., p. 1236, ch. 264, §§ 1, 3, eff. Jan. 1, 1984.]

Art. 332c. Representation of County Officials and Employees by District, County or Private Attorneys

Sec. 1. In this Act, "nonpolitical entity" means any person, firm, corporation, association, or other private entity, and does not include the state, a political subdivision of the state, a city, a special district, or other public entity.

Sec. 2. In any suit instituted by a nonpolitical entity against an official or employee of a county, the district attorney of the district in which the county is situated or the county attorney, or both, shall, subject to the provisions contained in Section 3, represent the official or employee of the county if the suit involves any act of the official or employee while in the performance of public duties.

Sec. 3. If additional counsel is necessary or proper for an official or employee provided legal counsel by Section 2 of this Act or if it reasonably appears that the act complained of may form the basis for the filing of a criminal charge against the official or employee, the county commissioners court shall employ and pay private counsel.

Sec. 4. Nothing in this Act requires a county official or employee to accept the legal counsel provided for him in this Act.

[Acts 1973, 63rd Leg., p. 1765, ch. 644, eff. June 16, 1973. Amended by Acts 1977, 65th Leg., p. 1116, ch. 414, § 1, eff. Aug. 29, 1977.]

Art. 332d. Prosecutor Council

Purpose of Act

Sec. 1. The Legislature of the State of Texas finds and declares that a uniform quality of prosecution will aid in improving the efficiency and effectiveness of the state's criminal justice system. The legislature recognizes that the prosecutor performs a judicial function which has a significant effect on the executive branch and on law enforcement. To this end, it is the purpose of this Act to provide a centralized agency of the judicial department of government capable of delivering technical assistance, educational services, and professional development training to the prosecutors of Texas and their assistants and to improve the administration of

criminal justice through professionalization of the prosecuting attorney's office.

Creation

Sec. 2. There is created the Prosecutor Council, hereinafter referred to as the "council."

Membership; "Prosecuting Attorney" Defined

Sec. 3. (a) The council shall be composed of nine members, selected as follows:

(1) four citizens of the State of Texas, who are not licensed to practice law, appointed by the Governor of Texas, with the advice and consent of the senate. In making such appointments, the governor shall give due consideration to geographical areas of the state and their population diversities; and

(2) five incumbent, elected prosecuting attorneys to be elected by prosecuting attorneys, at least one each of whom shall be a county attorney, a district attorney, and a criminal district attorney.

(b) The supreme court shall promulgate rules for electing prosecutors to the council.

(c) For purposes of this Act, "prosecuting attorney" means the person who holds the office of county attorney, district attorney, or criminal district attorney, and represents the State of Texas in criminal cases, including those holding the office pro tempore. The duties of prosecuting attorneys who are members of the council shall be additional to those of their elected position, and membership on the council shall not constitute dual officeholding.

Terms

Sec. 4. The members of the council shall serve overlapping six-year terms. Initially, the governor shall appoint one citizen for two years, two citizens for four years, and one citizen for six years. Initially, two prosecuting attorneys shall be elected for two years, one prosecuting attorney shall be elected for four years and two prosecuting attorneys shall be elected for six years. The terms of the present members shall expire on December 31, 1981, and each member shall continue to serve until his successor has been appointed or elected.

Vacancies

Sec. 5. Vacancies on the council shall be filled in the same manner as the original appointment. A member appointed to fill a vacancy created other than by expiration of a term shall be appointed for the unexpired term of the member he is to succeed. Any member may be reappointed for additional terms. If a member who is a prosecuting attorney ceases to be a prosecuting attorney, a vacancy on the council shall exist.

Expenses

Sec. 6. Members of the council shall serve without compensation but may be entitled to their actual

expenses in attending meetings and in the performance of their duties hereunder.

Meetings; Officers; Quorum; Executive Director

Sec. 7. (a) The council shall meet at least twice each year and shall hold such other meetings as may be necessary. The council shall designate from among its prosecutor members a chairman and from its lay members a vice-chairman who shall serve two-year terms and who may be reelected. The chairman shall preside over the meetings, and in his absence the vice-chairman shall preside. The council shall establish its own procedures with respect to its meetings, and five members shall constitute a quorum for the transaction of business. A majority vote of the members present and voting shall be required for approval of any action authorized by this Act.

(b) The council shall appoint an executive director who shall be an attorney licensed by the Supreme Court of Texas. The executive director shall perform the functions and duties assigned him by the council and shall represent the council in all cases in the courts of the state or of the United States.

Duties

Sec. 8. It shall be the duty of the council to:

- (1) develop and adopt minimum standards for the operation of prosecuting attorneys' offices;
- (2) approve courses for in-service training and professional development of prosecuting attorneys, their assistants, and staff;
- (3) cooperate and coordinate with the Texas Judicial Council to improve the maintenance and reporting of criminal justice statistics;
- (4) accept and investigate complaints of prosecuting attorney incompetency and misconduct;
- (5) receive and consider suggestions to improve the administration of criminal justice and to investigate and report upon such matters as may be referred to the council by the governor or the legislature;
- (6) coordinate with the Texas District and County Attorneys Association to carry out the provisions and purposes of this Act;
- (7) respond to requests for technical assistance from the various prosecuting attorneys; and
- (8) report to the governor and the legislature on or before December 1 of each year as to all its proceedings, recommended changes in jurisdictions, needed funding for local offices, and other matters to improve local prosecution within the state.

Powers

Sec. 9. The council may:

- (1) respond to the request of a judge for recommendations regarding the appointment of a special

prosecutor in case of disqualification of the prosecuting attorney;

(2) enter into agreements with other public or private agencies or organizations to implement the intent and purpose of this Act;

(3) accept funds, grants, and gifts from any public or private source to implement this Act;

(4) employ such staff and clerical assistants as necessary to fulfill its duties and responsibilities;

(5) pay the expenses of prosecutors and their staffs to attend professional development courses, to assist other prosecutors, to advise the council, and to perform the other activities that the council deems to be in the interest of improving the quality of prosecution; and

(6) take such other action as may be appropriate for the improvement and more efficient administration of criminal justice.

Reprimand, Disqualification, or Removal from Office

Sec. 10. (a) A prosecuting attorney may be reprimanded, disqualified, or removed from office as hereinafter provided.

(b) For purposes of this Act:

(1) "incompetency" means:

- (A) gross ignorance or neglect of official duty;
- (B) physical or mental defect which prohibits the prompt or proper discharge of official duties; or
- (C) failure to maintain the qualifications required by law for election to the office.

(2) "misconduct" means:

- (A) any unlawful behavior defined in Chapter 39 of the Penal Code;
- (B) any act which is a felony or a misdemeanor involving moral turpitude; or
- (C) willful or persistent conduct which is clearly inconsistent with the proper performance of official duties.

(c) A prosecuting attorney is disqualified from performing the duties and functions or exercising the privileges of his office when a petition for removal from office has been filed against him as provided in this Act.

(d) A prosecuting attorney is suspended from office when:

- (1) he has been disbarred or suspended from the practice of law in the State of Texas, whether through trial or upon agreement;
 - (2) he has been found guilty in a court of competent jurisdiction of any felony or any misdemeanor involving moral turpitude or;
 - (3) a finding of incompetency or misconduct follows a trial on the merits of a petition for removal.
- (e) A prosecuting attorney is removed from office upon final adjudication or conviction for any cause

of action which was the basis for his suspension. The court entering the appropriate judgment as provided by Subsection (d) of this section shall include an order suspending the prosecuting attorney and removing him from office when the judgment becomes final.

(f)(1) During a period of disqualification, the prosecuting attorney shall be entitled to receive the compensation provided by law for such office but shall be disqualified from the performance of any official duties imposed upon his office by law or exercising any privilege incident thereto.

(2) During a period of suspension, the prosecuting attorney shall not be entitled to any compensation provided by law for his office and shall be disqualified from the performance of any official duties imposed upon his office by law or exercising any privilege incident thereto. If the trial court judgment which causes a suspension is upon final determination overturned, then he shall be entitled to receive as compensation an amount equal to the total compensation he would have received during the period of such suspension.

(g)(1) After investigation of a complaint of prosecutor incompetency or misconduct, the council may, in its discretion, issue a private reprimand, order a hearing to be held before the council, or request the supreme court to appoint a master to hold a hearing.

(2) The supreme court shall by rule provide for the procedure before the council and masters in hearings relating to the investigation of complaints of prosecuting attorney incompetency or misconduct, consistent with this Act and due process of law.

(3) In the conduct of investigations or hearings, any member of the council or the master may administer oaths and issue subpoenas for the attendance of witnesses and to compel testimony and the production of books, records, papers, accounts, and documents relevant to any investigation or hearing. Orders for attendance of witnesses, testimony, or production of evidence shall be enforceable by contempt proceedings in the district court.

(4) It shall be the duty of all law enforcement officers to serve process and execute all lawful orders of the council or master. Such process and orders may also be served by any other person designated by the master, the council, or their authorized representative.

(5) In any investigation or hearing, process shall extend to all parts of the state, and each witness, other than an officer or employee of the state or a political subdivision, shall receive the same fees and mileage as allowed witnesses in civil cases.

(6) In any investigation or hearing, the council or master may order the deposition of any person be taken in accordance with the Texas Rules of Civil Procedure.

(h) Upon the appointment of a master, notice shall be given to the prosecuting attorney who is the subject of any complaint or investigation, specifying the matters under investigation and the complaint against him and setting a date for a hearing or for the taking of testimony for purposes of investigation.

(i) After the conclusion of the hearing, the master shall file with the council a statement of his findings of fact, together with a complete transcript of all proceedings had in the cause. Such findings and transcripts shall be filed with the council not later than 30 days after the date set for the hearing to commence. For good cause shown, the council may, in its discretion, extend the time for filing such findings and transcripts.

(j) All proceedings and records before the council or a master shall be confidential and privileged until such time as they are introduced in evidence in any proceeding for removal.

(k) If, after examining the records and proceedings before it, the council finds by majority vote of the council membership good cause therefor, it shall cause to be filed in the district court of the county in which the prosecuting attorney resides a petition for removal. Such petition shall be filed in the name of the State of Texas and docketed on the civil docket of the court. Such petition shall allege incompetency or misconduct, together with the facts which form the basis of the allegations. The trial on a petition for removal shall proceed in accordance with the Texas Rules of Civil Procedure.

(l) When a petition for removal is filed pursuant to this section, the judge of the court in which it is filed shall request the appointment of a special judge who shall hear the case. Upon appointment, the special judge shall appoint an attorney to prosecute the case, such counsel to be selected from a list of not less than five qualified attorneys submitted by the council.

(m) Upon disqualification or suspension of a prosecuting attorney, the duties of his office shall be performed by a prosecuting attorney pro tempore as provided by this Act. The prosecuting attorney pro tempore shall serve until the disqualification or suspension is lifted or until a successor has been appointed and qualified.

Prosecuting Attorney Pro Tempore

Sec. 10A. (a) A prosecuting attorney pro tempore shall be appointed by the body or person who has the authority to appoint the prosecuting attorney in the event of a vacancy.

(b) The prosecuting attorney pro tempore shall receive as compensation an amount not less than the compensation the disqualified or suspended prosecuting attorney was entitled to receive. Each governmental body shall pay that part of the compensation it paid the predecessor out of any avail-

able funds. This obligation shall take precedence over any other the governmental body may have.

Limitations; Intent of Legislature

Sec. 10B. No prosecuting attorney shall be reprimanded or removed for misconduct as defined by Section 10 of this Act occurring more than four years prior to the time of filing of a complaint with the council, but limitation will not run where fraud or concealment is involved until the misconduct is discovered or should have been discovered by reasonable diligence. The complaint shall be considered as filed when made in writing to the executive director of the council. It is the intention of the legislature that there continue to be no restrictions to the reprimand or removal of a prosecuting attorney other than those stated in this Act.

Severability

Sec. 11. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end, the provisions of this Act are declared to be severable.

Sec. 12. Repealed by Acts 1981, 67th Leg., p. 2652, ch. 709, § 4, eff. Aug. 31, 1981.

[Acts 1977, 65th Leg., p. 917, ch. 345, §§ 1 to 12, eff. Aug. 29, 1977. Amended by Acts 1981, 67th Leg., p. 2635, ch. 707, § 4(15), eff. Aug. 31, 1981; Acts 1981, 67th Leg., p. 2649, ch. 709, §§ 1 to 4, eff. Aug. 31, 1981.]

Art. 332d-1. Application of Sunset Act

The Prosecutor Council is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes). Unless the Prosecutor Council is continued in existence as provided by that Act, the Prosecutor Council is abolished and this Act expires effective September 1, 1985.

[Acts 1981, 67th Leg., p. 2652, ch. 709, § 5, eff. Aug. 31, 1981.]

Sections 1 to 4 of the 1981 Act amended art. 332d.

Art. 333. To Report to Attorney General

District and County Attorneys shall, when required by the Attorney General, report to him at such times and in such form as he may direct, such information as he may desire in relation to criminal matters and the interests of the State, in their districts and counties.

[Acts 1925, S.B. 84.]

Art. 334. Shall Advise Officers

The district and county attorneys, upon request, shall give an opinion or advice in writing to any county or precinct officer of their district or county, touching their official duties.

[Acts 1925, S.B. 84.]

Art. 335. Collections and Fees

Whenever a district or county attorney has collected money for the State or for any county, he shall within thirty days after receiving the same, pay it into the treasury of the State or of the county in which it belongs, after deducting therefrom and retaining the commissions allowed him thereon by law. Such district or county attorney shall be entitled to ten per cent commissions on the first thousand dollars collected by him in any one case for the State or county from any individual or company, and five per cent on all sums over one thousand dollars, to be retained out of the money when collected, and he shall also be entitled to retain the same commissions on all collections made for the State or for any county. This article shall also apply to money realized for the State under the escheat law.

[Acts 1925, S.B. 84.]

Art. 336. Accepting Reward

No district or county attorney shall take any fee, article of value, compensation, reward or gift or any promise thereof, from any person whomsoever, to prosecute any case which he is required by law to prosecute, or consideration of or as a testimonial for his services in any case which he is required by law to prosecute, either before or after such case has been tried and finally determined.

[Acts 1925, S.B. 84.]

Art. 337. Collection Reports

On or before the last day of August of each year, each district or county attorney shall file in the office of the Comptroller or of the county treasurer, as the case may be, a sworn account of all money received by him by virtue of his office during the preceding year, payable into the State or county treasury.

[Acts 1925, S.B. 84.]

Art. 338. Register

Each district and county attorney shall keep in proper books, to be procured by them for that purpose at their own expense, a register of all their official acts and reports, and all actions or demands prosecuted or defended by them as such attorneys, and of all proceedings had in relation thereto, and shall deliver such books to their successors in office; and the same shall at all times be open to the inspection of any person appointed by the Governor or by the county commissioners court of a county, to examine the same.

[Acts 1925, S.B. 84.]

Art. 339. To Prosecute Officers

When it shall come to the knowledge of any district or county attorney that any officer in his district or county entrusted with the collection or safe keeping of any public funds is in any manner whatsoever neglecting or abusing the trust confided

in him, or in any way failing to discharge his duties under the law, he shall institute such proceedings as are necessary to compel the performance of such duties by such officer and to preserve and protect the public interests.

[Acts 1925, S.B. 84.]

Art. 340. Admissions

No admissions made by the district or county attorney in any suit or action in which the State is a party shall operate to prejudice the rights of the State.

[Acts 1925, S.B. 84.]

Art. 341. Population Determined

The preceding Federal census shall be the basis for determining population under any provisions of this title.

[Acts 1925, S.B. 84.]

4. PUBLIC DEFENDERS

Art. 341-1. Tarrant County; Appointment and Compensation; Entitlement of Indigents

Findings and Purpose

Sec. 1. (a) Recent federal and state court decisions have emphasized the constitutional obligation of the state to afford needy persons the effective assistance of counsel in criminal actions. In some counties, the bar has partially met this obligation through creation of a nonprofit organization, primarily financed by federal grants, which provides counsel; in others, volunteers from the bar donate their services to defend needy persons. And in still other counties, the courts concerned appoint counsel under Articles 26.04 and 26.05, Code of Criminal Procedure, 1965.

(b) Especially in the metropolitan counties, the obligation to furnish competent counsel imposes a substantial burden on county financial resources. None of the alternative methods presently employed to furnish counsel has proved entirely satisfactory and the Legislature finds that a countywide public defender system, functioning either alone or in a combination with other methods, may better satisfy the constitutional and statutory obligations for providing counsel for the needy accused.

(c) In view of the findings and determinations expressed in Subsections (a) and (b) of this section, there is established in Tarrant County the offices of Public Defender of Tarrant County, hereafter referred to as the "public defender."

Appointment of Public Defenders

Sec. 2. (a) Each criminal district judge of Tarrant County shall appoint one attorney to serve as a public defender and define his duties and responsibilities. A public defender serves at the pleasure of the appointing Judge.

(b) To be eligible for appointment as a public defender, a person must:

- (1) be a member of the State Bar of Texas;
- (2) have practiced law at least three years; and
- (3) be experienced in the practice of criminal law.

Compensation

Sec. 3. (a) The public defenders shall receive an annual salary of not less than \$10,000 to be fixed by the Commissioners Court of Tarrant County and paid from the appropriate county fund.

(b) The provisions of Article 26.05, Code of Criminal Procedure, 1965, as amended, regarding daily appearance fees shall not apply to public defenders, however, all other provisions of Article 26.05, Code of Criminal Procedure, 1965, as amended, regarding fees and allowances shall apply to public defenders.

(c) A public defender may not engage in any criminal law practice other than that authorized in this Act and shall accept nothing of value, except as authorized in this Act, for any services rendered in connection with a criminal case.

(d) A violation of Subsection (c), Section 3 of this Act shall be cause for removal of the public defender by the judge who appointed him.

Entitlement to Representation

Sec. 4. (a) Any indigent person charged with a criminal offense in a court in Tarrant County or any indigent person in Tarrant County who is a party in a juvenile delinquency proceeding shall be represented by a public defender or other practicing attorney appointed by a court of component jurisdiction. If an attorney, other than a public defender, is appointed, he shall be compensated as provided in Article 26.05, Code of Criminal Procedure, 1965, as amended.

(b) A public defender may inquire into the financial condition of any person whom he is appointed to represent and shall report any findings of the investigation to the court appointing him. The court may hold a hearing into the financial condition of the defendant and shall make a determination as to his indigency and to his entitlement to representation by a public defender.

Substitute Defender

Sec. 5. At any stage, including appeal or other post-conviction proceedings, the court concerned may assign a substitute attorney. The substitute attorney shall be entitled to compensation as provided in Article 26.05, Code of Criminal Procedure, 1965, as amended.

Severability

Sec. 6. If any provision of the Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given

effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

[Acts 1969, 61st Leg., p. 1621, ch. 501, eff. Sept. 1, 1969.]

Art. 341-2. Counties Having Four County and Four District Courts; Appointment and Compensation; Entitlement of Indigents

Findings and Purpose

Sec. 1. (a) Recent federal and state court decisions have emphasized the constitutional obligation of the state to afford needy persons the effective assistance of counsel in criminal actions. In some counties, the bar has partially met this obligation through creation of a nonprofit organization, primarily financed by federal grants, which provides counsel; in others, volunteers from the bar donate their services to defend needy persons. And in still other counties, the courts concerned appoint counsel under Articles 26.04 and 26.05, Code of Criminal Procedure, 1965, as amended.

(b) The obligation to furnish competent counsel imposes a substantial burden on county financial resources. None of the alternative methods presently employed to furnish counsel has proved entirely satisfactory and the legislature finds that a countywide public defender system, functioning either alone or in a combination with other methods, may better satisfy the constitutional and statutory obligations for providing counsel for the needy accused.

Appointment of Public Defender

Sec. 2. (a) The commissioners court of any county having four county courts and four district courts may appoint one or more attorneys to serve as a public defender to serve at its pleasure.

(b) To be eligible for appointment as a public defender, a person must:

- (1) be a member of the State Bar of Texas;
- (2) have practiced law at least three years; and
- (3) be experienced in the practice of criminal law.

Compensation

Sec. 3. (a) The public defenders shall receive an annual salary to be fixed by the commissioners court and paid from the appropriate county fund.

(b) The provisions of Article 26.05, Code of Criminal Procedure, 1965, as amended, regarding daily appearance fees shall not apply to public defenders; however, all other provisions of Article 26.05, Code of Criminal Procedure, 1965, as amended, regarding fees and allowances shall apply to public defenders.

(c) A public defender may not engage in any criminal law practice other than that authorized in this Act and shall accept nothing of value, except as authorized in this Act, for any services rendered in connection with a criminal case.

(d) A violation of Subsection (c), Section 3 of this Act shall be cause for removal of the public defender by the judge who appointed him.

Entitlement to Representation

Sec. 4. (a) Any indigent person charged with a criminal offense or any indigent person who is a party in a juvenile delinquency proceeding shall be represented by a public defender in a county having at least four county courts and at least four district courts, if one has been appointed, or other practicing attorneys appointed by a court of competent jurisdiction. If an attorney, other than a public defender, is appointed, he shall be compensated as provided in Article 26.05, Code of Criminal Procedure, 1965, as amended.

(b) A public defender may inquire into the financial condition of any person whom he is appointed to represent and shall report any findings of the investigation to the court appointing him. The court may hold a hearing into the financial condition of the defendant and shall make a determination as to his indigency and to his entitlement to representation by a public defender.

Substitute Defender

Sec. 5. At any stage, including appeal or other postconviction proceedings, the court concerned may assign a substitute attorney. The substitute attorney shall be entitled to compensation as provided in Article 26.05, Code of Criminal Procedure, 1965, as amended.

[Acts 1979, 66th Leg., p. 1357, ch. 609, §§ 1 to 5, eff. Aug. 27, 1979.]

Art. 341-3. Wichita County; Appointment, Compensation, Powers, and Duties; Substitute in Case of Conflict

Appointment of Public Defender

Sec. 1. (a) The Commissioners Court of Wichita County may appoint an attorney to serve at its pleasure as public defender.

(b) To be eligible for appointment as public defender, a person must:

- (1) be a member of the State Bar of Texas;
- (2) have practiced law at least three years; and
- (3) be experienced in the practice of criminal law.

Employment of Assistants and Personnel

Sec. 2. (a) The public defender may, with the approval of the commissioners court, employ assistant public defenders, investigators, secretaries, and other personnel required for the proper and efficient operation of the office.

(b) An assistant public defender must be licensed to practice law in this state and is authorized to perform all duties imposed by law on the public defender.

Costs of Court

Sec. 3. The provisions of Article 26.05, Code of Criminal Procedure, 1965, as amended, relating to the compensation of appointed counsel, except the provisions of that article relating to daily appearance fees, apply to appearances and legal representation by the public defender or an assistant public defender.

Compensation and Expenses

Sec. 4. The provisions of Chapter 622, Acts of the 62nd Legislature, Regular Session, 1971, as amended (Article 3912k, Vernon's Texas Civil Statutes), apply to compensation of personnel and payment of expenses incidental to the operation of the office of the public defender, except that the commissioners court may not pay the public defender an annual salary that is greater than the annual salary paid to the district attorney serving Wichita County.

Duties and Responsibilities

Sec. 5. (a) The public defender or an assistant public defender shall represent any indigent person charged with a criminal offense in Wichita County and any indigent minor who is a party to a juvenile delinquency proceeding in the county.

(b) The public defender or an assistant public defender shall inquire into the financial condition of any person the defender is appointed to represent. The defender shall report the findings of the inquiry to the court appointing him. The court may hold a hearing on the financial condition of the defendant or minor and shall make a determination as to his indigency and to his entitlement to representation by the defender.

Outside Employment and Compensation

Sec. 6. A public defender or an assistant public defender may not:

(1) engage in criminal law practice other than practice as a public defender or assistant public defender;

(2) engage in civil or criminal law practice before a county court, county court at law, or district court in Wichita County, other than practice associated with his position in the public defender's office; or

(3) receive anything of value other than compensation authorized by this Act for practice performed in furtherance of his duty as a public defender or assistant public defender.

Removal

Sec. 7. The commissioners court may remove a public defender or assistant public defender if the defender violates a provision of Section 6 of this Act.

Appointment of Substitute Defender

Sec. 8. (a) If the judge determines that a conflict of interest exists between the public defender or assistant public defender and an accused indigent person charged in a criminal proceeding or an indigent minor in a juvenile delinquency proceeding before the judge, the judge may, at any stage of the proceeding, appoint another attorney to represent the accused.

(b) An attorney appointed under Subsection (a) of this section must be licensed to practice law in this state and is entitled to compensation for services as provided by Article 26.05, Code of Criminal Procedure, 1965, as amended.

Gifts and Grants

Sec. 9. The commissioners court may accept gifts and grants from any source for the purpose of financing an adequate and effective public defender program within the county.

[Acts 1983, 68th Leg., p. 352, ch. 80, eff. May 10, 1983.]

TITLE 16

BANKS AND BANKING

TEXAS BANKING CODE OF 1943		Former Articles	New Articles
Chapter	Article		
I.	Scope of Act, Definitions, Finance Commission and State Banking Board.....	363 364 365	342-208 342-803 342-803
II.	The Banking Department of Texas.....	366	342-803
III.	Incorporation, Merger, Reorganization, Purchase of Assets of Another Bank, Disbursing Agent, Amendment of Articles of Association of State Banks, and Conversion.....	367 368 368 369 369a	342-803 342-412 342-803 342-803 342-815
IV.	Stock, Stockholders, By-laws, Directors, Officers, Employees.....	370 370a	Omitted Omitted
V.	Loans and Investments.....	370b	342-702
VI.	Surplus, Dividends, Liabilities, Uninvested Trust Funds, Preferences, Reserves, Debentures and Withdrawals.....	371 372 373	Omitted Repealed Omitted
VII.	Depository Contracts.....	374	Omitted
VIII.	Liquidation.....	375	Omitted
IX.	General Provisions.....	375a 375b 375c 375d 376	342-910 342-706 342-812 342-113 342-301

TEXAS BANKING CODE OF 1943

DISPOSITION TABLE

Showing where provisions of former articles of the Civil Statutes and Penal Code of 1925 are covered by the Texas Banking Code of 1943.

CIVIL STATUTES		Former Articles	New Articles
342	.....	342-201	381
343	.....	342-201	381
344	.....	342-206	381a
345	.....	342-201	381a
346	.....	342-202	382
346	.....	342-206	383
347	.....	342-207	384
348	.....	Repealed	385
349	.....	342-207	386
349	.....	342-813	386
350	.....	342-204	386
350	.....	342-208	387
351	.....	342-203	387
351	.....	342-204	387a
352	.....	342-206	387a
353	.....	342-204	387b
354	.....	342-203	388
355	.....	342-211	
356	.....	342-210	389
356	.....	342-211	390
357	.....	Repealed	391
358	.....	342-208	392
359	.....	342-210	392
360	.....	Omitted	392
361	.....	342-208	393
362	.....	342-208	393

BANKS AND BANKING

Former Articles	New Articles	Former Articles	New Articles
394	342-406	489a	Repealed
395	342-303	490	342-902
396	342-301	491	342-902
396	342-604	492	342-901
397	Omitted	493	Omitted
398	Omitted	494	342-209
399	Omitted	495	342-209
400	Omitted	496	342-209
401	Omitted	497	342-209
402	Omitted	498	342-113
403	Omitted	499	342-409
404	Omitted	499	342-411
405	Omitted	500	Repealed
406	Omitted	501	Repealed
407	Omitted	501a	342-607
408	Omitted	502	342-313
409	342-710	503	342-402
410	342-710	504	342-402
411	342-906	505	342-312
412-429	Omitted	506	Omitted
430	342-312	507	342-601
430	342-905	508	342-410
431	342-905	509	342-601
432	342-905	510	342-503
433	342-905	511	342-301
434	Omitted	512	342-501
435	Omitted	512a	342-501
436	Omitted	513	Omitted
437	Repealed	514	342-502
438	Omitted	515	342-602
439	342-115	516	Omitted
440-449	Repealed	517	342-603
450	342-803	517a	342-603
451	342-804	518	342-603
452	342-807	519	342-603
453	342-814	520	342-904
454	342-814	521	342-606
455	Repealed	522	342-606
456	342-802	522a	Omitted
456	342-808	523	342-506
457	342-814	524	342-506
458	Omitted	525	342-511
459	342-810	526	342-509
459	342-811	527	342-409
460	342-806	528	342-411
461	342-816	529	342-211
462	342-813	530	Omitted
463	342-814	531	342-801
463	342-815	532	342-605
464	Repealed	533	Omitted
465	342-815	534	Omitted
466	Repealed	535	342-401
467	342-815	536	342-410
468	342-815	537	Omitted
469	342-815	538	342-903
470	Repealed	539	342-802
471	342-815	540	342-802
472	342-815	540a	342-608
473	342-815	541	342-902
474	342-815	541a	342-902
475-489	Repealed	541b	342-902

Former Articles	New Articles
541c	Omitted
541d	342-710
541e	342-906
542	Omitted
543	342-301
544	342-303
545	342-301
545	342-506
545	342-508
546	Omitted
547	342-602
548	342-207
548a	342-311
548a	342-312

PENAL CODE OF 1925

Former Articles	New Articles
536-543	Omitted
544	342-413
545	342-414
546	342-509
546a	342-510
546b	342-510
547	342-412
547a	Omitted
547b	342-411
547b	342-412
547c	342-415
548	342-211
548a	342-211
549	342-416
550	Omitted
551	342-207
552	342-209
552	342-211
553	342-417
554	342-507
555	342-507
556, 557	Omitted
558	342-902
559	342-902
559a	342-414
560a	Omitted
567a	342-907

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

Art.	
342-101.	Scope of Act—Short Title.
342-101A.	Short Title of Amendatory Act.
342-102.	Definitions.
342-103.	Finance Commission—Banking Section and Savings and Loan Section—Consumer Credit Section—Creation—General Powers.
342-103a.	Application of Sunset Act.
342-104.	Finance Commission—Sections—Qualifications of Members.
342-105.	Finance Commission—Residence of Members.
342-106.	Finance Commission—Members—Appointment—Term.
342-106A.	Conflict of Interest.

Art.	
342-107.	Finance Commission—Vacancies.
342-108.	Finance Commission—Confirmation of Appointments.
342-109.	Finance Commission—Expenses and Compensation of Members.
342-110.	Finance Commission—Disqualification of Members.
342-111.	Finance Commission—Sections—Meetings—Quorum—Minutes.
342-111A.	Open Meetings; Administrative Procedure.
342-112.	Reports by Commissioner—Examinations and Audits—Fees, Penalties and Revenues—Expenses—Budgets—Reports to Governor and Legislature.
342-112A.	Transfers to General Revenue Fund.
342-113.	Banking Section—Rules and Regulations—Loans and Investments—Insurance—Preservation of Books and Records—Affairs Transacted by National Banks—Determination of Incidental Powers.
342-114.	Savings and Loan Section—Rules and Regulations—Loans and Investments—Advisory Powers.
342-114A.	Consumer Credit Section.
342-115.	State Banking Board—Members—Duties—Rules of Practice—Appeal.

Art. 342-101. Scope of Act—Short Title

This code provides a complete system of laws governing the organization, operation, supervision and liquidation of state banks, and to the extent indicated by the context, governing private banks and national banks domiciled in this State; as authorized by Article 16, Section 16 of the Constitution of the State of Texas, and as provided by Article 3, Section 43 of the Constitution of the State of Texas. This Act, and all amendments thereto, may be cited as "The Texas Banking Code of 1943."

[Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 1.]

Art. 342-101A. Short Title of Amendatory Act

This Act may be cited as the "Banking Department Self-Support and Administration Act."

[Acts 1951, 52nd Leg., p. 233, ch. 139, § 14.]

Art. 342-102. Definitions

As used in this code the following terms, unless otherwise clearly indicated by the context, have the meanings specified below:

- "Code"—The Texas Banking Code of 1943.
- "Banking Department"—The Banking Department of Texas.
- "Finance Commission" or "Commission"—The Finance Commission of Texas.
- "Banking Section"—The Banking Section of The Finance Commission of Texas.
- "Building and Loan Section"—The Building and Loan Section of The Finance Commission of Texas.
- "Commissioner"—The Banking Commissioner of Texas.

"Deputy Commissioner"—The Deputy Banking Commissioner of Texas.

"Departmental Examiner"—The Departmental Bank Examiner of The Banking Department of Texas.

"Examiner"—Bank Examiner of The Banking Department of Texas.

"Assistant Examiner"—Assistant Bank Examiner of The Banking Department of Texas.

"State Bank"—Any corporation hereafter organized under this Code, and any corporation heretofore organized under the laws of the State of Texas, and which was, prior to the effective date of this Act,¹ subject to the provisions of Title 16 of the Revised Civil Statutes of Texas, 1925, as amended,² including banks, trust companies, bank and trust companies, savings banks and corporations subject to the provisions of Chapter 9, Title 16 of the Revised Civil Statutes of Texas, 1925, as amended.³

"Director, officer or employee"—Director, officer or employee of a state bank.

"Board"—Board of directors of a state bank.

"National Bank"—Any banking corporation organized under the provisions of Title 12, United States Code, Section 21 (U.S.Rev.Statutes, Section 5133) and the amendments thereto.

"State Building and Loan Association" or "State Association"—Any building and loan or savings and loan association heretofore or hereafter organized under the laws of this State.

"Federal Savings and Loan Association"—Any savings and loan association heretofore or hereafter organized under the laws of the United States of America.

"District Court"—A district court of the county in which the bank involved is domiciled.

"City"—City, village, town, or similar community.

"Capital"—The common capital stock.

"Chapters and Articles"—The Chapters and articles of this Code.

"Bank Holding Company"—A company defined as a bank holding company by Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. Sec. 1841).

"Bank Holding Company Act of 1956"—The federal Bank Holding Company Act of 1956, as amended, P.L. 84-511 (12 U.S.C., Sec. 1841 et seq.).

"Bank Services"—Activities, such as check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and marking of checks, statements, notices and similar items or other clerical, bookkeeping, accounting, statistical or similar functions performed by a bank, that may be categorized as data processing and any services associated with the electronic transfer of funds.

"Processor"—A state or national bank, banking affiliate, corporation, or other business that performs bank services.

[Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 2. Amended by Acts 1977, 65th Leg., p. 1614, ch. 631, § 1, eff. June 15, 1977; Acts 1981, 67th Leg., p. 2468, ch. 641, § 1, eff. June 15, 1981.]

¹ Effective 90 days after May 11, 1943, date of adjournment.

² Former art. 342 et seq.

³ Former art. 542 et seq.

Art. 342-103. Finance Commission—Banking Section and Savings and Loan Section—Consumer Credit Section—Creation—General Powers

There is hereby established and created The Finance Commission of Texas which shall consist of twelve (12) members, and be divided into three (3) sections, namely: The Banking Section, consisting of six (6) members, The Savings and Loan Section, consisting of three (3) members, and the Consumer Credit Section, consisting of three (3) members. The Finance Commission and each section thereof shall serve as an advisory board to the Commissioner as to general policies and shall have such other duties, powers, and authority as may be conferred upon them by law. The Banking Section, the Savings and Loan Section, and the Consumer Credit Section shall make a thorough and intensive study of the Texas banking, savings and loan, and consumer credit statutes, respectively, with a view to so strengthening said statutes as to attain and maintain the maximum degree of protection to depositors, stockholders, shareholders, and consumers, and shall report every two (2) years to the Legislature by filing with the Clerks of the Senate and the House of Representatives the results of its study, together with its recommendations.

[Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 3. Amended by Acts 1983, 68th Leg., p. 1079, ch. 244, § 1, eff. Sept. 1, 1983.]

Section 11 of the 1983 amendatory act provides:

"The governor promptly shall appoint the three members of the Consumer Credit Section and shall designate the term to be served by each. One member shall serve until February 1, 1985; one until February 1, 1987; and one until February 1, 1989."

Art. 342-103a. Application of Sunset Act

The Finance Commission of Texas is subject to the Texas Sunset Act as amended (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the commission is abolished effective September 1, 1995.

[Acts 1977, 65th Leg., p. 1841, ch. 735, § 2.065, eff. Aug. 29, 1977. Amended by Acts 1983, 68th Leg., p. 1079, ch. 244, § 1, eff. Sept. 1, 1983.]

Art. 342-104. Finance Commission—Sections—Qualifications of Members

1. Four (4) members of the Banking Section shall be active bankers who shall have had not less than five (5) years executive experience next preceding their appointment in a State bank in a capacity

not lower than cashier. The Banking Section shall at all times include four (4) members, each of whom, at the time of his appointment, is an officer in a State bank which falls within one of the four (4) quartiles of the total number of State banks, according to and measured by the capital, certified surplus, and undivided profits of such banks as of the last statement of condition published pursuant to the Commissioner's call in the year previous to the year in which the appointments are made. Each quartile shall at all times be represented by one (1) member on the Banking Section who, at the time of his appointment, is an officer in a State bank within such quartile, and each member shall continue to serve from his respective quartile throughout his term of office notwithstanding any adjustment of his bank's capital, certified surplus, and undivided profits subsequent to the date of the appointment. The Commissioner shall divide the total number of State banks with as near an equal number of banks as mathematically possible being placed in each quartile and advise the Governor which State banks fall within each of the four (4) quartiles prior to any appointments of banker members of the Commission. Two (2) members of the Banking Section shall be selected by the Governor upon the basis of recognized business ability.

2. Two (2) members of the Savings and Loan Section shall be savings and loan executives who shall have had not less than five (5) years full-time employment experience in a State Savings and Loan or Federal Savings and Loan Association. The Savings and Loan Section shall at all times consist of one (1) member who is a full-time employed executive in a State association which, at the time of his appointment, had gross assets not exceeding One Hundred Million Dollars (\$100,000,000) and one (1) member who is a full-time employed executive in a State association which, at the time of his appointment, had gross assets exceeding One Hundred Million Dollars (\$100,000,000). One (1) member of the Savings and Loan Section shall be selected by the Governor upon the basis of recognized business ability.

3. Experience as Commissioner, Deputy Commissioner, Departmental Examiner, or Examiner shall be deemed banking experience, and experience as Savings and Loan Supervisor or Savings and Loan Examiner shall be deemed savings and loan experience, within the meaning of this article.

4. Two (2) positions of the Consumer Credit Section must be filled by individuals, each of whom is licensed under Chapter 3, Title 79, Revised Statutes (Article 5069-3.01 et seq., Vernon's Texas Civil Statutes), is an executive or a person, other than a bank or savings and loan association, licensed under that chapter or is licensed to engage in business as a pawnbroker under Chapter 51, Title 79, Revised Statutes (Article 5069-51.01 et seq., Vernon's Texas Civil Statutes). One (1) member of that section must be a member of the general public. A person

is not eligible for appointment as a public member if the person or the person's spouse:

(a) is licensed by an occupational regulatory agency in the field of lending, pawnbroking, or making installment sales;

(b) is employed by or participates in the management of a business entity or other organization related to the field of lending, pawnbroking, or making installment sales; or

(c) has, other than as a consumer, a financial interest in a business entity related to the field of lending, pawnbroking, or making installment sales.

5. A member or employee of the Finance Commission may not be an officer, employee, or paid consultant of a trade association in the banking or lending industry. A member or employee of the Commission may not be related within the second degree by affinity or consanguinity to a person who is an officer, employee, or paid consultant of a trade association in the banking or lending industry.

[Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 4. Amended by Acts 1961, 57th Leg., p. 1004, ch. 437, § 1, eff. Aug. 28, 1961; Acts 1967, 60th Leg., p. 743, ch. 312, § 1, eff. Aug. 28, 1967; Acts 1971, 62nd Leg., p. 875, ch. 109, § 1, eff. Aug. 30, 1971; Acts 1983, 68th Leg., p. 1079, ch. 244, § 1, eff. Sept. 1, 1983.]

Art. 342-105. Finance Commission—Residence of Members

No two (2) members of the same section of the Finance Commission shall be residents of the same State Senatorial District.

[Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 5.]

Art. 342-106. Finance Commission—Members—Appointment—Term

1. The Governor of the State of Texas, subject to confirmation by the Senate, shall appoint the members of the Finance Commission, each of whom, except the initial appointees, shall serve for a term of six (6) years, and the term of one third of the members of each section shall expire February 1 of each odd-numbered year.

2. Appointments to the Finance Commission shall be made without regard to the race, creed, sex, religion, or national origin of the appointees.

3. Members of the Finance Commission shall, subject to the provisions of Article 7 of this Chapter, serve until their successors are appointed and have qualified by taking oath in the form prescribed by the State Banking Board.

[Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 6. Amended by Acts 1983, 68th Leg., p. 1083, ch. 244, § 1, eff. Sept. 1, 1983.]

Section 11 of the 1983 amendatory act provides:

"The governor promptly shall appoint the three members of the Consumer Credit Section and shall designate the term to be served by each. One member shall serve until February 1, 1985; one until February 1, 1987; and one until February 1, 1989."

Art. 342-106A. Conflict of Interest

A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes), by virtue of his activities for compensation in or on behalf of a profession related to the operation of the Finance Commission may not serve as a member of the Finance Commission or act as the general counsel to the Finance Commission.

[Acts 1983, 68th Leg., p. 1083, ch. 244, § 2, eff. Sept. 1, 1983.]

Art. 342-107. Finance Commission—Vacancies

1. It is a ground for removal from the Finance Commission if a member:

(a) does not have at the time of appointment the qualifications required by Articles 4 and 5 of this code¹ for appointment to the Commission;

(b) except as provided by Section 2 of this article,² does not maintain during the service on the Commission the qualifications required by Articles 4 and 5 of this code for appointment to the Commission; or

(c) violates a prohibition established by Article 6A of this code³.

2. An increase or decrease in the capital and surplus of a member's employing bank, or an increase or decrease in the gross assets of a member's employing savings and loan association does not create a ground for removal.

3. In event of a vacancy on the Finance Commission for any cause, the Governor shall appoint a qualified person to fill the unexpired term.

4. The validity of an action of the Finance Commission is not affected by the fact that it was taken when a ground for removal of a member of the Commission existed.

[Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 7. Amended by Acts 1983, 68th Leg., p. 1084, ch. 244, § 3, eff. Sept. 1, 1983.]

¹ So in enrolled bill; probably should read "Articles 4 and 5 of this Chapter" (arts. 342-104 and 342-107).

² So in enrolled bill; probably should read "Article 2 of this Chapter" (art. 342-102).

³ So in enrolled bill; probably should read "Article 6A of this Chapter" (art. 342-106A).

Art. 342-108. Finance Commission—Confirmation of Appointments

In event of appointment of any member of the Finance Commission while the Legislature is in session, the appointment shall be promptly related to the Senate for confirmation, and in event of any such appointment while the Legislature is not in session, such appointment shall be promptly related to the Senate at the next meeting of the Legislature. If the Senate should refuse to confirm any appointment, the office shall thereupon become vacant.

[Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 8.]

Art. 342-109. Finance Commission—Expenses and Compensation of Members

Each member of the Finance Commission shall be reimbursed reasonable and necessary expenses incidental to travel incurred by him in connection with the performance of his official duties. Each member of the Commission is entitled to per diem as set by legislative appropriation for each day that the member engages in the business of the Commission or the section the member represents.

[Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 9. Amended by Acts 1959, 56th Leg., p. 394, ch. 412, § 1; Acts 1983, 68th Leg., p. 1084, ch. 244, § 3, eff. Sept. 1, 1983.]

Art. 342-110. Finance Commission—Disqualification of Members

No member shall act at any meeting of the Commission or either section thereof, when the matter under consideration specifically relates to any corporation in which such member is an officer, director, or stockholder.

[Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 10.]

Art. 342-111. Finance Commission—Sections—Meetings—Quorum—Minutes

The Finance Commission and each Section thereof shall hold at least two regular public meetings during each calendar year at such dates as are set by the Commission. At the first regular public meeting of the Finance Commission during each calendar year, the Commission shall elect a chairman from its members by majority vote. The chairman of the Finance Commission shall be entitled to vote on all matters. The term of office of the chairman of the Finance Commission shall begin on July 1 of each calendar year and shall expire on June 30 of the succeeding calendar year. No member of the Finance Commission shall serve consecutive terms as chairman of the Finance Commission. The chairman of the Finance Commission shall preside at all public meetings of the Finance Commission and shall cause adequate minutes of the proceedings of all public meetings to be kept. Special public meetings of the Commission may be called by the chairman or by any three members of the Commission. The Commission and each Section thereof may adopt internal requirements of procedure governing the time and place of meetings, the character of notice of special public meetings, the procedure by which all public meetings are to be conducted and other similar matters. A majority of the members of the Finance Commission shall constitute a quorum for the purpose of transacting any business coming before the Commission and a majority of each Section of the Commission shall constitute a quorum for the purpose of transacting any business coming before said Section.

[Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 11; Acts 1969, 61st Leg., p. 885, ch. 299, § 1, eff. May 22, 1969; Acts 1973, 63rd Leg., p. 774, ch. 344, § 1, eff. Aug. 27, 1973.]

Section 2 of the 1973 amendatory act provided:

"If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are declared to be severable."

Art. 342-111A. Open Meetings; Administrative Procedure

The Finance Commission is subject to the open meetings act, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

[Acts 1983, 68th Leg., p. 1085, ch. 244, § 4, eff. Sept. 1, 1983.]

Art. 342-112. Reports by Commissioner—Examinations and Audits—Fees, Penalties and Revenues—Expenses—Budgets—Reports to Governor and Legislature

Text as amended by Acts 1983, 68th Leg., p. 1085, ch. 244, § 5

1. The Banking Department shall be audited from time to time by the State Auditor in the same manner as other State Departments, and the actual costs of such audits shall be paid to the State Auditor from the funds of the Banking Department.

2. Fees, penalties, and revenues collected by the Banking Department from every source whatsoever shall be retained and held by said Department, and no part of such fees, penalties, and revenues shall ever be paid into the General Revenue Fund of this State. All expenses incurred by the Banking Department shall be paid only from such fees, penalties, and revenues, and no such expense shall ever be a charge against the funds of this State. The Finance Commission shall adopt, and from time to time amend, budgets which shall direct the purposes, and prescribe the amounts, for which the fees, penalties, and revenues of the Banking Department shall be expended.

3. During January of each year, the Finance Commission shall file with the Governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the Banking Department, Savings and Loan Department, and Office of Consumer Credit Commissioner during the preceding year.

4. Within the first sixty (60) days of each succeeding Regular Session of the Legislature the Finance Commission shall make a report to the appropriate committees of the House and Senate charged with considering legislation pertaining to the bank-

ing, savings and loan, and consumer credit industries.

[Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 12. Amended by Acts 1951, 52nd Leg., p. 233, ch. 139, § 1; Acts 1983, 68th Leg., p. 1085, ch. 244, § 5, eff. Sept. 1, 1983.]

For text as amended by Acts 1983, 68th Leg., p. 2923, ch. 499, § 1, see art. 342-112, post

Art. 342-112. Reports by Commissioner—Examinations and Audits—Fees, Penalties and Revenues—Expenses—Budgets—Reports to Governor and Legislature

Text as amended by Acts 1983, 68th Leg., p. 2923, ch. 499, § 1

1. The State Auditor shall audit the financial transactions of the Banking Department during each fiscal year. The actual costs of such audits shall be paid to the State Auditor from funds appropriated to the Banking Department.

2. The Commissioner and the Banking Section of the Finance Commission shall establish reasonable and necessary fees for the administration of this code.

3. All sums of money paid to the Banking Department shall be deposited in the State Treasury to the credit of a special fund known as the Banking Department Expense Fund and may be used only for the administration of the statutory duties of the Banking Department. All expenses incurred by the Banking Department shall be paid only from that fund, and no such expense shall ever be a charge against the funds of this State.

[Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 12. Amended by Acts 1951, 52nd Leg., p. 233, ch. 139, § 1; Acts 1983, 68th Leg., p. 2923, ch. 499, § 1, eff. Sept. 1, 1983.]

For text as amended by Acts 1983, 68th Leg., p. 1085, ch. 244, § 5, see art. 342-112, ante

Section 8(b) of Acts 1983, 68th Leg., p. 2930, ch. 499, provides: "Section 3 of Article 12, Chapter I, The Texas Banking Code of 1943 (Article 342-112, Vernon's Texas Civil Statutes) as amended by this Act takes effect September 1, 1985."

Art. 342-112A. Transfers to General Revenue Fund

The Banking Department shall cause to be transferred each year of the biennium the sum of Four Thousand Dollars (\$4,000) to the General Revenue Fund, to cover the cost of governmental service rendered by other departments.

[Acts 1951, 52nd Leg., p. 233, ch. 139, § 1-A.]

Sections 15, 17 and 18 of the amendatory Act of 1951, read as follows:

"Sec. 15. All fees and revenues collected by the Banking Department for all prior fiscal years which are on deposit in the State Treasury at the effective date of this Act, except fees and revenues against which State warrants are then outstanding, are

hereby appropriated to the Banking Department, to be retained and held by said department under the provisions of this Act, and to be expended only for the expenses of said department. All moneys in the 'Cemetery Perpetual Care Enforcement Fund' in the State Treasury at the effective date of this Act, except moneys against which State warrants are then outstanding, are hereby appropriated to the Banking Department, to be held and expended by it as provided in Section 6 of this Act [912a-3].

"Sec. 17. All laws and parts of laws in conflict with any provision of this Act are hereby repealed.

"Sec. 18. If any portion of this Act is for any reason held unconstitutional, the unconstitutionality thereof shall not affect the remaining portion of the Act, and the Legislature hereby declares that it would have passed the Act, and each part thereof, irrespective of the fact that some part thereof might be declared unconstitutional."

Art. 342-113. Banking Section—Rules and Regulations—Loans and Investments—Insurance—Preservation of Books and Records—Affairs Transacted by National Banks—Determination of Incidental Powers

The Banking Section, through resolution adopted by not less than four affirmative votes, may promulgate general rules and regulations not inconsistent with the Constitution and Statutes of this State, and from time to time amend the same, which rules and regulations shall be applicable alike to all state banks to effect the following ends and purposes:

1. To prevent state banks from concentrating an excessive or unreasonable portion of their resources in any particular type or character of investment or in any single line of credit under any exception to Article 7, of Chapter V of this Code,¹ thereby preventing the solvency or liquidity of such banks depending to an undue extent upon such type or character of investment or single line of credit.

2. To provide adequate fidelity coverage or insurance on the officers and employees of state banks, and fire, burglary, robbery and other casualty coverage for state banks, so as to prevent loss through theft, defalcation or other casualty, and to make certain that the insurer or surety is solvent and will be able to pay losses sustained.

3. To provide for the preservation of the books and records of the Banking Department and of banks during such time as said books and records are of value, and to permit the destruction or other disposition of such books and records after the same are no longer of any value.

4. To permit state banks to transact their affairs in any manner or make any loan or investment which they could do under existing or any future law, rule or regulation were they organized and operating as a National bank under the laws of the United States; but it is expressly provided that this authority is subject to the laws of this State and shall not be construed in any wise to confer authority to abridge such laws or diminish or limit any rights or powers specifically given to state banks by such laws; and it is further provided that, any provision of this Code to the contrary notwithstanding,

ing, the transaction of affairs and making of loans or investments permitted by valid rules and regulations shall not constitute a violation of any penal provision of the statutes of this state.

5. From time to time upon request of the Banking Commissioner, to define, identify and determine incidental powers which a state bank may exercise as necessary to its specific powers under Article 1, Chapter III of this Code.²

[Acts 1943, 48th leg., p. 128, ch. 97, subch. I, art. 13; Acts 1971, 62nd Leg., p. 1687, ch. 481, § 1, eff. May 27, 1971.]

¹ Article 342-507.

² Article 342-301.

Sections 2 and 3 of the 1971 amendatory act provided:

"Sec. 2. If any provision, section, sentence, clause or part of this Act or the application thereof to any person or circumstance is held invalid, such holding shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application and to this end the provisions of this Act are declared to be severable.

"Sec. 3. All laws or parts of laws which are in conflict with this Act are hereby repealed or modified to the extent of such conflict only."

Art. 342-114. Savings and Loan Section—Rules and Regulations—Loans and Investments—Advisory Powers

The Savings and Loan Section, through resolutions adopted by not less than two affirmative votes, may promulgate general rules and regulations not inconsistent with the Constitution and Statutes of this State, and from time to time amend the same, which rules and regulations shall be applicable alike to all State associations, and may authorize savings and loan associations organized under the laws of this State to invest their funds in any manner and to the same extent which said association could invest such funds under existing or any future law, rule or regulation were they organized and operating as a Federal Savings and Loan Association under the laws of the United States, provided, however, that this authority shall not be construed in any wise to confer authority to abridge, or diminish or limit any rights or powers specifically given to State associations by the statutory laws of this State. In addition to such powers as may be conferred upon the Savings and Loan Section by this Act or by the Savings and Loan Act of Texas, as amended,¹ the Savings and Loan Section shall have the following duties:

(a) When in the judgment of the Section, protection of investors in State associations requires additional regulations or limitations, to promulgate such additional rules and regulations as will in its judgment prevent State savings and loan associations from concentrating an excessive or unreasonable portion of their resources in any particular type or character of loan or security authorized by the Texas Savings and Loan Act.

(b) When in the judgment of the Section, establishment of standards or changes in existing standards for investment are necessary, to establish

standards through rules and regulations for investments by State associations in the investments authorized under the provisions of Section 5.11 of the Texas Savings and Loan Act,² which standards may also establish a limit in the amount which State associations may invest in any particular type or character of investment under said Subdivision to an amount or percentage based upon assets or reserves, permanent capital and undivided profits.

(c) To advise with the Savings and Loan Commissioner as to the forms to be prescribed for the filing of the annual statements with the Savings and Loan Department and the forms to be prescribed for the publication of the annual financial statements by State associations.

(d) To confer with the Savings and Loan Commissioner and with the President of the regional Federal Home Loan Bank of the district in which Texas State associations are members on general and special business and economic conditions affecting State associations.

(e) To request information and to make recommendations with respect to matters within the jurisdiction of the Savings and Loan Commissioner as relating to the savings and loan business, including recommendations as to legislation affecting such institutions, providing, that no information regarding the financial condition of any State savings and loan association obtained through examination or otherwise shall be divulged to any member of the Finance Commission, nor shall any member of the Finance Commission be given access to the files and records of the Department appertaining thereto; provided, further, however, that the Commissioner may disclose to the Savings and Loan Section any file or record pertinent to any hearing or matter pending before such Section.

[Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 14; Acts 1969, 61st Leg., p. 885, ch. 299, § 2, eff. May 22, 1969.]

¹ Article 852a.

² Article 852a, § 5.11.

Art. 342-114A. Consumer Credit Section

The Consumer Credit Section, through resolutions adopted by not less than two affirmative votes, may promulgate rules necessary for supervising the Consumer Credit Commissioner and for ensuring compliance with Title 79, Revised Statutes (Article 5069-1.01 et seq., Vernon's Texas Civil Statutes).

[Acts 1983, 68th Leg., p. 1087, ch. 244, § 6, eff. Sept. 1, 1983.]

Art. 342-115. State Banking Board—Members—Duties—Rules of Practice—Appeal

1. The State Banking Board shall consist of three (3) members: the Banking Commissioner; who shall serve as Chairman; the State Treasurer; and a citizen of this State, who shall represent the interests of the general public. The citizen member shall be appointed by the Governor with the advice

and consent of the Senate for a two-year term expiring on January 31 of each odd-numbered year. Appointment of the citizen member to the Board shall be made without regard to the race, creed, sex, religion, or national origin of the appointee.

2. A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes), by virtue of his activities for compensation in or on behalf of a profession related to the operation of the board may not serve as a member of the board or act as the general counsel to the board.

3. It is a ground for removal of the citizen member from the State Banking Board if the member:

(a) does not have at the time of appointment the qualifications required by Section 1 of this article for appointment to the Board;

(b) does not maintain during the service on the Board the qualifications required by Section 1 of this article for appointment to the Board; or

(c) violates a prohibition established by Section 2 or Subsection (c) of Section 6 of this article.

4. The validity of an action of the State Banking Board is not affected by the fact that it was taken when a ground for removal of the citizen member of the Board existed.

5. The State Banking Board shall hear and determine applications for State banking charters, and shall make such other determinations and perform such other duties as are provided elsewhere in this Code.

6. The State Banking Board shall adopt and publish such rules and procedural regulations as may be necessary to facilitate the fair hearing and adjudication of charter applications and such other business to come before it, provided, however, that such Board shall be governed by, and shall implement by appropriate regulations, the following rules of practice and procedure:

(a) Notwithstanding any law or statute to the contrary, the State Banking Board shall enter into executive session and shall meet in private for their personal deliberations on the following questions: the proposed officers and directors of proposed banks, and their character and fitness; the good faith of the applicants; and the evidence concerning applications for conversion of national banks to State banks.

(b) The minutes of the meetings of the Board shall set forth the names of persons appearing as applicants, as opponents, and their respective counsel, representatives, and expert witnesses, together with the substance of their testimony or presentations. The decision of the Board shall be evidenced in the minutes by the vote of each Board member in respect to each of the five statutory requisites for issuance of a bank charter, and no member shall

abstain from voting unless he shall be disqualified for some ethical or personal reason, which ground of disqualification shall be stated in the record.

(c) No member of the Board shall be an officer, director or otherwise interested in the management or operation of any State or national bank or savings and loan association; provided further, that if any Board member shall own or otherwise control any shares of stock in any State or national bank, or savings and loan association, that he shall file with the chairman a list of all such stocks, describing the security, the quantity, and the value thereof, which list shall be a public record of the Banking Board.

(d) When either the State Treasurer or Commissioner is unable to personally attend an official meeting of the Board, the respective first deputy of such member may appear and vote in his stead, provided that the Board rules shall prescribe the deputy by name and title who is so authorized, and provided further, that two such deputies may not both sit as substitute members of the Board at the same meeting.

7. Any person, firm or corporation who is a party to, or is necessarily aggrieved by any final order, ruling or judgment of the State Banking Board shall have the right to appeal by filing a suit to set aside such order, ruling or judgment in the District Court of Travis County, Texas, within thirty (30) days following the date of rendition of such order, ruling or judgment. Provided, that in such cases the substantial evidence rule shall apply and govern the trial, as is the common practice in cases of appeal from administrative orders and as construed by the courts of this State. Pending final judgment of the court the order shall remain in effect, unless otherwise stayed or enjoined by the court upon proper application.

8. The State Banking Board is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the board is abolished effective September 1, 1995.

9. The State Banking Board is subject to the open meetings act, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

10. The State Banking Board shall keep an information file about each complaint filed with the Board relating to a State bank. If a written complaint is filed with the Board relating to a State bank, the Board, at least as frequently as quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

[Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 15. Amended by Acts 1963, 58th Leg., p. 1138, ch. 442, § 12, eff. Aug. 23, 1963; Acts 1971, 62nd Leg., p. 2884, ch. 950, § 1, eff. June 15, 1971; Acts 1977, 65th Leg., p. 1842, ch. 735, § 2.071, eff. Aug. 29, 1977; Acts 1983, 68th Leg., p. 2783, ch. 478, § 1, eff. Sept. 1, 1983.]

Sections 2 and 3 of the 1971 amendatory act provided:

"Sec. 2. If any provision, section, sentence, clause or part of this Act or the application thereof to any person or circumstance is held invalid, such holding shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application and to this end the provisions of this Act are declared to be severable.

"Sec. 3. All laws or parts of laws which are in conflict with this Act are hereby repealed or modified to the extent of such conflict only."

CHAPTER TWO. THE BANKING DEPARTMENT OF TEXAS

Art.

- 342-201. Banking Commissioner—Election—Qualification—Compensation.
- 342-201a. Application of Sunset Act.
- 342-202. Deputy Commissioner—Appointment—Qualifications—Duties—Compensation.
- 342-203. Departmental Examiner—Appointment—Qualifications—Compensation.
- 342-204. Examiners—Assistant Examiners—Appointment—Qualifications—Compensation.
- 342-205. Savings and Loan Department—Savings and Loan Commissioner—Powers and Duties.
- 342-206. Oath and Bond of Commissioner and Others—Premiums.
- 342-207. Commissioner—General Powers—Duties—Liabilities of Commissioner and Others—Defense by Attorney General.
- 342-208. Examination—May Administer Oath—Fees—Disposition.
- 342-208a. Examination of Nonbanking Affiliates.
- 342-209. Call Statements—Filing—Publication—Posting—Penalty.
- 342-210. Information Confidential—Privileged—Exceptions.
- 342-211. Violation of Duty by Commissioner and Others—Penalty.
- 342-212. Complaints.
- 342-213. Intraagency Program; Employee Evaluation.
- 342-214. Conflict of Interest.
- 342-215. Open Meetings.

Art. 342-201. Banking Commissioner—Election—Qualification—Compensation

By and with the advice and consent of the Senate, the Finance Commission, by at least five (5) affirmative votes, shall elect a Commissioner who shall serve at the pleasure of the Finance Commission, provided that the Commissioner first elected shall take office at the expiration of the term of office of the present Commissioner. Said Commissioner shall be an employee of the Finance Commission and subject to its orders and directions. The Commissioner shall have not less than ten (10) years experience in banking or bank supervision. The Commissioner shall receive such compensation as is fixed by the Finance Commission, but never to exceed the compensation now paid to the Governor of the State.

[Acts 1943, 48th Leg., p. 134, ch. 97, subch. II, art. 1. Amended by Acts 1951, 52nd Leg., p. 233, ch. 139, § 9; Acts 1981, 67th Leg., p. 2210, ch. 513, § 1, eff. June 12, 1981.]

Art. 342-201a. Application of Sunset Act

The office of Banking Commissioner is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the office is abolished effective September 1, 1995.

[Acts 1977, 65th Leg., p. 1842, ch. 735, § 2.070, eff. Aug. 29, 1977. Amended by Acts 1983, 68th Leg., p. 2924, ch. 499, § 2, eff. Sept. 1, 1983.]

Art. 342-202. Deputy Commissioner—Appointment—Qualifications—Duties—Compensation

The Commissioner shall appoint a Deputy Banking Commissioner who shall have the same qualifications as are required of the Commissioner and shall, during the absence or inability of the Commissioner, be vested with all of the powers and perform all of the duties of the Commissioner. The Deputy Commissioner shall receive such compensation as is fixed by the Finance Commission.

[Acts 1943, 48th Leg., p. 134, ch. 97, subch. II, art. 2; Acts 1951, 52nd Leg., p. 233, ch. 139, § 10.]

Art. 342-203. Departmental Examiner—Appointment—Qualifications—Compensation

The Commissioner shall appoint a Departmental Bank Examiner who shall be a bank accountant with not less than five (5) years experience as such or as an examiner in the Banking Department of Texas, the National Banking System, the Federal Deposit Insurance Corporation or the Federal Reserve System. The Departmental Bank Examiner shall receive such compensation as is fixed by the Finance Commission.

[Acts 1943, 48th Leg., p. 134, ch. 97, subch. II, art. 3; Acts 1951, 52nd Leg., p. 233, ch. 139, § 11.]

Art. 342-204. Examiners—Assistant Examiners—Appointment—Qualifications—Compensation

The Commissioner shall appoint bank examiners and assistant bank examiners in sufficient number to fully perform his duties and responsibilities under the Code and the laws of this State. Such examiners shall have the qualifications required by the Banking Section of the Finance Commission. Each examiner and each assistant examiner shall receive such compensation as shall be fixed by the Finance Commission.

[Acts 1943, 48th Leg., p. 134, ch. 97, subch. II, § 4; Acts 1951, 52nd Leg., p. 233, ch. 139, § 12; Acts 1963, 58th Leg., p. 134, ch. 81, § 1, eff. May 24, 1963; Acts 1969, 61st Leg., p. 1630, ch. 507, § 1, eff. June 10, 1969.]

Art. 342-205. Savings and Loan Department—Savings and Loan Commissioner—Powers and Duties

(a) By and with the advice and consent of the Senate, the Finance Commission of Texas, by at least five (5) affirmative votes, two (2) of which

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

(b) The Savings and Loan Commissioner, subject to the approval of the Savings and Loan Section of the Finance Commission, shall appoint one or more Deputy Savings and Loan Commissioners, one of which shall be designated by the Savings and Loan Commissioner to be vested with all of the powers and perform all of the duties of the Savings and Loan Commissioner during the absence or inability of the Savings and Loan Commissioner. A Deputy Savings and Loan Commissioner shall have had practical experience in a savings and loan association doing business in this State or experience in the Savings and Loan Department in this State. The Savings and Loan Commissioner may also appoint a Hearing Officer or Officers, who shall be full time employees of the Savings and Loan Department, to conduct such investigations or public hearings as may be required by law of the Savings and Loan Commissioner. The Hearing Officer or Officers shall be vested for the purpose of such investigations or public hearings with the power and authority as the Savings and Loan Commissioner would have if he were personally conducting such investigation or public hearing, provided that the Hearing Officer or Officers shall not be authorized to make any order upon the final subject matter of such investigation or hearing; and provided, further, that the record of any investigation or public hearing conducted before the Hearing Officer may be considered by the Savings and Loan Commissioner in the same manner and to the same extent as evidence that is adduced before him personally in any such proceeding. The Savings and Loan Commissioner shall also appoint Savings and Loan Examiners. Each Deputy Savings and Loan Commissioner, the Savings and Loan Examiners, each Hearing Officer, and all other officers and employees of the Savings and Loan Department shall receive such compensation as is fixed by the Finance Commission which shall be paid from the funds of the Savings and Loan Department.

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

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

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

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

(g) The Savings and Loan Commissioner shall attend each meeting of the Savings and Loan Section of the Finance Commission, but he shall not vote. The Savings and Loan Section shall elect a Chairman in the same fashion and for the same term as required and provided for the Chairman of the Commission. Special meetings of the Section may be called by the Chairman, or any two (2) members of the Section.

(h) The Savings and Loan Commissioner and the Savings and Loan Section of the Finance Commission shall establish reasonable and necessary fees for the administration of the Texas Savings and Loan Act (Article 852a, Vernon's Texas Civil Statutes). The Savings and Loan Commissioner shall collect all fees, penalties, charges and revenues required to be paid by savings and loan associations and shall from time to time as directed by the Finance Commission submit to such Commission a full and complete report of the receipts and expenditures of the Savings and Loan Department, and the Finance Commission may from time to time examine the financial records of the Savings and Loan Department or cause them to be examined. In addition, the State Auditor shall audit the financial transactions of the Savings and Loan Department each fiscal year, and the actual costs of such audits shall be paid to the State Auditor from the funds of the Savings and Loan Department. Notwithstanding anything to the contrary contained in any other law of this State, beginning September 1, 1985, all sums of money paid to the Savings and Loan Department from all sources shall be deposited in the State Treasury to the credit of a special fund to be known as the Savings and Loan Department Expense Fund and may be used only for the expenses incurred by the Savings and Loan Department. All expenses incurred by the Savings and Loan Department shall be paid only from such fund. The Finance Commission shall promulgate and adopt such rules and regulations as may be necessary to coordinate the operation of the Savings and Loan Department with the operation of the Banking Department and the Office of Consumer Credit Commissioner.

(i) Insofar as the provisions of this Section may conflict with any other provisions of The Texas Banking Code of 1943, as amended, or Senate Bill No. 111, Acts 1929, 41st Legislature,¹ page 100, Chapter 61, as amended,² or the Texas Savings and Loan Act of 1963, Chapter 113, Acts 58th Legislature, 1963, page 269, et seq., as amended,³ the provisions of this Act shall control; except that the terms "Savings and Loan," "Savings and Loan Association," and "Savings and Loan Section of the Finance Commission" as used herein are intended to and shall have the same meaning as the terms "Building and Loan" and "Building and Loan Association" and "Building and Loan Section of the Finance Commission" as used in said Statutes, and

the Building and Loan Section of the Finance Commission is hereby renamed as the Savings and Loan Section of the Finance Commission of Texas.

(j) The office of Savings and Loan Commissioner is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the office is abolished effective September 1, 1995.

(k) An officer or employee of the Savings and Loan Department may not be an officer, employee, or paid consultant of a trade association in the savings and loan industry.

(l) The Savings and Loan Department is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

(m) The Savings and Loan Commissioner or his designee shall develop an intraagency career ladder program, one part of which shall be the intraagency posting of all nonentry level positions for at least 10 days before any public posting.

(n) The Savings and Loan Commissioner or his designee shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay for Savings and Loan Department employees must be based on the system established under this section.

(o) The Savings and Loan Commissioner shall prepare information of consumer interest describing the regulatory functions of the Savings and Loan Department and describing the department's procedures by which consumer complaints are filed with and resolved by the department. The department shall make the information available to the general public and appropriate state agencies.

(p) The Savings and Loan Department shall keep an information file about each complaint relating to a licensee filed with the department.

(q) If a written complaint is filed with the Savings and Loan Department relating to a licensee, the department, at least as frequently as quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

[Acts 1943, 48th Leg., p. 134, ch. 97, subch. II, art. 5. Amended by Acts 1951, 52nd Leg., p. 233, ch. 139, § 13; Acts 1961, 57th Leg., p. 393, ch. 198, § 2, eff. Sept. 1, 1961; Acts 1969, 61st Leg., p. 885, ch. 299, § 3, eff. May 22, 1969; Acts 1973, 63rd Leg., p. 37, ch. 25, § 1, eff. April 6, 1973; Acts 1977, 65th Leg., p. 1841, ch. 735, § 2.067, eff. Aug. 29, 1977; Acts 1983, 68th Leg., p. 1087, ch. 244, § 7, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 2774, ch. 477, §§ 1, 2, eff. Sept. 1, 1983.]

¹ Probably refers to Second Called Session.

² Article 881a-1 et seq. (repealed; see, now, art. 852a).

³ Article 852a.

Section 1 of the amendatory act of 1961 provided:

"The purpose of this Act is to create a Savings and Loan Department of Texas, such Department to be composed of a Savings and Loan Commissioner and such deputies, examiners and other officers and employees as may be authorized by the Finance Commission of Texas; and to make such changes in the Texas Banking Code of 1943 as are necessary to accomplish the purpose of this Act."

Sections 7 and 12 of the 1983 amendatory act provide:

"Sec. 7. The requirements under Article 5, Chapter II, The Texas Banking Code of 1943 (Article 342-205, Vernon's Texas Civil Statutes), that the Savings and Loan Commissioner develop an intraagency career ladder program and a system of annual performance evaluations shall be implemented before September 1, 1984. The requirement of that article that merit pay be based on the performance evaluation system shall be implemented before September 1, 1985."

"Sec. 12. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 1983.

"(b) Section 1 of this Act, to the extent that it relates to the deposit of money in the Savings and Loan Department expense fund and to the use of money in that fund, takes effect September 1, 1985. All funds in the custody of the Savings and Loan Commissioner or the Savings and Loan Department that are subject to Section (h), Article 5, Chapter II, The Texas Banking Code of 1943 (Article 342-205, Vernon's Texas Civil Statutes), on September 1, 1985, shall be transferred to the State Treasurer on that date for deposit to the credit of the Savings and Loan Department expense fund."

Art. 342-206. Oath and Bond of Commissioner and Others—Premiums

The Commissioner, the Deputy Commissioner, the Departmental Examiner, the Liquidating Supervisor, and each examiner, assistant examiner, and special agent, the Building and Loan Supervisor and each building and loan examiner and each other officer and employee specified by the Commissioner shall, before entering upon the duties of his office, take an oath of office and make a fidelity bond in the sum of One Hundred Thousand Dollars (\$100,000), payable to the Governor of the State of Texas, and his successors in office, in individual, schedule or blanket form, executed by a surety appearing upon the list of approved sureties acceptable to the United States Government. Any bond provided under this article shall be on a form approved by the Finance Commission. The premiums for such bonds shall be paid out of the funds appropriated for the operation of the Banking Department.

[Acts 1943, 48th Leg., p. 134, ch. 97, subch. II, art. 6. Amended by Acts 1981, 67th Leg., p. 1829, ch. 417, § 1, eff. June 11, 1981.]

Art. 342-207. Commissioner—General Powers—Duties—Liabilities of Commissioner and Others—Defense by Attorney General

The Commissioner shall supervise and shall regulate, as provided in this Code, all state banks and shall enforce the provisions of this Code in person or through the Deputy Commissioner, the Departmental Examiner or any examiner. The Commissioner, each member of the Finance Commission, each member of the State Banking Board, the Deputy Commissioner, the Departmental Examiner, the Liquidating Supervisor, each examiner, assistant ex-

aminer, and special agent, the Building and Loan Supervisor, each building and loan examiner, and each other officer and employee of the State Banking Department shall not be personally liable for damages occasioned by his official acts or omissions except when such acts or omissions are corrupt or malicious. The Attorney General shall defend any action brought against any of the above mentioned officers or employees by reason of his official act or omission, whether or not at the time of the institution of the action the defendant has terminated his service with the Department.

[Acts 1943, 48th Leg., p. 134, ch. 97, subch. II, art. 7.]

Art. 342-208. Examination—May Administer Oaths—Fees—Disposition

Text as amended by Acts 1983, 68th Leg., p. 2929, ch. 499, § 6

The Commissioner shall examine each state bank annually and no more, unless the Commissioner deems additional examinations necessary to safeguard the interest of depositors, creditors, and stockholders, and to enforce the provisions of the Banking Code of 1943. The Commissioner may accept examinations of state banks by a federal agency in lieu of an examination required by this Article. The performance of bank services by a processor shall be subject to regulation and examination by the Commissioner to the same extent as if the services were being performed by the bank itself on its own premises. The Commissioner, Deputy Commissioner, Departmental Examiner and each examiner may administer oaths and examine any person under oath upon any subject which he deems pertinent to the financial condition of any state bank. The Commissioner and the Banking Section of the Finance Commission shall assess and collect a fee in connection with each examination, based on the bank's total assets, covering the cost of such examination, the equitable or proportionate cost of maintenance and operation of the Banking Department, and the enforcement of the provisions of the Banking Code of 1943, including but not limited to, the premium on the bond of the Commissioner and other officers and employees of the Banking Department, and such other fidelity or casualty insurance or coverage required or furnished pursuant to or in connection with the provisions of the Banking Code of 1943, together with all other expenses of the Banking Department, which fee shall in no event be less than Fifty Dollars (\$50) for each examination so made. All fees collected by the Commissioner shall be deposited and used in accordance with Section 3, Article 12, Chapter I, The Texas Banking Code of 1943, as amended (Article 342-112, Vernon's Texas Civil Statutes).

[Acts 1943, 48th Leg., p. 134, ch. 97, subch. II, art. 8. Amended by Acts 1951, 52nd Leg., p. 233, ch. 139, § 2; Acts 1969, 61st Leg., p. 1630, ch. 507, § 2, eff. June 10, 1969; Acts 1981, 67th Leg., p. 468, ch. 199, § 1, eff. May 25, 1981; Acts 1981, 67th Leg., p. 2469, ch. 641, § 2, eff. June 15, 1981; Acts 1983, 68th Leg., p. 2929, ch. 499, § 6, eff. Sept. 1, 1983.]

For text as amended by Acts 1983, 68th Leg., p. 3098, ch. 532, § 1, see art. 342-208, post

Art. 342-208. Examination—May Administer Oath—Fees—Disposition

Text as amended by Acts 1983, 68th Leg., p. 3098, ch. 532, § 1

The Commissioner shall examine each state bank annually and no more, unless the Commissioner deems additional examinations necessary to safeguard the interest of depositors, creditors, and stockholders, and to enforce the provisions of the Banking Code of 1943. The Commissioner may accept examinations of state banks by a federal agency in lieu of an examination required by this Article. The performance of bank services by a processor shall be subject to regulation and examination by the Commissioner to the same extent as if the services were being performed by the bank itself on its own premises. The Commissioner, Deputy Commissioner, Departmental Examiner and each examiner may administer oaths and examine any person under oath upon any subject which he deems pertinent to the financial condition of any state bank. The Commissioner shall assess and collect a fee in connection with each examination, based on the bank's total assets, covering the cost of such examination, the equitable or proportionate cost of maintenance and operation of the Banking Department, and the enforcement of the provisions of the Banking Code of 1943, including but not limited to, the premium on the bond of the Commissioner and other officers and employees of the Banking Department, and such other fidelity or casualty insurance or coverage required or furnished pursuant to or in connection with the provisions of the Banking Code of 1943, together with all other expenses of the Banking Department, which fee shall in no event be less than Fifty Dollars (\$50) for each examination so made. The Commissioner may assess and collect a fee annually, in addition to the fee collected in connection with each examination, based on the bank's total assets, to cover the equitable or proportionate cost of maintenance and operation of the Banking Department and the enforcement of the provisions of the Banking Code of 1943. All sums of money paid to the Banking Department under this Code shall be deposited in the State Treasury to the credit of a special fund to be known as the Banking Department Expense Fund and may be used only for the administration of this Code.

[Acts 1943, 48th Leg., p. 134, ch. 97, subch. II, art. 8. Amended by Acts 1951, 52nd Leg., p. 233, ch. 139, § 2; Acts 1969, 61st Leg., p. 1630, ch. 507, § 2, eff. June 10, 1969; Acts 1981, 67th Leg., p. 468, ch. 199, § 1, eff. May 25, 1981; Acts 1981, 67th Leg., p. 2469, ch. 641, § 2, eff. June 15, 1981; Acts 1983, 68th Leg., p. 3098, ch. 532, § 1, eff. Aug. 29, 1983.]

For text as amended by Acts 1983, 68th Leg., p. 2929, ch. 499, § 6, see art. 342-208, ante

Art. 342-208A. Repealed by Acts 1959, 56th Leg., p. 894, ch. 412, § 2, eff. May 30, 1959

Art. 342-208a. Examination of Nonbanking Affiliates

The Commissioner may examine the affiliates of a state bank to the extent it is necessary to safeguard the interest of depositors, creditors, and stockholders of the bank and to enforce the provisions of The Texas Banking Code of 1943. The Commissioner may conduct the examination in conjunction with any examination of the state bank or affiliate conducted by any other state or federal regulatory authority. For the purpose of this Article, "affiliate" means any bank holding company of which the state bank is a subsidiary and any nonbanking subsidiary of that bank holding company, as "subsidiary" is defined by Section 2 of the federal Bank Holding Company Act of 1956 (12 U.S.C., Sec. 1841(d), as amended).

[Acts 1977, 65th Leg., p. 1617, ch. 632, § 1, eff. Aug. 29, 1977.]

Art. 342-209. Call Statements—Filing—Publication—Posting—Penalty

The Commissioner shall at least twice each year call upon each state bank to make and publish a statement of its financial condition as of the close of business on a date specified in such call. Such statements shall be upon such form and reflect such information as may be prescribed by the Commissioner and shall be filed with the Commissioner within the time specified in the call. Such statement shall be published within the time specified in the call in some newspaper of general circulation published in the county of the bank's domicile, or if no such newspaper is published in said county, then in a newspaper of general circulation published in an adjacent county, and a publisher's certificate reflecting such publication shall be filed with the Commissioner within the time specified in the call. A copy of the latest called statement shall be kept posted in the lobby of the banking house at a point accessible to the public. Any state bank which fails to file or publish such statement or to file such publisher's certificate, within the periods herein prescribed in the call, or to post such notice, shall be subject to a penalty not exceeding Five Hundred Dollars (\$500.00) to be collected by suit by the Attorney General on behalf of the Commissioner.

[Acts 1943, 48th Leg., p. 134, ch. 97, subch. II, art. 9. Amended by Acts 1981, 67th Leg., p. 1819, ch. 409, § 1, eff. Aug. 31, 1981; Acts 1983, 68th Leg., p. 3100, ch. 532, § 2, eff. Aug. 29, 1983.]

Art. 342-210. Information Confidential—Privileged—Exceptions

Subject to the provisions of Section 5 of Chapter 183 of the Forty-fourth Legislature of Texas (1935), page 461 (Article 489b, Section 5), and any other statutory provision of this State, all information obtained by the Banking Department relative to the financial condition of state banks other than call reports and profit and loss statements, whether obtained through examination or otherwise, except published statements, and all files and records of said Department relative thereto shall be confidential, and shall not be disclosed by the Commissioner or any officer or employee of said Department. Further provided that no such information shall be divulged to any member of the Finance Commission, nor shall any member of the Finance Commission be given access to such files and records of the Banking Department; provided, however, that the Commissioner may disclose to the Finance Commission, or either section thereof, or to the State Banking Board information, files and records pertinent to any hearing or matter pending before such Commission or either section thereof or such Board. Further provided that upon request, the Commissioner may disclose to a Federal Reserve Bank any information relative to its members, and shall permit it access to any files and records or reports relating to its members. Further provided that the Commissioner may, in his discretion, if he deems it necessary or proper to the enforcement of the laws of this State or the United States, and to the best interest of the public, divulge such information to any other department of the State or National Government, or any agency or instrumentality thereof.

[Acts 1943, 48th Leg., p. 134, ch. 97, subch. II, art. 10. Amended by Acts 1983, 68th Leg., p. 2924, ch. 499, § 3, eff. Sept. 1, 1983.]

Art. 342-211. Violation of Duty by Commissioner and Others—Penalty

If the Commissioner or any officer or employee of the Banking Department shall give advance notice of any call to be made pursuant to Article 9 of this chapter;¹ or divulge information or permit access to any file or record of the Banking Department in violation of Article 10 of this chapter;² or knowingly be or become indebted to, or financially interested in, any state bank, directly or indirectly; or purchase any asset belonging to any state bank in the hands of the Commissioner for purposes of liquidation, he shall be deemed guilty of a misdemeanor in office, and shall upon conviction be fined not exceeding Two Hundred Dollars (\$200), and forfeit his office or employment.

[Acts 1943, 48th Leg., p. 134, ch. 97, subch. II, art. 11.]

¹ Article 342-209.

² Article 342-210.

Art. 342-212. Complaints

1. The Commissioner shall prepare information of consumer interest describing the regulatory functions of the Banking Department and describing the Department's procedures by which consumer complaints are filed with and resolved by the Department. The Commissioner shall make the information available to the general public and appropriate state agencies.

2. The Commissioner shall keep an information file about each complaint filed with the Commissioner relating to any entity regulated by the Banking Department.

3. If a written complaint is filed with the Commissioner relating to any entity regulated by the Banking Department, the Commissioner, at least as frequently as quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation. [Acts 1983, 68th Leg., p. 2925, ch. 499, § 4, eff. Sept. 1, 1983.]

Art. 342-213. Intraagency Program; Employee Evaluation

1. The Commissioner or his designee shall develop an intraagency career ladder program, one part of which shall be the intraagency posting of all nonentry level positions for at least 10 days before any public posting.

2. The Commissioner or his designee shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay for Banking Department employees must be based on the system established under this section.

3. The Banking Commissioner shall prepare and maintain a written plan to assure implementation of a program of equal employment opportunity whereby all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The plans shall include:

(1) a comprehensive analysis of all the agency's work force by race, sex, ethnic origin, class of position, and salary or wage;

(2) plans for recruitment, evaluation, selection, appointment, training, promotion, and other personnel policies;

(3) steps reasonably designed to overcome any identified underutilization of minorities and women in the agency's work force; and

(4) objectives and goals, timetables for the achievement of the objectives and goals, and assignments of responsibility for their achievement.

The plans shall be filed with the Governor's office within 60 days of the effective date of this Act, cover an annual period, and be updated at least annually. Progress reports shall be submitted to the Governor's office within 30 days of November 1 and April 1 of each year and shall include the steps

the agency has taken within the reporting period to comply with these requirements.

[Acts 1983, 68th Leg., p. 2925, ch. 499, § 4, eff. Sept. 1, 1983.]

Section 7 of the 1983 Act provides:

"The requirements of Article 13, Chapter II, The Texas Banking Code of 1943 (Article 342-213, Vernon's Texas Civil Statutes), that the Banking Commissioner of Texas develop an intraagency career ladder program and a system of annual performance evaluations shall be implemented before September 1, 1984. The requirement that merit pay be based on the performance evaluation system shall be implemented before September 1, 1985."

Art. 342-214. Conflict of Interest

1. An officer or employee of the Banking Department may not be an officer, employee, or paid consultant of a trade association in the banking industry.

2. An officer or employee of the Banking Department may not be related within the second degree by affinity or consanguinity to a person who is an officer, employee, or paid consultant of a trade association in the banking industry.

3. Before the 11th day after the day on which an employee begins employment with the Banking Department, the employee shall sign a notarized affidavit stating that the employee has read the conflict of interest statutes applicable to employees of the Department.

[Acts 1983, 68th Leg., p. 2925, ch. 499, § 4, eff. Sept. 1, 1983.]

Art. 342-215. Open Meetings

The Banking Department is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

[Acts 1983, 68th Leg., p. 2925, ch. 499, § 4, eff. Sept. 1, 1983.]

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

Art.

- 342-301. Powers.
- 342-302. Legislative Control.
- 342-303. Repealed.
- 342-304. Articles of Association.
- 342-305. Application for and Granting of Charters—Approval.
- 342-306. Recordation of Articles of Association and Amendments.
- 342-307. Certificate of Authority—Posting—Revocation of Charter.
- 342-308. Merger—Trust Powers.
- 342-309. Reorganization—Incorporation to Take Over Business of Other Banks—Trust Powers.

Art.

- 342-310. Purchase of Assets of Another Bank—Disbursing Agent.
- 342-311. Existing Corporations—Powers Retained.
- 342-312. Amendment of Articles of Association—Rights of Stockholders upon Increase in Capital—Stock Option Plans.
- 342-313. Conversion of State Bank into National Bank.
- 342-313a. Conversion of National Bank into State Bank.
- 342-314. Change of Domicile.

Art. 342-301. Powers

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

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

(b) To act as fiscal agent or transfer agent and in such capacity to receive and disburse money and to transfer registered and countersigned certificates of stock, bonds or other evidences of indebtedness;

(c) To act as trustee under any mortgage or bond issue and to accept and execute any trust not inconsistent with the laws of this state;

(d) To act under the order or appointment of any court of record, without giving bond, as guardian, receiver, trustee, executor, administrator and, although without general depository powers, as depository for any moneys paid into court;

(e) To purchase, invest in, and sell bills of exchange, bonds, mortgages and other evidences of indebtedness, and to lend money and to charge and collect interest thereon in advance or otherwise;

(f) To receive savings deposits with or without the payment of interest;

(g) To receive time deposits with or without the payment of interest;

(h) To issue, sell and negotiate notes, bonds and other evidences of indebtedness, and, in addition, to issue and sell, for cash or on an installment basis, investment certificates, creating no relation of debtor and creditor between the bank and the holder, to be retired solely out of specified surplus, reserves, or special retirement account, and containing such provisions relative to yield, retirement, penalties, withdrawal values, and obligations of the issuing bank as may be approved by the Commissioner.

A state bank shall have all incidental powers necessary to exercise its specific powers.

[Acts 1943, 48th Leg., p. 137, ch. 97, subch. III, art. 1; Acts 1957, 55th Leg., p. 1162, ch. 388, § 8; Acts 1961, 57th Leg., p. 44, ch. 30, § 1.]

Art. 342-302. Legislative Control

The rights, privileges and powers conferred by this Code are held subject to the right of the Legislature to amend, alter or reform the same.

[Acts 1943, 48th Leg., p. 137, ch. 97, subch. III, art. 2.]

Art. 342-303. Repealed by Acts 1981, 67th Leg., p. 424, ch. 176, § 1, eff. May 20, 1981

Art. 342-304. Articles of Association

The articles of association of a state bank shall be signed and acknowledged by each incorporator and shall contain:

1. The name of the corporation.
2. The city or town and the county of its domicile.
3. Such of the powers listed in Article 1 of this Chapter as it shall choose to exercise.
4. The capital and the denomination and number of shares.
5. The number of directors.
6. The period of duration, which may be perpetual.

[Acts 1943, 48th Leg., p. 137, ch. 97, subch. III, art. 4. Amended by Acts 1963, 58th Leg., p. 134, ch. 81, § 2; Acts 1977, 65th Leg., p. 1965, ch. 784, § 1, eff. Aug. 29, 1977.]

Art. 342-305. Application for and Granting of Charters—Approval

A. Applications for a State bank charter shall be granted only upon good and sufficient proof that all of the following conditions presently exist:

- (1) A public necessity exists for the proposed bank;
- (2) The proposed capital structure is adequate;
- (3) The volume of business in the community where such proposed bank is to be established is such as to indicate profitable operation of the proposed bank;
- (4) The proposed officers and directors have sufficient banking experience, ability and standing to render success of the proposed bank probable; and
- (5) The applicants are acting in good faith.

The burden to establish said conditions shall be upon the applicants.

B. Applicants desiring to incorporate a State bank shall file with the Banking Commissioner an application for charter upon official forms prepared and prescribed by the Commissioner. All persons subscribing to the capital stock of the proposed bank shall sign and verify under oath a statement of such stock subscribed, and which statement shall truly report the number of shares and the amount to be paid in consideration; the names, identity, title and address of any other persons who will be beneficial owners of such stock or otherwise share an interest or ownership in said stock, or who will pay

any portion of the consideration; whether said stock is to be pledged as security for any loan; whether a loan has been committed or is intended for the subscription and purchase of said stock, and if so, the name and address of such person or corporation which is intended to loan funds for said purchase; the names of any cosigners, guarantors, partners or other persons liable for the repayment of any loan financing the purchase of such stock. Provided, however, that the verified statement of subscribers to stock shall be confidential and privileged from public disclosure prior to the final determination by the Board of the application for a charter, unless the Board shall find that public disclosure prior to public hearing and final determination of the charter application is necessary to a full development of the factual record.

C. The Commissioner shall require deposit of such charter fees as are required by law and shall proceed to conduct a thorough investigation of the application, the applicants and their personnel, and the charter conditions alleged. The actual expense of such investigation and report shall be paid by the applicants, and the Commissioner may require a deposit in an estimated amount, the balance to be paid in full prior to hearing of the application. A written report of the investigation shall be furnished to the State Banking Board and shall be made available to all interested parties at their request.

D. Upon filing of the application, the Commissioner shall promptly set the time and place for public hearing of the application for charter, giving the applicants reasonable notice thereof. Before the 10th day preceding the day on which the hearing is held, the Commissioner shall publish notice of the hearing in a newspaper of general circulation in the county where the proposed bank is to be located. After full and public hearing the Board shall vote and determine whether the necessary conditions set out in Section A above have been established. Should the Board, or a majority of the Board, determine all of the said conditions affirmatively, then the application shall be approved; if not, then the application shall be denied. If approved, and when the Commissioner receives satisfactory evidence that the capital has been paid in full in cash, the Commissioner shall deliver to the incorporators a certified copy of the Articles of Association, and the bank shall come into corporate existence. Provided however, that the State Banking Board may make its approval of any application conditional, and in such event shall set out such condition in the resolution granting the charter, and the Commissioner shall not deliver the certified copy of the Articles of Association until such condition has been met, after which the Commissioner shall in writing inform the State Banking Board as to compliance with such condition and delivery of the Articles of Association.

E. The provisions of the Administrative Procedure and Texas Register Act (Article 6252-13a, Ver-

non's Texas Civil Statutes) governing contested cases do not apply to charter applications filed for the purpose of assuming the assets and liabilities of any bank deemed by the Commissioner to be in an unsafe condition.

F. The financial statement of a proposed officer or director filed under this article is confidential and not subject to public disclosure.

[Acts 1943, 48th Leg., p. 137, ch. 97, subch. III, art. 5. Amended by Acts 1963, 58th Leg., p. 134, ch. 81, § 3, eff. Aug. 23, 1963; Acts 1971, 62nd Leg., p. 2882, ch. 949, § 1, eff. June 15, 1971; Acts 1977, 65th Leg., p. 1965, ch. 784, § 2, eff. Aug. 29, 1977; Acts 1981, 67th Leg., p. 430, ch. 182, § 1, eff. May 20, 1981; Acts 1983, 68th Leg., p. 2791, ch. 478, §§ 2, 3, eff. Sept. 1, 1983.]

Sections 2 and 3 of the 1971 amendatory act provided:

"Sec. 2. If any provision, section, sentence, clause or part of this Act or the application thereof to any person or circumstance is held invalid, such holding shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application and to this end the provisions of this Act are declared to be severable.

"Sec. 3. All laws or parts of laws which are in conflict with this Act are hereby repealed or modified to the extent of such conflict only."

Art. 342-306. Recordation of Articles of Association and Amendments

The bank shall, upon receipt from the Commissioner of a certified copy of its articles of association and any amendment thereto, file the same with the County Clerk of the county of the bank's domicile for recordation in the Deed Records of said county.

[Acts 1943, 48th Leg., p. 137, ch. 97, subch. III, art. 6.]

Art. 342-307. Certificate of Authority—Posting—Revocation of Charter

No state bank may do business until it receives a certificate of authority from the Commissioner, which shall not be delivered until it has elected the officers and directors named in the application for charter or other officers and directors approved by the Commissioner; shall have adopted by-laws approved by the Commissioner; and shall have complied with all the other requirements of this Code relative to the incorporation of state banks.

If any state bank does not open and actually engage in business within three months after the granting of its charter, or conditional approval of application for charter, the Commissioner may so inform the State Banking Board which may in its discretion forfeit the charter or cancel its conditional approval of application for charter, without any judicial action.

Each state bank shall keep its certificate of authority posted in its lobby at a point accessible to the public.

[Acts 1943, 48th Leg., p. 137, ch. 97, subch. III, art. 7.]

Art. 342-308. Merger—Trust Powers

Any two or more state banks, or if national banks are hereafter authorized by the laws of the United States to participate in such a merger, any one or more state banks and any one or more national banks domiciled in this State may, with the approval of the Commissioner and the written consent of the owners of record of two-thirds of the capital of each of said banks, be merged. Said merging banks shall file with the Commissioner:

(1) A statement of the plan of merger approved by the board of directors of each merging bank, by a majority vote of the qualified directors.

(2) Written consent to such merger executed by the owners of record of two-thirds of the capital of each merging bank.

(3) Certificate of merger stating the facts required by Article 4 of this chapter¹ and executed and acknowledged by a majority of the qualified directors of each merging bank.

The Banking Commissioner shall thereupon investigate the condition of the merging banks and if he finds that the state bank which will result from the merger (hereafter called the "resulting bank") will be solvent and its capital unimpaired; that it will have adequate capital structure; that such merger is to the best interest of the depositors, creditors and stockholders of the merging banks and of the public in general; that the distribution of the stock of the resulting bank is to be upon an equitable basis; and that the resulting bank has in all respects complied with the laws of this State relative to the incorporation of State banks, he may approve such merger, and, if he so approves, he shall deliver to the resulting bank a certified copy of the certificate of merger, which certificate shall constitute the charter and articles of association of the resulting bank, and shall be filed as provided in Article 6 of this chapter.² The resulting bank shall be deemed a continuation in entity and identity of each of the banks involved in the merger; shall be subject to all the liabilities, obligations, duties and relations of each merging bank; and shall without the necessity of any conveyance, assignment or transfer become the owner of all of the assets of every kind and character formerly belonging to the merging banks; further, provided, that if any merging bank shall at the time of the merger be acting as trustee, guardian, executor, administrator, or in any other fiduciary capacity, the resulting bank shall, without the necessity of any judicial action or action by the creator of such trust, continue such office, trust or fiduciary relationship and shall perform all of the duties and obligations and exercise all of the powers and authority connected with or incidental to such fiduciary relationship in the same manner as though the resulting bank had been originally named or designated as such fiduciary.

The naming or designating by a testator, or the creator of a living trust, of any one of the merging banks to act as trustee, guardian, executor or in any

other fiduciary capacity shall be considered the naming or designating of the bank resulting from the merger.

[Acts 1943, 48th Leg., p. 137, ch. 97, subch. III, art. 8.]

¹ Article 342-304.

² Article 342-306.

Art. 342-309. Reorganization—Incorporation to Take Over Business of Other Banks—Trust Powers

A state bank may be incorporated to take over the business of any incorporated bank or banks, state or national, as a step in the reorganization of such bank or banks, (which bank or banks, whether one or more, will be hereafter referred to as the "reorganizing bank"), and shall, subject to the provisions of this article, be authorized to purchase assets from the reorganizing bank and as consideration therefor, assume all liabilities, known or unknown, of the reorganizing bank, other than its liability to stockholders as such.

Persons desiring to incorporate a state bank under the provisions of this article shall proceed in the manner provided in Article 5 of this Chapter,¹ and in addition, shall file with the Commissioner:

(1) The proposed contract whereby the state bank is to purchase the assets from and assume the liabilities of the reorganizing bank, as above mentioned.

(2) Contracts, if any, whereby the proposed state bank is to purchase for cash the whole or any part of the right of any or all of the stockholders of the reorganizing bank to receive liquidating dividends upon liquidation of the reorganizing bank, which contracts shall expressly provide that they shall be binding and effective only in event the reorganizing bank is placed in voluntary liquidation within ten (10) days of the granting of the application for the charter applied for. Such contracts shall be executed on behalf of the proposed bank by the persons applying for the charter.

If the Commissioner, after investigation, determines that the proposed bank, if incorporated, will, after its capital has been paid in in full and all contracts above mentioned finally consummated, be solvent, its capital adequate and unimpaired, that such reorganization is to the best interest of the reorganizing bank, its depositors, creditors and stockholders and the public in general, and that upon incorporation such bank will have in all other respects complied with the law, he shall recommend to the State Banking Board that the charter be granted.

If the State Banking Board concurs in the findings of the Commissioner, it shall grant the application, and the Commissioner shall deliver a certified copy of the articles of association in the manner provided in Article 5 of this chapter. Provided, however, that the Commissioner shall not deliver a certificate of authority until the contracts above

mentioned have been fully consummated, and the requirements of Article 7 of this chapter² have been met. The state bank so incorporated shall be deemed a reorganization of the reorganizing bank, and a continuation of such bank in entity and identity, subject to all of its liabilities, obligations, duties and relations, save and except its liability to stockholders as such, and shall pay and perform each and every obligation, duty and liability of the reorganizing bank in exactly the same manner as the reorganizing bank was obligated to do; further provided that if the reorganizing bank was at the time of incorporation of the new state bank, named or acting as guardian, trustee, executor, administrator or in any other fiduciary capacity, such state bank shall, without the necessity of any judicial action, or action by the creator of such trust, continue the trusteeship or other fiduciary relation and perform all of the duties and obligations of the reorganizing bank and exercise all the powers and authority relative thereto; and neither the reorganization of such bank, nor any liquidation of such bank in connection therewith, shall be deemed a resignation or refusal to act. The naming or designating by a testator or the creator of a living trust of the reorganizing bank to act as trustee, guardian, executor, or in any other fiduciary capacity shall be considered the naming or designating of the bank resulting from the reorganization.

The new state bank shall give notice of its assumption of the liabilities of the reorganizing bank by publishing notice thereof once each week for a period of two (2) weeks in some newspaper of general circulation published in the county of its domicile, or in event no such newspaper is published in said county, then in a newspaper of general circulation published in an adjacent county. The first notice shall be published within ten (10) days after the delivery of the certificate of authority to such bank.

[Acts 1943, 48th Leg., p. 137, ch. 97, subch. III, art. 9.]

¹ Article 342-305.

² Article 342-307.

Art. 342-310. Purchase of Assets of Another Bank—Disbursing Agent

Any state bank may, with the consent of the Commissioner, purchase the whole or any part of the assets of any other state bank or of any national bank domiciled in this State, and may hold the purchase price and any additional funds delivered to it by the selling bank in trust for or as a deposit to the credit of the selling bank. The purchasing bank may act as agent of the selling bank in disbursing the funds so held in trust or on deposit by paying the depositors and creditors of the selling bank, provided that if the purchasing bank acts under written contract of agency which specifically names each depositor and creditor and the amount to be paid each, and if such agency is confined to the purely ministerial act of paying such depositors and creditors the amounts due them as determined by

the selling bank and reflected in the contract of agency and involves no discretionary duties or authority other than the identification of the depositors and creditors named, and if such contract is approved by the Commissioner, then the purchasing bank may rely upon such contract of agency and the instructions included therein, and shall not be in any way liable or responsible for any error made by the selling bank in determining its liabilities, the depositors and creditors to whom such liabilities are due, or the amounts due such depositors and creditors; nor liable or in any way responsible for any preference which may result from the payments made pursuant to such contract of agency and the instructions included therein. Further provided that, in event the selling bank should, at any time after such sale of assets, be closed and come into the hands of the Commissioner or, if a national bank into the hands of a receiver, then the purchasing bank shall pay to the Commissioner as statutory liquidator or to the receiver of such national bank the balance of the funds held by it in trust or on deposit for the selling bank, not theretofore paid to the depositors and creditors of the selling bank, and shall thereupon stand discharged of any and all liabilities, obligations or responsibilities to the selling bank, its receiver, the Commissioner as its statutory liquidator, or to the depositors, creditors or stockholders thereof. Provided further that payment to any depositor or creditor of the selling bank of the amount to be paid him under the terms of the contract of agency may be effected by the purchasing bank opening an account in the name of such depositor or creditor, crediting such account with the amount to be paid the depositor or creditor under the terms of such agency contract, and mailing a duplicate deposit ticket evidencing such credit to such depositor or creditor at his address as reflected by the records of the selling bank, or delivering it to him personally, and the relation of debtor to creditor shall thereupon arise between the purchasing bank and such depositors and creditors to the extent and only to the extent of the credit reflected by such deposit tickets. Further provided, that if any such depositor or creditor checks upon the credit so created, or if he does not within sixty (60) days of the mailing or the personal delivery of such deposit ticket protest the transaction and demand payment from the selling bank, he shall be deemed to have ratified the transaction and to the extent of the credit so created to have accepted the obligation of the purchasing bank as reflected by said deposit ticket in satisfaction of the obligation of the selling bank, and the obligation of the selling bank to the extent of such credit shall be deemed paid and satisfied within the meaning of this article.

[Acts 1943, 48th Leg., p. 137, ch. 97, subch. III, art. 10.]

Art. 342-311. Existing Corporations—Powers Retained

All corporations which on the effective date of this Act¹ were subject to the provisions of Title 16 of the Revised Civil Statutes of Texas, 1925, as

amended,² or any chapter thereof, shall retain the powers provided in their charters.

[Acts 1943, 48th Leg., p. 137, ch. 97, subch. III, art. 11.]

¹ Effective 90 days after May 11, 1943, date of adjournment.

² Article 342 et seq. (repealed).

Art. 342-312. Amendment of Articles of Association—Rights of Stockholders upon Increase in Capital—Stock Option Plans

Subject to the provisions of this Code, any state bank may amend its articles of association for any lawful purpose.

If the owners of record of two-thirds of the capital stock, at any regular meeting of stockholders, or any special meeting called for that purpose, vote to amend the charter, the board of directors shall prepare, execute in the manner provided for the execution of articles of association, and file with the Commissioner an amendment to the articles of association. If the Commissioner finds that the amendment is not violative of law and does not prejudice the interest of depositors and creditors or the public, he shall approve such amendment and deliver to the bank a certified copy thereof, and said amendment shall thereupon become effective; provided, however, that if a state bank does not have the power to receive demand deposits, no amendments of its articles of association adopting any power provided under Subsection (a), (b), (c), (d), or (f) of Article 1 of this Chapter¹ and no amendment changing the domicile of any state bank shall be effective until approved by the State Banking Board in the manner provided for the approval of an original application for charter. Any state bank may amend its articles of association to extend its corporate existence for a perpetual period or for any period of years.

Each stockholder of a state bank shall be entitled to his proportionate part of any increase of stock effected out of surplus funds or undivided profits, and shall be entitled to subscribe for his proportionate share of any capital increase to be paid in cash; provided, however, the bank may arrange for the disposition of fractional shares by those entitled thereto or pay in cash the fair value of fractions of a share as of the time when those entitled to receive such fractions are determined. Each stockholder or his assignee, in event he elects to assign such rights of subscription, shall subscribe for and pay the amount of such subscription to the corporation within ten (10) days after the stockholders have adopted such amendment, otherwise the board of directors may allocate the unsubscribed or unpaid portion of the increase among the other stockholders or otherwise as they deem to the best interest of the bank.

With prior approval of the owners of record of two-thirds of the capital stock, shares of stock in a bank, which are created by a capital increase, may be allocated to and purchased by the bank out of its surplus which is not certified or out of its undivided profits to be held by the bank for fulfilling the

requirements of an officer or employee stock option or bonus plan, whereby officers or employees, or both, of the bank are given options to purchase or a bonus of shares of the bank's capital stock at a specified price, subject to the following requirements and restrictions:

The number of shares so held shall not, at any time, exceed five percent (5%) of the total number of shares outstanding in the hands of other stockholders. Employee benefit plans, including employee stock option plans, stock bonus plans, restricted stock option or bonus plans, or any other plans, the sole purpose of which is to compensate employees of the bank for services rendered to the bank, authorized under this Article, may not extend beyond a period of ten years from the date of issuance. No officer or employee who owns or controls more than five percent (5%) of the bank's capital stock shall be eligible to participate or to continue participation in a stock option plan authorized by this Article.

[Acts 1943, 48th Leg., p. 137, ch. 97, subch. III, art. 12. Amended by Acts 1967, 60th Leg., p. 1772, ch. 673, § 1, eff. June 17, 1967; Acts 1967, 60th Leg., p. 1853, ch. 722, § 1, eff. June 18, 1967; Acts 1969, 61st Leg., p. 1630, ch. 507, § 3, eff. June 10, 1969; Acts 1979, 66th Leg., p. 624, ch. 289, § 1, eff. May 24, 1979; Acts 1981, 67th Leg., p. 1827, ch. 416, § 1, eff. Aug. 31, 1981.]

¹ Article 342-301(a), (b), (c), (d) or (f).

Acts 1967, 60th Leg., p. 1772, ch. 673, § 2 added art. 342-315; §§ 3 to 5 are set out as notes under art. 342-315.

Acts 1967, 60th Leg., p. 1853, ch. 722, §§ 2 to 6 amended art. 342-401, 342-406, 342-504, 342-505 and 4591d; § 7 of the 1967 Act transferred the provisions of art. 4591d to art. 342-910a; §§ 8 and 9 thereof provided:

"Sec. 8. If any provision, Section, sentence, clause or part of this Act or the application thereof to any person or circumstance is held invalid, such holding shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application and to this end the provisions of this Act are declared to be severable.

"Sec. 9. All laws or parts of laws which are in conflict with this Act are hereby repealed or modified to the extent of such conflict only."

Art. 342-313. Conversion of State Bank into National Bank

The owners of record of two-thirds of the capital of any solvent state bank may, by vote or written consent, authorize its officers and directors to take such action as may be necessary under the laws of the United States to convert it into a national bank, provided, however, that the state bank shall not cease to be a state bank subject to the supervision of the Commissioner until (1) the Commissioner has been given written notice of the intention to convert for at least thirty (30) days, (2) such bank has published notice thereof at least once a week for four (4) weeks in a newspaper of general circulation published in the county of its domicile, or, if no such newspaper is published in the county, in an adjacent county, (3) the bank has filed with the Commissioner a transcript of the conversion proceedings, sworn to by a majority of the qualified directors and a

publisher's certificate showing publication of the notice above provided, and (4) such bank has received a certificate of authority to do business as a national bank.

[Acts 1943, 48th Leg., p. 137, ch. 97, subch. III, art. 13.]

Art. 342-313a. Conversion of National Bank into State Bank

A national bank or association located in this state which follows the procedures prescribed by the laws of the United States to convert into a state bank, shall be granted a certificate of incorporation in the state when the State Banking Board finds that the bank meets the standards as to location of office, capital structure and business experience of officers and directors for the incorporation of a state bank. In considering the application for conversion from a national bank into a state bank the Board shall consider and determine that the new bank meets with all the requirements of a new state bank applicant. Included also in the application for conversion and to be considered along with the other information submitted shall be the terms of the transition from a national bank into a state bank which shall also show that the provisions of Public Law 706 of the 81st Congress of the United States¹ have been fully satisfied. Such conversion shall be governed by the provisions of this Article and shall not be governed by Article 9, now codified as Article 342-309, Vernon's Texas Civil Statutes.

[Acts 1955, 54th Leg., p. 663, ch. 234, § 1.]

¹ 12 U.S.C.A. § 214 et seq.

Art. 342-314. Change of Domicile

(a) A state bank may change its domicile to a location no more than thirty (30) miles from where it is located or to any place within the city of its domicile. No state bank may change its domicile without receiving the prior approval of the State Banking Board.

(b) Applications for a change of domicile shall be granted by the State Banking Board only upon good and sufficient proof that all the following conditions exist:

(1) a public necessity exists for the bank at the proposed location;

(2) proposed capital structure is adequate;

(3) volume of business in the community where the bank is to be located is such as to indicate profitable operation of the bank at that location;

(4) the proposed officers and directors have sufficient banking experience, ability, and standing to render success of the bank probable; and

(5) the applicants are acting in good faith.

(c) If the proposed relocation of the bank would effect an abandonment of all or part of the community presently served by the bank, the bank must establish that the abandonment is consistent with

the original determination of public necessity for the establishment of a bank at that location.

[Acts 1967, 60th Leg., p. 1773, ch. 673, § 2, eff. June 17, 1967. Amended by Acts 1977, 65th Leg., p. 25, ch. 10, § 1, eff. March 10, 1977; Acts 1981, 67th Leg., p. 465, ch. 196, § 1, eff. May 25, 1981; Acts 1983, 68th Leg., p. 3100, ch. 532, § 3, eff. Aug. 29, 1983.]

Section 1 of Acts 1967, 60th Leg., p. 1772, ch. 673 amended art. 342-312; §§ 3 to 5 of the act of 1967 provide:

"Sec. 3. This Act shall have no application to any change of domicile of a state bank for which an application for approval of such change was filed with the Federal Deposit Insurance Corporation prior to April 6, 1967.

"Sec. 4. If any provision, Section, sentence, clause or part of this Act or the application thereof to any person or circumstance is held invalid, such holding shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application and to this end the provisions of this Act are declared to be severable.

"Sec. 5. All laws or parts of laws which are in conflict with this Act are hereby repealed or modified to the extent of such conflict only."

CHAPTER FOUR. STOCK, STOCKHOLDERS, BY-LAWS, DIRECTORS, OFFICERS, EMPLOYEES

Art.

- 342-401. Transfer of Stock—Notice to Commissioner.
- 342-401a. Transfer of Stock—Review by Commissioner.
- 342-402. Stockholders' Meetings—Quorum—Voting.
- 342-403. By-Laws—Adoption and Amendment.
- 342-404. Directors—Number—Change of Number—Advisory Directors.
- 342-405. Directors—Qualifications.
- 342-406. Directors' Election—Term—Failure to Elect—Vacancy—Failure to Fill Vacancy—Addition of Directors.
- 342-407. Directors—Oath and Acceptance.
- 342-408. Directors—Meetings—Chairman—Quorum.
- 342-409. Directors—Duties—Approval of Loans and Expenses—Election, Term and Compensation of Officers.
- 342-410. Directors, Officers and Employees—Liability—Reimbursement for Expenses.
- 342-411. Officers—Transfer of Securities—Bills Payable—Rediscounts—Sale of Notes.
- 342-411a. Exemption from Securities Law.
- 342-412. Officers and Directors—Cease and Desist—Removal—Appeal.
- 342-413. Officers, Employees, Agents—Embezzlement, Abstraction and Misapplication—Penalty.
- 342-414. Officers, Employees, Directors—False Entries and Statements—Penalty.
- 342-415. Officers, Directors, Employees, Stockholders—Destruction of Bank Records—Penalty.
- 342-416. Officers, Employees—Certification of Check Without Funds—Penalty.
- 342-417. Officers, Directors and Employees—Accepting Bonuses—Penalty.

Art. 342-401. Transfer of Stock—Notice to Commissioner

Shares of stock in a state bank shall be personal property and transferable only upon its books, and it shall be the duty of the officers of a state bank to transfer such stock upon its books at the request of the transferee, supported by a transfer in writing or other legally effective transfer.

If title to more than ten percent (10%) of the total number of shares of stock outstanding is transferred, the transferee shall, within fifteen (15) days thereafter, give the Commissioner written notice of the date of the transfer, the number of shares transferred and the consideration therefor, and the names and addresses of the persons or corporations from whom and to whom the stock was transferred. Where the title to the stock so transferred is to be held by the transferee in the capacity of agent or trustee, the transferee shall, within fifteen (15) days after title to the stock is transferred, give the Commissioner written notice of the name and address of each principal or each beneficiary having an interest therein. Information obtained hereunder by the Commissioner shall be confidential and shall not be disclosed by the Commissioner or any officer or employee of the Banking Department, except that the Commissioner may, in his discretion, if he deems it necessary or proper to the enforcement of the laws of this state or the United States, and to the best interest of the public divulge such information to any department of the state or national government, or any agency or instrumentality thereof.

Any transferee who willfully and knowingly fails or refuses to give the Commissioner notice as required by this Article, shall, upon conviction, be fined in an amount not exceeding One Thousand Dollars (\$1,000), or be confined in jail for a period not to exceed six (6) months, or both.

[Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 1; Acts 1967, 60th Leg., p. 1855, ch. 722, § 2, eff. June 18, 1967; Acts 1971, 62nd Leg., p. 1689, ch. 482, § 1, eff. May 27, 1971.]

Sections 2 and 3 of the 1971 amendatory act provide:

"Sec. 2. If any provision, section, sentence, clause or part of this Act or the application thereof to any person or circumstance is held invalid, such holding shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application and to this end the provisions of this Act are declared to be severable.

"Sec. 3. All laws or parts of laws which are in conflict with this Act are hereby repealed or modified to the extent of such conflict only."

Art. 342-401a. Transfer of Stock—Review by Commissioner

A. No person may acquire any voting security of a state bank or of any corporation or other entity owning voting securities of a state bank if, after the acquisition, the person would own or possess the power to vote twenty-five per cent (25%) or more of the voting securities of the bank unless an application is filed with the Commissioner for his review of the proposed transaction and for his action, if any, as provided in this Article.

B. The application shall be on a form prescribed by the Commissioner and shall be made under oath. The application shall, except to the extent expressly waived by the Commissioner, contain the following information:

(1) the identity, personal history, business background and experience, and financial condition of each person by whom or on whose behalf the acquisition is to be made, including a description of the managerial resources and future prospects of each acquiring party and a description of any material pending legal or administrative proceedings in which he is a party;

(2) the terms and conditions of any proposed acquisition and the manner in which the acquisition is to be made;

(3) the identity, source, and amount of the funds or other consideration used or to be used in making the acquisition, and if any part of these funds or other consideration has been or is to be borrowed or otherwise obtained for the purpose of making the acquisition, a description of the transaction, the names of the parties, and arrangements, agreements, or understandings with such persons;

(4) any plans or proposals which any acquiring party making the acquisition may have to liquidate the bank, to sell its assets or merge it with any company, or to make any other major changes in its business or corporate structure or management;

(5) the terms and conditions of any offer, invitation, agreement, or arrangement under which any voting security will be acquired and any contract affecting such security or its financing after it is acquired; and

(6) such other information that the Commissioner by rule shall require to be furnished in an application as well as any information that the Commissioner orders to be included in the particular application being filed.

The applicant shall pay the appropriate filing fee when he files the application. A "person" proposing to acquire voting securities subject to the provisions of this Article includes an individual, two (2) or more individuals acting in concert, any type of partnership, corporation, syndicate, trust, or any other organization, or any combination of the foregoing, and the information required by the Commissioner may be required of each member of the group, as directed by the Commissioner. Information obtained by the Commissioner under this Article is confidential and may not be disclosed by the Commissioner or any officer or employee of the Banking Department, except that the Commissioner may in his discretion, if he deems it necessary or proper to the enforcement of the laws of this state or the United States and to the best interest of the public, divulge such information to any department, agency, or instrumentality of the state or federal government, and provided that notice of the application, its date of filing, and the identity of all parties thereto shall be submitted to the Texas Register by the Commissioner upon receipt of the said application and shall be published in the next issue thereof following the date such information is received.

C. The Commissioner shall issue an order denying an application if he finds that:

(1) the acquisition would substantially lessen competition or would in any manner be in restraint of trade and would result in a monopoly or would be in furtherance of a combination or conspiracy to monopolize or attempt to monopolize the banking industry in any part of the State, unless he also finds that the anticompetitive effects of the proposed acquisition are clearly outweighed in the public interest by the probable effect of acquisition in meeting the convenience and needs of the community to be served and that the proposed acquisition is not in violation of any law of this State or the United States;

(2) the poor financial condition of any acquiring party might jeopardize the financial stability of the bank being acquired;

(3) plans or proposals to liquidate or sell the bank or its assets are not in the best interest of the bank;

(4) the experience, ability, standing, competence, trustworthiness, or integrity of the applicant is such that the acquisition would not be in the best interest of the bank;

(5) the bank will not be solvent, have adequate capital structure, or be in compliance with the laws of this State after the acquisition;

(6) the applicant has failed to furnish all of the information pertinent to the application reasonably requested by the Commissioner; or

(7) the applicant is not acting in good faith.

D. If an application filed under this Article is not denied by the Commissioner within thirty (30) days after it is filed, the transaction may be consummated. The Commissioner may, before the expiration of the thirty-day period, give the applicant written notice that the application will not be denied, in which case the transaction may be consummated. Any agreement entered into by the applicants and the Commissioner as a condition that the application will not be denied is enforceable against the bank and is considered for all purposes an agreement under the provisions of this Code.

E. If the Commissioner issues an order denying an application, the applicant is entitled to a hearing if he requests one in writing no later than the thirtieth (30th) day after the day the application is filed or the fifteenth (15th) day after the day the application is denied, whichever date is later. After hearing the matter, the Commissioner shall, within thirty (30) days, enter a final order either affirming his denial or withdrawing his denial of the application. An applicant may not appeal the Commissioner's denial of an application or order affirming his denial until a final order is entered. Any applicant herein shall have the right to appeal such final order to the district court of Travis County, Texas, and not elsewhere, against the Banking Commissioner of Texas as defendant. The action shall not

be limited to questions of law and the substantial evidence rule shall not apply, but such action shall be tried and determined upon a trial de novo to the same extent as now provided for in the case of an appeal from the justice court to the county court. Either party to said action may appeal to the appellate court having jurisdiction of said cause and said appeal shall be at once returnable to said appellate court having jurisdiction of said cause and said action so appealed shall have precedence in said appellate court over all causes of a different character therein pending. The Commissioner shall not be required to give any appeal bond in any cause arising hereunder. The filing of an appeal pursuant to this Article shall not stay the order of the Commissioner adverse to the applicant.

F. This Article does not apply to:

(1) the acquisition of securities in connection with the exercise of a security interest or otherwise by way of foreclosure on default in the payment of a debt previously contracted for in good faith, provided that the person acquiring such securities does not vote the securities so acquired without having given written notice of such foreclosure to the Commissioner;

(2) transactions governed by Article 8, 9, or 10 of Chapter III of this Code;¹

(3) transactions requiring the prior approval of the Board of Governors of the Federal Reserve System under the Bank Holding Company Act of 1956 (12 U.S.C.A. Sec. 1841, et seq., and 26 U.S.C.A., Sec. 1101, et seq.);

(4) acquisitions by the owner of more than fifty per cent (50%) of the voting securities of the bank; or acquisitions of less than ten per cent (10%) of the voting securities of the bank in any one (1) year by the owner of twenty-five per cent (25%) or more, but not more than fifty per cent (50%), of those voting securities, provided that such acquisition does not result in the owner of twenty-five per cent (25%) or more acquiring fifty per cent (50%) or more of the voting securities;

(5) acquisitions or transfers by operation of law or by will or intestate succession, provided that the person acquiring such securities does not vote the securities so acquired without having given written notice of acquisition to the Commissioner; or

(6) any transaction which the Commissioner by rule or order may exempt as not being contemplated by the purposes of this Article or the regulation of which is not necessary or appropriate to achieve the objectives of this Article.

No provision of this Section shall excuse or diminish the notice requirements provided elsewhere in this Code.

G. No provision of this Article shall be construed to prevent the Commissioner from investigating, commenting upon, or seeking to enjoin or set aside any transfer of voting securities, whether the

transfer is included within this Article or not, if the Commissioner deems the transfer to be against the public interest.

H. If it appears to the Commissioner that any person has committed or is about to commit a violation of this Article or any rule or order of the Commissioner adopted under it, the Attorney General on behalf of the Commissioner may apply to the district court of Travis County for an order enjoining the violation and for any other equitable relief as the nature of the case may require.

I. Any person who willfully and knowingly makes a materially false or misleading statement to the Commissioner with respect to the information required herein may be fined in an amount not exceeding Two Thousand Dollars (\$2,000), or be confined in jail for a period not to exceed one (1) year, or both. This provision is cumulative of other remedies contained herein.

J. The Commissioner by rule shall adopt a schedule of fees for the filing of applications and the holding of hearings. The schedule may be graduated so that those applications and hearings that are more difficult to review or administer will require a larger fee. An application fee is not refundable on denial of the application, but the Commissioner may refund a portion of the fee if the application is withdrawn before he completes review of it. Fees collected under this Article shall be retained by the Department and may be used only for expenses of the Department.

[Acts 1977, 65th Leg., p. 664, ch. 250, § 1, eff. May 25, 1977. Amended by Acts 1981, 67th Leg., p. 2644, ch. 707, § 4(35), eff. Aug. 31, 1981.]

¹ Articles 342-308, 342-309, 342-310.

Art. 342-402. Stockholders' Meetings—Quorum—Voting

The stockholders of each state bank shall hold one regular meeting each year at the time prescribed in its bylaws and such special meetings as may be deemed necessary after notice as prescribed in the bylaws. At all stockholders' meetings the owners of a majority of the capital stock, present in person or by proxy, shall constitute a quorum. In the absence of a quorum, a stockholders' meeting may be adjourned from time to time without notice to the stockholders. Each stockholder of record shall be entitled to one vote for each share of stock owned by such stockholder, which vote may be cast in person or by proxy duly authorized in writing filed among the records of the bank. Stock owned of record by an estate shall be voted by its personal representative, and stock held in a fiduciary capacity shall be voted by the fiduciary, provided, however, that in the election of directors, shares of its own stock held solely by a state bank in any such capacity, whether registered in its own name in such capacity or in the name of its nominee, shall not be voted by the bank unless under the terms of the will or trust, the manner in which such shares

shall be voted may be determined by a donor or beneficiary of the will or trust and unless such donor or beneficiary actually directs how such shares shall be voted, and shares of its own stock held by state bank and one or more persons in any such capacities may be voted by such other person or persons in the same manner as if such person or persons were the sole personal representative or sole trustee. Whenever shares of stock cannot be voted by reason of being held by the bank as sole personal representative or sole trustee, such shares shall be excluded in determining whether matters voted upon by the shareholders were adopted by the requisite percentage of shares.

[Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 2. Amended by Acts 1959, 56th Leg., p. 894, ch. 412, § 4, eff. May 30, 1959; Acts 1971, 62nd Leg., p. 1690, ch. 483, § 1, eff. May 27, 1971; Acts 1977, 65th Leg., p. 1169, ch. 447, § 1, eff. Aug. 29, 1977.]

Section 2 of the 1977 Act provides:

"Any provision or part of a provision in the Texas Banking Code of 1943, as amended (Article 342-101 et seq., Vernon's Texas Civil Statutes), which is in conflict with the provisions of this Act is hereby repealed to the extent of the conflict only."

Art. 342-403. By-Laws—Adoption and Amendment

The stockholders of a state bank shall adopt by-laws which may be amended at any regular annual meeting of the stockholders, or, if the purpose of the meeting is stated in the notice, at any special meeting of the stockholders called for that purpose. Neither the by-laws nor any amendment thereto shall be effective until filed with the Commissioner and approved by him.

[Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 3.]

Art. 342-404. Directors—Number—Change of Number—Advisory Directors

A State bank shall have not less than five (5) nor more than twenty-five (25) directors, the majority of whom shall be residents of the State of Texas. The number of directors may be changed from time to time within the limits above prescribed, without amendment of the charter, by resolution adopted at any regular meeting of the stockholders or any special meeting of stockholders called for the purpose of electing directors, which resolution shall be spread on the minutes of the meeting, and a certified copy shall be filed with the Commissioner, for which filing no fee shall be charged.

The board of directors with the approval of the stockholders may elect an advisory board of directors in any number designated by resolution of the stockholders, which advisory directors shall not be required to comply with Article 5 of this Chapter¹ and shall not have the right to vote as directors of the bank.

[Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 4; Acts 1959, 56th Leg., p. 894, ch. 412, § 5.]

¹ Article 342-405.

Art. 342-405. Directors—Qualifications

No person shall serve as director of a state bank when (1) the bank holds a judgment against him, or (2) holds a charged-off note against him, or (3) he has been convicted of a felony.

[Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 5. Amended by Acts 1969, 61st Leg., p. 1317, ch. 403, § 1, eff. Sept. 1, 1969; Acts 1981, 67th Leg., p. 3324, ch. 872, § 1, eff. June 18, 1981.]

Art. 342-406. Directors' Election—Term—Failure to Elect—Vacancy—Failure to Fill Vacancy—Addition of Directors

Each state bank shall, at its regular annual meeting of stockholders, or at some adjournment thereof, or at a special meeting of stockholders called for such purpose, elect directors who shall serve until the next regular annual meeting of stockholders and until their successors have been elected and have qualified. If any state bank fails to elect directors within (60) days after its regular annual meeting, the Commissioner may, after ten (10) days notice by mail, call a meeting of stockholders for the purpose of electing directors, and if the stockholders do not elect directors at the meeting so called, the Commissioner may close the bank and liquidate it pursuant to the provisions of Chapter VIII of this Code.¹

Any vacancy on the board of directors may be filled by a majority vote of the remaining directors, and any director so appointed shall hold his office until the next election; provided if the vacancy reduces the number of directors to less than that required by Article 4 of this Chapter,² it shall be filled within thirty (30) days from the date it occurs and upon the failure to fill such vacancy within the above prescribed time limit, the Commissioner may close the bank and liquidate it pursuant to the provisions of Chapter VIII of this Code.

A majority of the full board of directors of a state bank, when authorized by resolution adopted at any regular meeting of stockholders or at any special meeting of stockholders called for such purpose, may at any time increase the number of directors of a state bank and appoint persons to fill the resulting positions and the persons so appointed shall serve until the next regular annual meeting of stockholders; provided, however, that the board of directors shall not increase the number of directors by more than two (2) during any one year and the total number of directors shall never exceed the maximum number now or that may hereafter be authorized by law. The resolution of the stockholders, as herein provided, and any action of the board of directors pursuant thereto, shall be spread upon the minutes of the stockholders or directors meeting, as the case may be, and a certified copy shall be filed with the Commissioner, for which filing no fee shall be charged. This provision shall be cumulative of all existing laws relating to increasing the number

of directors of a state bank and the filling of the positions thereby created.

[Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 6; Acts 1959, 56th Leg., p. 894, ch. 412, § 6, eff. May 30, 1959; Acts 1967, 60th Leg., p. 1855, ch. 722, § 3, eff. June 18, 1967.]

¹ Article 342-801 et seq.

² Article 342-404.

Art. 342-407. Directors—Oath and Acceptance

Prior to taking office each director in a state bank shall take oath that he accepts the position as director; that he will not violate, nor knowingly permit any officer, director or employee of the bank to violate, the laws of the State of Texas in the conduct of the business of the bank; and that he will diligently perform his duties as director. Such affidavit shall be sworn and subscribed to before a notary public, spread upon the minutes of the directors' meeting, and a duplicate original thereof filed with the Commissioner.

[Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 7. Amended by Acts 1981, 67th Leg., p. 1821, ch. 411, § 1, eff. Aug. 31, 1981; Acts 1981, 67th Leg., p. 3324, ch. 872, § 2, eff. June 18, 1981.]

Art. 342-408. Directors—Meetings—Chairman—Quorum

The directors of a State bank shall hold at least one regular meeting each month as prescribed in the by-laws. Special meetings may be called in such manner and upon such notice as may be prescribed in the by-laws. The president of the bank shall be a qualified member of the board of directors and shall be the chairman thereof, but the board may designate a director in lieu of the president to be chairman of the board and to perform such duties as may be designated by the board. A majority of the qualified directors shall constitute a quorum.

[Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 8; Acts 1959, 56th Leg., p. 894, ch. 412, § 7, eff. May 30, 1959.]

Art. 342-409. Directors—Duties—Approval of Loans and Expenses—Election, Term and Compensation of Officers

Subject to the by-laws the board of directors of a state bank shall supervise the conduct of its business and may promulgate rules and regulations relative thereto and prescribe the duties and responsibilities of the officers and employees. At each regular meeting the board shall review and approve or disapprove each loan and investment made and item of expense incurred since the last meeting; and shall examine and take appropriate action upon the over-draft, suspense and bills of exchange accounts. The board may designate committees from among its members to perform these duties and approve or disapprove the committees' reports at each regular meeting. Such approval, disapproval or other action of the board shall be spread upon its minutes.

By a majority vote of its qualified members, the board shall elect a president, one or more vice presidents, and a cashier or secretary, and such other officers of the bank as may be prescribed by the by-laws or deemed necessary by the directors and fix their compensation; provided, however, that the president shall be a member of the board of directors. Each officer of the bank shall serve only during the pleasure of the board, and any contract for a fixed term of employment shall be void.

[Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 9. Amended by Acts 1981, 67th Leg., p. 1820, ch. 410, § 1, eff. June 11, 1981.]

Art. 342-410. Directors, Officers and Employees—Liability—Reimbursement for Expenses

Except as otherwise provided by statute, directors and officers of state banks shall be liable for financial losses sustained by state banks to the extent that directors and officers of other corporations are now responsible for such losses in equity and common law. Any officer or director who does not approve of any act or omission of the board, and desires to relieve himself from any personal liability for such act or omission shall promptly announce his opposition to such act or omission and cause such opposition to be spread upon the minutes of the directors' meeting. If for any reason such opposition is not spread upon the minutes of the directors' meeting, he shall promptly report the facts to the Commissioner.

Any person may be indemnified or reimbursed by a state bank, through action of its board, for reasonable expenses actually incurred by him in connection with any action, suit or proceeding to which he is a party by reason of his being or having been a director, officer or employee of said bank. The board may authorize the purchase by the bank of insurance covering the indemnification of directors, officers or employees. If there is a compromise of such an action or threatened action, there shall be no indemnification or reimbursement for the amount paid to settle the claim or for reasonable expenses incurred in connection with such claim without the vote, or the written consent, of the owners of record of a majority of the stock of the bank. No such person shall be indemnified or reimbursed if he has been finally adjudged to have been guilty of, or liable for, willful misconduct, gross neglect of duty, or a criminal act. This article shall not bar any right or action to which such person would be entitled at common law or any other statute of this State.

[Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 10. Amended by Acts 1975, 64th Leg., p. 650, ch. 270, § 1, eff. Sept. 1, 1975.]

Art. 342-411. Officers—Transfer of Securities—Bills Payable—Rediscunts—Sale of Notes

No officer of a state bank shall endorse, pledge, assign, transfer, rediscount or in anywise dispose of

any note, bond, security or other obligation held by the bank, nor create any bills payable, unless he shall have previously been duly authorized to do so by the board of directors, as reflected by the minutes of its meeting.

[Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 11.]

Art. 342-411a. Exemption from Securities Law

Sec. 1. In this article, "eligible person" means a person who is an officer, director, or employee of a state bank or national bank domiciled in the state with fewer than five hundred (500) shareholders or of a bankholding company with fewer than five hundred (500) shareholders that owns the majority of the voting shares of a bank domiciled in the state.

Sec. 2. An eligible person is exempt from the registration and licensing provisions of The Securities Act, as amended (Article 581-1 et seq., Vernon's Texas Civil Statutes), with respect to that person's participation in a sale or other transaction involving securities issued:

(1) by the bank or bank holding company of which that person is an officer, director, or employee;

(2) by a bank holding company that owns a majority of the voting shares of the bank of which that person is an officer, director, or employee; or

(3) by a bank the majority of the voting shares of which are owned by the bank holding company of which that person is an officer, director, or employee.

Sec. 3. An eligible person may not be compensated for services performed under the exemption provided by this Article.

[Acts 1977, 65th Leg., p. 1033, ch. 378, § 1, eff. June 10, 1977. Amended by Acts 1983, 68th Leg., p. 4922, ch. 876, § 1, eff. Aug. 29, 1983.]

Acts 1979, 66th Leg., p. 348, ch. 160, amending various provisions of The Securities Act (art. 581-1 et seq.), provides in § 10:

"This Act does not affect Section 11.01, Texas Savings and Loan Act, as amended (Article 852a, Vernon's Texas Civil Statutes), or Article 11a, Chapter IV, The Texas Banking Code of 1943, as added (Article 342-411a, Vernon's Texas Civil Statutes)."

Section 2 of the 1983 amendatory act provides:

"This Act applies only to a transaction occurring on or after the effective date of this Act. A transaction occurring before the effective date of this Act is governed by the law in effect when the transaction occurred, and that law is continued in effect for that purpose."

Art. 342-412. Officers and Directors—Cease and Desist—Removal—Appeal

1. If the Commissioner finds that an officer, director or employee of a State bank, or the State bank itself acting through any authorized person, has committed any of the following violations or practices:

(a) violates the provisions of this Code or any other law or regulation applicable to State banks; or

(b) refuses to comply with the provisions of this code or any other law or regulation applicable to State banks; or

(c) wilfully neglects to perform his duties, or commits a breach of trust or of fiduciary duty.

(d) Commits any fraudulent or questionable practice in the conduct of the bank's business that endangers the bank's reputation or threatens its solvency; or

(e) refuses to submit to examination under oath; or

(f) conducts business in an unsafe or unauthorized manner; or

(g) violates any conditions of its charter or of any agreement entered with the Banking Commissioner or the Banking Department; then in such event the Commissioner shall give notice in writing to such bank and the offending officer, director or employee, stating the particular violations or practices complained of, and the Commissioner shall call a meeting of the directors of said bank and lay before them such findings and demand a discontinuance of such violations and practices as have been found.

2. If the Commissioner shall find that an order to cease and desist from such actions is necessary and in the best interests of the bank involved and its depositors, creditors and stockholders, then at the directors' meeting above provided or within thirty (30) days thereafter the Commissioner may serve on the State bank, its board of directors, and any offending officers, directors or employees, a written order to cease and desist from the violations and practices enumerated therein and to take such affirmative action as may be necessary to correct the conditions resulting from such violations or practices. Said cease and desist order shall be effective instantaneously if the Commissioner finds that immediate and irreparable harm is threatened to the bank, its depositors or stockholders; otherwise, said order shall state the effective date, not less than ten (10) days after delivery or mailing of the notice thereof. Unless the bank or directors shall file a notice of appeal with the Banking Section of the Finance Commission within ten (10) days after such delivery or mailing of notice, whichever is the case, the order shall be final. A copy of said order shall be entered upon the minutes of the directors, who shall thereafter certify to the Commissioner in writing that each has read and understood the order.

3. If the Commissioner subsequently finds by examination or other credible evidence that the offending officer, director or employee has continued such violations or practices as previously charged and found by the Commissioner, after notice and demand made under Paragraph 1 above, and further finds that removal from office is necessary and in the best interests of such bank and its depositors, creditors and stockholders, then the Commissioner may serve such officer, director or employee with an order of removal from office. Said order shall

state the grounds for removal with reasonable certainty and shall state the effective date of removal, not less than ten (10) days after delivery or mailing of the notice thereof. Unless the bank, the directors or the person removed shall file a notice of appeal with the Banking Section of the Finance Commission within ten (10) days after such delivery or mailing of notice, whichever is the case, the order of removal shall be effective and final and said person shall thereafter be prohibited from further holding office or employment by, or participating in the affairs of, the said State bank. A copy of said order shall be entered upon the minutes of the directors, and an officer shall acknowledge receipt of such order and certify to the Commissioner that such person has been removed from office.

4. Upon the timely filing of an appeal the Banking Section of the Finance Commission shall set a time and place for hearing such appeal, giving reasonable notice thereof to the appellants. The Banking Section may adopt such rules or procedure as may be necessary to govern the fair hearing and adjudication of the questions appealed, subject to the following conditions:

(a) Appeal from Cease and Desist Order. If the Banking Section finds that appellants have committed one or more of the violations or practices charged by the Commissioner, and further finds that an order to cease and desist from said actions is necessary and in the best interests of the bank involved and its depositors, creditors and stockholders, the said order of the Commissioner shall be affirmed and made final and effective. If the findings are otherwise, the Banking Section shall set aside the order of the Commissioner.

(b) Appeal from Order of Removal. If the Banking Section finds that appellant has committed one or more of the violations or practices charged by the Commissioner sufficient to justify his removal, and further finds that an order of removal from office is necessary and in the best interests of the bank involved and its depositors, creditors and stockholders, the said order of the Commissioner shall be affirmed and made final and effective. If the findings are otherwise, the Banking Section shall set aside the order of the Commissioner.

5. After a cease and desist order or an order of removal becomes effective and final, should a State bank or its board of directors or any duly authorized officer of said bank fail or refuse to comply with such an order, then the Commissioner may, upon notice, assess a penalty against said State bank in an amount not to exceed Five Hundred Dollars (\$500) per day for each day the bank is in violation of said order of the Commissioner or the Banking Section of the Finance Commission. Failure to remit any penalty so assessed shall subject the bank to a suit for collection by the Attorney General of Texas to be instituted in the District Court of Travis County, Texas. In addition to the remedy above provided the Attorney General of Texas, upon the

relation of the Banking Commissioner, may bring suit in the District Court of Travis County, Texas, against any bank in violation of the final orders of the Commissioner or the Banking Section to enjoin the further violation of said orders and the violations and practices charged by the Commissioner as the grounds for such orders.

6. Orders to cease and desist, orders for removal from office, and all copies of notices, correspondence or other records in the Banking Department relating to such orders concerning such violations or unsound practices shall be confidential and shall not be publicized or revealed to the public except in any lawsuit authorized by this Code or by other lawful order or authority.

[Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 12. Amended by Acts 1971, 62nd Leg., p. 2872, ch. 946, § 1, eff. June 15, 1971.]

Sections 2 and 3 of the 1971 amendatory act provide:

"Sec. 2. If any provision, section, sentence, clause or part of this Act or the application thereof to any person or circumstance is held invalid, such holding shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application and to this end the provisions of this Act are declared to be severable.

"Sec. 3. All laws or parts of laws which are in conflict with this Act are hereby repealed or modified to the extent of such conflict only."

Art. 342-413. Officers, Employees, Agents—Embezzlement, Abstraction and Misapplication—Penalty

Any officer, employee or agent of a state bank who embezzles, fraudulently abstracts or wilfully misapplies money, funds, credit or other asset of such bank shall, upon conviction, be fined not exceeding Five Thousand Dollars (\$5,000), or confined in the penitentiary not more than ten (10) years, or both.

[Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 13.]

Art. 342-414. Officers, Employees, Directors—False Entries and Statements—Penalty

Any officer, director or employee of a state bank who knowingly makes a false entry upon the books or records or in any report or statement of such bank, or knowingly gives a false answer to any question propounded to him while being examined under oath by the Commissioner, Deputy Commissioner, Departmental Examiner, or any Examiner, shall, upon conviction, be fined not exceeding Five Thousand Dollars (\$5,000), or confined in the penitentiary not more than ten (10) years, or both.

[Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 14.]

Art. 342-415. Officers, Directors, Employees, Stockholders—Destruction of Bank Records—Penalty

Any officer, director, employee or stockholder of a state bank who, for the purpose of concealing any fact or information from the Banking Commissioner, Deputy Commissioner, Departmental Examiner

or any Examiner, or for the purpose of suppressing any evidence material to any pending or anticipated suit or legal proceeding, abstracts, removes, destroys, or conceals any book or record of such bank shall, upon conviction, be fined not exceeding Five Thousand Dollars (\$5,000), or confined in the penitentiary not more than five (5) years, or both. Destruction or disposition of any book or record of a state bank after the period which it is required to be preserved by any rule or regulation of the Banking Section under Article 13 of Chapter I¹ shall raise a rebuttable presumption that this article has not been violated.

[Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 15.]

¹ Article 342-113.

Art. 342-416. Officers, Employees—Certification of Check Without Funds—Penalty

Any officer or employee of a state bank who certifies any check drawn upon such bank, if the drawer does not have sufficient credit in his checking account to pay such check, unless he acts in good faith with reason to believe that the credit is sufficient, shall, upon conviction, be fined not exceeding Five Thousand Dollars (\$5,000), or confined in the penitentiary not more than five (5) years, or both.

[Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 16.]

Art. 342-417. Officers, Directors and Employees—Accepting Bonuses—Penalty

Any officer, director or employee of a state bank who demands, or directly or indirectly receives a bonus, commission or other consideration on account of the making of a loan or investment or the purchase of any asset by such bank shall, upon conviction, be fined not exceeding Five Thousand Dollars (\$5,000), or confined in the penitentiary not more than five (5) years, or both.

[Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 17.]

CHAPTER FIVE. LOANS AND INVESTMENTS

- Art.
- 342-501. Domicile—Furniture and Fixtures—Depreciation—Exception.
- 342-501A. Parking Areas—Customers and Employees.
- 342-502. Other Real Estate—Depreciation—Exceptions.
- 342-503. Engaging in Commerce—Exceptions.
- 342-504. Real Estate Loans—Limitations—Exceptions.
- 342-505, 342-505a. Repealed.
- 342-506. Own Stock—Security—Acquisition—Disposition—Investment Certificates—Maturity.
- 342-507. Limit of Liability of Any One Borrower—Exceptions—Penalty.
- 342-508. Loan Fees Prohibited—Exception.
- 342-509. Loans to and Transactions with Officers and Directors—Penalty.
- 342-509a. Stockholders, Officers and Employees—Authority to Take Acknowledgments.
- 342-509b. Repealed.
- 342-510. Loan of Trust Funds to Officers, Directors or Employees—Penalty.

Art.

342-511. Repealed.

342-512. Investment in a Bank.

342-513. Bank Subsidiary Corporations.

Art. 342-501. Domicile—Furniture and Fixtures—Depreciation—Exception

(a) No state bank shall, without prior written consent of the Commissioner, invest an amount in excess of sixty per cent (60%) of its four primary capital accounts in a domicile (including land and building) and furniture and fixtures.

(b) A state bank shall assign to the portion of its domicile represented by the land on which the banking house is located an original book value of:

(1) the cost of the land when purchased; or

(2) if the land was contributed to the bank, the fair market value of the land at the time of the contribution as determined by the Commissioner.

(c) If the land representing a portion of a state bank's domicile was purchased by or contributed to the bank before January 1, 1982, the bank shall assign an original book value to the land in accordance with Section (b) of this article.

(d) A state bank may depreciate the portion of its domicile represented by the land on which the banking house is located.

(e) The portion of the domicile represented by the banking house shall be depreciated each year not less than two and one-half per cent (2½%) of its cost to the bank until that portion of the domicile is charged down to One Dollar (\$1), and the furniture and fixtures shall be depreciated each year not less than ten per cent (10%) of their cost to the bank until said account is charged down to One Dollar (\$1), provided that the Commissioner may permit a lesser percentage to be charged off during any year.

[Acts 1943, 48th Leg., p. 148, ch. 97, subch. V, art. 1. Amended by Acts 1981, 67th Leg., p. 230, ch. 100, § 1, eff. Jan. 1, 1982.]

Art. 342-501A. Parking Areas—Customers and Employees

A bank may own or lease land in the vicinity of such bank as an automobile parking area exclusively or predominantly for the use of its customers and employees, provided that such land shall not be used for any other purpose. Such real estate shall become a part of the bank's domicile and shall be subject to the provisions of Article 1, Chapter V, Title 16 of The Texas Banking Code of 1943.¹

[Acts 1957, 55th Leg., p. 370, ch. 175, § 1.]

¹ Article 342-501.

Art. 342-502. Other Real Estate—Depreciation—Exceptions

(a) No State bank shall acquire real estate, other than its domicile, except in satisfaction or partial satisfaction of indebtedness, or in the ordinary

course of the collection of loans and other obligations owing the bank, or for the use of the bank in future expansion of its banking house.

(b) If a State bank acquires the real estate for use in future expansion of its banking house, or if it acquired real estate for that purpose before January 1, 1982, the bank shall:

(1) assign an original book value to the portion represented by land in accordance with Section (b), Article 1, of this Chapter;¹ and

(2) depreciate the portion represented by a building or other improvement in accordance with the requirements for a banking house provided by Section (e), Article 1, of this Chapter.

(c) If a State bank acquires real estate other than for the use in future expansion of its banking house, the bank may not assign an original book value to such real estate in excess of its reasonable value at the time of acquisition, and such real estate shall be depreciated each year ten per cent (10%) of such original book value until charged down to twenty-five per cent (25%) of its original book value; provided that the Commissioner may permit a lesser percentage to be depreciated during any year.

(d) The original book value of real estate acquired for future expansion of the banking house shall be included in determining whether the State bank has invested an amount in excess of sixty per cent (60%) of its four primary capital accounts in a domicile (including land and building) and furniture and fixtures under the provisions of Article 1 of this Chapter.

(e) If such real estate acquired for the use of the bank in future expansion of its banking house is not improved and occupied as a banking house within three (3) years from the date of its acquisition, the bank shall sell or otherwise dispose of such property; provided that the Commissioner may for good cause shown grant an extension of time for a period of one year or more.

[Acts 1943, 48th Leg., p. 148, ch. 97, subch. V, art. 2. Amended by Acts 1959, 56th Leg., p. 894, ch. 412, § 8, eff. May 30, 1959; Acts 1981, 67th Leg., p. 230, ch. 100, § 2, eff. Jan. 1, 1982.]

¹ Article 342-501.

Art. 342-503. Engaging in Commerce—Exceptions

No state bank shall invest its funds in trade or commerce by buying and selling goods, wares, merchandise or chattels or by owning or operating an industrial plant except when necessary to avoid a loss on a loan or investment previously made in good faith. Provided that to the extent that national banks may now or hereafter have authority to do so, a state bank may become the owner and lessor of personal property acquired upon the specific request and for the use of a customer and may incur such additional obligations as may be incident to becoming an owner and lessor of such property.

Rental payments collected by the bank under the lease agreement shall be considered to be rent and shall not be deemed to be interest or compensation for the use of money loaned.

The aggregate of the bank's investment in properties so acquired shall not exceed limits prescribed by the Banking Section of the Finance Commission as they may be adjusted from time to time, and property so acquired shall not be retained more than six (6) months beyond the duration of the original lease period agreed to by the customer for whom the property was acquired, except with written permission of the Banking Commissioner.

[Acts 1943, 48th Leg., p. 148, ch. 97, subch. V, art. 3; Acts 1969, 61st Leg., p. 1630, ch. 507, § 4, eff. June 10, 1969.]

Art. 342-504. Real Estate Loans—Limitations—Exceptions

State banks are authorized to make loans upon the security of real estate and invest their funds in obligations secured by real estate subject to such rules and regulations as may be imposed by the Banking Section of the Finance Commission of Texas relating to margin requirements, repayment programs or terms, and the aggregate in the various types of classes of real estate loans; provided, however, that no state bank shall make a loan upon security of real estate or invest its funds in obligations secured by real estate unless:

1. The security is a lien upon such real estate or the loan or investment made by the bank is wholly guaranteed by the Administrator of Veterans Affairs under Title III of the Serviceman's Readjustment Act of 1944,¹ as amended from time to time.

2. Such loan or obligation is supported by:

(a) either an attorney's opinion or a mortgagee's title insurance policy;

(b) evidence of payment of all taxes other than taxes for the current year;

(c) a written appraisal of such real estate signed by an appraiser; and

(d) if the improvements situated upon such real estate constitute an appreciable portion of the security, adequate coverage insuring the interest of the bank against loss by fire and tornado.

3. The limitations, restrictions and requirements of this Article shall not apply to a loan or obligation insured by the Federal Housing Administration, or to any loan or obligation which the United States of America has unconditionally guaranteed as to payment of both principal and interest through a federal agency or instrumentality, or to security taken to prevent loss on a loan or investment previously made in good faith.

4. Construction loans:

(a) The following loans made to finance the construction of buildings shall not be considered as loans secured by real estate within the meaning of this Article but shall be classed as ordinary commer-

cial loans, provided that such loans shall be secured by a first lien on the real estate upon which the building or buildings are being constructed:

(1) loans having maturities which shall be fixed by the Banking Section of the Finance Commission, made to finance the construction of industrial or commercial buildings on which there are valid and binding agreements entered into by financially responsible lenders to advance the full amount of the bank's loan upon completion of the buildings, and

(2) loans made to finance the construction of residential or farm buildings having maturities which shall be fixed by the Banking Section of the Finance Commission from time to time.

(b) Such loans or obligations shall be supported by:

(1) either an attorney's opinion, a mortgagee's title insurance policy or a mortgagee's title insurance policy binder;

(2) evidence of payment of all taxes other than taxes for the current year;

(3) either a written appraisal of such real estate, signed by an appraiser, or a valid and binding agreement entered into by a financially responsible lender or lenders to advance the full amount of the bank's loan upon completion of the buildings; and

(4) insurance coverage upon the building or buildings under construction in an amount adequate to insure the interest of the bank against loss by fire, tornado and other casualties.

(c) No state bank shall invest its funds in, or be liable on, any such loans covered by this Section in an amount in excess of that prescribed by the Banking Section of the Finance Commission.

5. Loans made to established industrial or commercial businesses in which the Housing and Home Finance Administrator or the Small Business Administration cooperates or purchases a participation under the provisions of Section 102 or 102a of the Housing Act of 1948, as amended,² or of the Small Business Act of 1953,³ shall not be subject to the requirements, restrictions or limitations of this Article upon loans secured by real estate.

6. Loans made to businesses where the bank looks for repayment out of the operations of the borrower's business, relying primarily on the borrower's general credit standing and forecast of operations, with or without other security, but wishes to take a mortgage on the borrower's real estate as a precaution against contingencies, shall not be considered as real estate loans within the meaning of this Article but shall be classed as ordinary commercial loans.

7. Loans may be made to finance the construction of buildings during periods of construction which shall be fixed by the Banking Section of the Finance Commission from time to time upon the security of:

(a) a purchase contract entered into pursuant to the provisions of the Public Buildings Purchase Contract Act of 1954⁴ or the Post Office Department Property Act of 1954,⁵ or an assignment thereof irrevocably binding the Administrator of General Services or the Postmaster General to commence payments at a specified date not later than one month from the date of completion and acceptance of the building and to continue such payments at least at annual intervals until the loan has been paid in full, and

(b) a bid and performance bond with one or more financially responsible sureties thereon in favor of the General Services Administration or the Post Office Department, jointly with the lender, without complying with the requirements, restrictions or limitations of this Article concerning loans secured by real estate, even though the lender may hold additional security in the form of a mortgage, deed of trust, title to the premises involved, or other such lien on such premises.

[Acts 1943, 48th Leg., p. 148, ch. 97, subch. V, art. 4. Amended by Acts 1945, 49th Leg., p. 149, ch. 99, § 1; Acts 1959, 56th Leg., p. 894, ch. 412, § 9; Acts 1962, 57th Leg., 3rd C.S., p. 108, ch. 37, § 1; Acts 1963, 58th Leg., p. 134, ch. 81, § 4, eff. Aug. 23, 1963; Acts 1967, 60th Leg., p. 1856, ch. 722, § 4, eff. June 18, 1967; Acts 1969, 61st Leg., p. 1630, ch. 507, § 5, eff. June 10, 1969; Acts 1973, 63rd Leg., p. 1517, ch. 548, § 1, eff. June 15, 1973; Acts 1983, 68th Leg., p. 3101, ch. 532, § 4, eff. Aug. 29, 1983.]

¹ See 38 U.S.C.A. § 1801 et seq.

² 12 U.S.C.A. § 1701g or 1701g-1.

³ 15 U.S.C.A. § 631 et seq.

⁴ 40 U.S.C.A. §§ 356, 357.

⁵ 39 U.S.C.A. § 2103 et seq.

Art. 342-505. Repealed by Acts 1981, 67th Leg., p. 466, ch. 197, § 1, eff. May 25, 1981

Art. 342-505a. Repealed by Acts 1981, 67th Leg., p. 426, ch. 179, § 1, eff. May 20, 1981

Art. 342-506. Own Stock—Security—Acquisition—Disposition—Investment Certificates—Maturity

No state bank shall acquire a lien by pledge or otherwise on its shares of stock nor purchase or acquire title to such stock, except to prevent loss upon a loan or investment previously made in good faith. Provided, however, that with the approval of the owners of record of two-thirds of the capital stock, a bank may purchase and carry as treasury stock its own shares for the purpose of fulfilling the requirements of an officer or employee stock option or bonus plan authorized by Article 12, Chapter III of this code.¹

The number of shares so held shall not, at any time, exceed five per cent (5%) of the total number of shares outstanding in the hands of the other stockholders.

If a state bank acquires a lien upon or title to its stock under the exception first provided for in this Article, it shall not permit such lien to continue for

more than two (2) years, nor shall it hold title to such stock for more than one (1) year. Provided that the stock on which the bank has a lien plus the stock held by it as owner shall not exceed, in par value, the aggregate of all surplus accounts and undivided profits of said bank; provided, however, that any provision of this Code to the contrary notwithstanding, a state bank may make loans, charge or collect in advance interest thereon at a rate not exceeding that permitted by law, together with other charges permitted by this Code, and take as collateral thereof its investment certificates, issued simultaneously with the granting of the loans or otherwise, requiring weekly, semi-monthly, monthly or other regular periodic installments to be paid upon such certificates; such loans, subject to acceleration for specified causes, shall mature when the withdrawal value of the investment certificate or certificates securing the same equals the face amount of the note evidencing the loans, and shall be comparable in form and principle of operation to sinking-fund loans which building and loan associations are now authorized to make under the laws of this State.

[Acts 1943, 48th Leg., p. 148, ch. 97, subch. V, art. 6. Amended by Acts 1969, 61st Leg., p. 1630, ch. 507, § 6, eff. June 10, 1969; Acts 1981, 67th Leg., p. 956, ch. 362, § 1, eff. June 10, 1981.]

¹ Article 342-312.

Art. 342-507. Limit of Liability of Any One Borrower—Exceptions—Penalty

No state bank shall permit any person or any corporation to become indebted or in any other way liable to it in an amount in excess of twenty-five per cent (25%) of its capital and certified surplus. The phrase "indebted or in any other way liable" shall be construed to include liability as partner or otherwise. The above limitation shall not apply to the following classes of indebtedness or liability:

1. Liability as endorser or guarantor of commercial or business paper discounted by or assigned to the bank by the actual owner thereof who has acquired it in the ordinary course of business.

2. Indebtedness evidenced by banker's acceptances, bills of exchange or drafts drawn against actually existing values and secured by a lien upon goods in transit with shippers' order bills of lading or comparable instruments attached.

3. Indebtedness evidenced by notes or other paper secured by liens upon agricultural products, manufactured goods, or other chattels in storage in bonded warehouses or elevators with warehouse or elevator receipts attached, cotton yard tickets, signed by a bonded weigher, when the value of the security is not less than one hundred twenty-five per cent (125%) of the indebtedness, and the bank's interest therein is adequately insured against loss, with insurance policies or certificates of insurance attached.

4. Deposit in a reserve depository, or a Federal Reserve Bank.

5. Indebtedness of another state or national bank arising out of short-term loans when such loans are made out of the excess cash reserve funds of the lending bank and have settlement periods of less than one week.

6. Indebtedness arising out of the daily transaction of the business of any clearing house association in this State.

7. Bonds and other legally created general obligations of any State or of any county, city, municipality or political subdivision thereof and indebtedness of the United States of America, or any instrumentality or agency of the United States Government.

8. Any portion of any indebtedness which the United States Government or any agency or instrumentality of the United States Government has unconditionally agreed to purchase or has unconditionally guaranteed as to payment of both principal and interest.

9. Liability under an agreement by a third party to repurchase from the bank an indebtedness that the United States Government or any agency or instrumentality of the United States Government has unconditionally agreed to purchase or has unconditionally guaranteed as to payment of both principal and interest, to the extent that the agreed repurchase price does not exceed the purchase price agreed to or value guaranteed by the United States, its agency or instrumentality.

10. Indebtedness secured by obligations which are issued by or guaranteed, both as to principal and interest, by the United States and the market value of which is one hundred per cent (100%) of such indebtedness at all times.

11. Indebtedness fully secured by a segregated deposit account in the lending bank.

Any officer, director or employee of a state bank who knowingly violates or participates in the violation of any provision of this Article shall upon conviction be fined not more than Five Thousand Dollars (\$5,000) or confined in the State Penitentiary not more than five (5) years, or both.

[Acts 1943, 48th Leg., p. 148, ch. 97, subch. V, art. 7. Amended by Acts 1949, 51st Leg., p. 532, ch. 294, § 1; Acts 1959, 56th Leg., p. 894, ch. 412, § 10, eff. May 30, 1959; Acts 1969, 61st Leg., p. 1630, ch. 507, § 7, eff. June 10, 1969; Acts 1977, 65th Leg., p. 1167, ch. 446, § 1, eff. Aug. 29, 1977; Acts 1981, 67th Leg., p. 1823, ch. 413, § 1, eff. Aug. 31, 1981; Acts 1983, 68th Leg., p. 3104, ch. 532, § 5, eff. Aug. 29, 1983.]

Art. 342-508. Loan Fees Prohibited—Exception

No bank shall charge or collect any loan fee or any other charge, by whatever name called, for the granting of a loan unless authorized by law. Provided, however, a bank may require an applicant for a loan or discount to pay the cost of any abstract,

attorney's opinion or title insurance policy, or other form of insurance, and filing or recording fees or appraisal fees. Expenses necessary or proper for the protection of the lender, and actually incurred in connection with the making of the loan may be charged. In all loan transactions in which the amount loaned is \$100 or more and the loan period is one month or more, a bank may charge any borrower the reasonable value of services rendered in connection with the making of any loan, including the drawing of notes, the taking of acknowledgments and affidavits, the preparation of financial statements, and the investigation or analysis of the financial responsibility of the borrower or any endorser, surety or co-signer, in an amount agreed upon, but not to exceed \$15 for each loan transaction, which shall be in lieu of all interest and other charges which could otherwise be collected in connection with the loan. No bank shall induce or permit any person, or husband and wife, to be obligated directly or indirectly under more than one loan contract under this article at the same time for the purpose, or with the effect, of obtaining a higher authorized charge than would otherwise be permitted. The charge authorized herein shall not apply to any renewal or extension of an obligation on which the charge has been previously imposed; provided, however, that such renewal or extension may bear interest at the rate that is otherwise provided by law. The charge shall not apply to a loan transaction wherein the borrower applies all or a portion of the loan proceeds to discharge a prior loan made by the same lender to the same borrower and in connection with which the above charge was imposed.

[Acts 1943, 48th Leg., p. 148, ch. 97, subch. V, art. 8. Amended by Acts 1977, 65th Leg., p. 1003, ch. 370, § 1, eff. Aug. 29, 1977.]

Art. 342-509. Loans to and Transactions with Officers and Directors—Penalty

Without the prior approval of a majority of the board of directors spread upon its minutes, no state bank shall: (1) permit any officer thereof to become indebted to it, directly or indirectly, in any sum whatsoever, nor any director who is not an officer thereof to become indebted to it, directly or indirectly, in a sum exceeding ten per cent (10%) of its capital and certified surplus, or (2) sell any of its assets to any of its officers or directors, or purchase any asset in which any officer or director has any interest. No director shall be qualified to vote on any resolution that relates to any loan or the purchase or sale of any asset in which transaction such director is interested. Any officer or director who knowingly participates in or permits any violation of any of the provisions of this article shall, upon conviction, be fined not more than Five Thousand Dollars (\$5,000), or confined in the State Penitentiary for not more than five (5) years, or both.

[Acts 1943, 48th Leg., p. 148, ch. 97, subch. V, art. 9.]

Art. 342-509a. Stockholders, Officers and Employees—Authority to Take Acknowledgments

No Notary Public or other Public Officer qualified to take acknowledgments or proofs of written instruments shall be disqualified from taking the acknowledgment or proof of an instrument in writing in which a State bank, national bank or private bank is interested by reason of his ownership of stock in or employment by the State or national or private bank interested in such instrument, and any such acknowledgment heretofore taken is hereby validated.

[Acts 1963, 58th Leg., p. 134, ch. 81, § 5, eff. Aug. 23, 1963; Acts 1971, 62nd Leg., p. 1282, ch. 325, § 1, eff. May 24, 1971.]

Art. 342-509b. Repealed by Acts 1983, 68th Leg., p. 3107, ch. 532, § 6, eff. Aug. 29, 1983

Art. 342-510. Loan of Trust Funds to Officers, Directors or Employees—Penalty

No state bank shall directly or indirectly lend any funds or money held by it in trust to any officer, director, or employee of such bank. Any officer, director or employee borrowing or participating in or permitting the lending of trust funds in violation of this article shall upon conviction be fined not more than Five Thousand Dollars (\$5,000) or confined in the State penitentiary not more than five (5) years, or both.

[Acts 1943, 48th Leg., p. 148, ch. 97, subch. V, art. 10.]

Art. 342-511. Repealed by Acts 1981, 67th Leg., p. 425, ch. 178, § 1, eff. May 20, 1981

Art. 342-512. Investment in a Bank

A state bank may invest its capital and certified surplus in another bank, or in a bank holding company except that:

(1) the investing bank may not acquire or retain ownership, control, or power to vote more than five percent of any class of voting securities of the other bank or of the bank holding company; and

(2) the investing bank may not invest more than 10 percent of its capital and certified surplus in the other bank or in the bank holding company.

[Acts 1979, 66th Leg., p. 104, ch. 64, § 1, eff. April 19, 1979. Amended by Acts 1983, 68th Leg., p. 690, ch. 159, § 1, eff. May 20, 1983.]

Art. 342-513. Bank Subsidiary Corporations

(a) Unless otherwise permitted by rule or regulation promulgated by the banking section: (1) a state bank may invest not more than ten per cent (10%) of its capital and certified surplus in a subsidiary corporation; and (2) no state bank shall invest more than five per cent (5%) of its total assets in subsidiary corporations.

(b) A subsidiary corporation may perform only those functions that a state bank is authorized to perform under the laws of this state.

(c) The banking section, through resolution adopted by not less than four affirmative votes, may promulgate general rules and regulations not inconsistent with the constitution and statutes of this state, and from time to time amend same, which rules and regulations shall be applicable alike to all subsidiary corporations.

[Acts 1983, 68th Leg., p. 3110, ch. 532, § 11, eff. Aug. 29, 1983.]

CHAPTER SIX. SURPLUS, DIVIDENDS, LIABILITIES, UNINVESTED TRUST FUNDS, PREFERENCES, RESERVES, DEBENTURES AND WITHDRAWALS

Art.

342-601. Surplus—Certified Surplus—Mandatory Transfers.

342-602. Liability Limit—Exceptions.

342-603. Pledge of Assets—Securing Depositors.

342-604. Uninvested Trust Funds—Segregation.

342-605. Preferences.

342-606. Reserve Depositories—Amount Carried.

342-607. Capital Notes or Debentures—Capital Defined.

342-608. Limitation Upon Withdrawals.

Art. 342-601. Surplus—Certified Surplus—Mandatory Transfers

Each state bank shall maintain an account to be known as "surplus," any part of which account may, from time to time, be certified, which portion of the surplus shall be known as "certified surplus," before declaring any dividend each state bank shall transfer to "certified surplus" an amount not less than ten percent (10%) of the net profits of such bank earned since the last dividend was declared; provided, however, that this article shall not require a transfer to certified surplus of a sum which would increase the certified surplus to more than the capital of the bank. Except to absorb losses in excess of undivided profits and uncertified surplus, such certified surplus shall not be reduced without the prior written consent of the Commissioner. The Board of Directors shall, in connection with each transfer to or reduction in the certified surplus, promptly file with the Commissioner its certificate reflecting such transfer or reduction. The certified surplus accounts maintained by state banks on the effective date of this Act,¹ shall be deemed "certified surplus" within the purview of this article.

[Acts 1943, 48th Leg., p. 152, ch. 97, subch. VI, art. 1.]

¹ Effective 90 days after May 11, 1943, date of adjournment.

Art. 342-602. Liability Limit—Exceptions

No state bank shall without the prior written consent of the Commissioner be indebted or liable for an amount in excess of its capital and certified surplus except on account of the following:

1. Money on deposit with or collected by it.

2. Bills of exchange, bankers acceptances, checks or drafts drawn against money actually on deposit to the credit of the bank or due to said bank.

3. Liability to stockholders on account of the capital stock, surplus and undivided profits.

4. Liabilities arising under or pursuant to the provisions of the Federal Deposit Insurance Corporation Act,¹ the Federal Reserve Act,² the Federal Agricultural Credit Act of 1923,³ or pursuant to any or all amendments to any or all of said acts.

5. Indebtedness evidenced by investment certificates or certificates of indebtedness.

6. Liability on endorsement of notes, bills of exchange or other evidences of indebtedness actually owned by said bank and sold or endorsed with or without recourse, provided said sale or endorsement shall have been previously approved by the board of directors of said bank.

7. Liabilities to other banks arising out of short-term loan transactions when such liabilities are incurred for the purpose of fulfilling cash reserve requirements and have settlement periods of less than one week.

[Acts 1943, 48th Leg., p. 152, ch. 97, subch. VI, art. 2. Amended by Acts 1969, 61st Leg., p. 1630, ch. 507, § 8, eff. June 10, 1969; Acts 1981, 67th Leg., p. 1822, ch. 412, § 1, eff. Aug. 31, 1981.]

¹ 12 U.S.C.A. § 1811 et seq.

² 12 U.S.C.A. § 221 et seq.

³ 12 U.S.C.A. § 1151 et seq. (repealed).

Art. 342-603. Pledge of Assets—Securing Depositors

No state bank shall pledge, or create any lien upon, any asset or in any way secure the repayment of any deposit except when specifically authorized to do so by law, except that it may pledge its assets to secure a deposit of or by the United States Government, the State of Texas, or any agency or instrumentality of either. This article does not prohibit the pledge of assets to secure the repayment of money borrowed. Any act, deed, conveyance, pledge or contract in violation of this article shall be void.

[Acts 1943, 48th Leg., p. 152, ch. 97, subch. VI, art. 3.]

Art. 342-604. Uninvested Trust Funds—Segregation

Unless the trust instrument provides otherwise, funds received in trust by a state bank awaiting investment shall be carried in a separate account and shall not be used by the bank in the conduct of its business, unless it shall first set aside in the trust department United States government bonds or other securities eligible under the laws of this State for the investment of funds by guardians or trustees of a market value equivalent to the amount so used. In event of the liquidation of such bank the owners of the funds held in trust for investment

shall have a lien upon the bonds or other securities so set apart.

[Acts 1943, 48th Leg., p. 152, ch. 97, subch. VI, art. 4.]

Art. 342-605. Preferences

No state bank shall transfer, assign, convey, mortgage, or create any lien upon any asset belonging to it or make any payment in money or otherwise upon any indebtedness after the commission of any act of insolvency or in contemplation thereof, or while such bank is insolvent, with a view to prevent the application of its assets in accordance with the provisions of this Code, and any transfer, assignment, conveyance, mortgage, payment or other act in violation of this article shall be void.

[Acts 1943, 48th Leg., p. 152, ch. 97, subch. VI, art. 5.]

Art. 342-606. Reserve Depositories—Amount Carried

The Commissioner may approve as Reserve Depositories banks incorporated by any state or the United States with not less than Fifty Thousand Dollars (\$50,000) capital. No State bank shall deposit or loan an amount in excess of twenty per cent (20%) of its capital, certified surplus and deposits in any one reserve depository.

[Acts 1943, 48th Leg., p. 152, ch. 97, subch. VI, art. 6. Amended by Acts 1959, 56th Leg., p. 894, ch. 412, § 11, eff. May 30, 1959; Acts 1967, 60th Leg., p. 2047, ch. 756, § 1, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 1630, ch. 507, § 9, eff. June 10, 1969; Acts 1971, 62nd Leg., p. 2886, ch. 951, § 1, eff. June 15, 1971; Acts 1981, 67th Leg., p. 1818, ch. 408, § 1, eff. June 11, 1981; Acts 1983, 68th Leg., p. 3107, ch. 532, § 7, eff. Aug. 29, 1983.]

Sections 2 and 3 of the 1971 amendatory act provide:

"Sec. 2. If any provision, section, sentence, clause or part of this Act or the application thereof to any person or circumstance is held invalid, such holding shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application and to this end the provisions of this Act are declared to be severable.

"Sec. 3. All laws or parts of laws which are in conflict with this Act are hereby repealed or modified to the extent of such conflict only."

Art. 342-607. Capital Notes or Debentures—Capital Defined

With the prior written approval of the Commissioner any state bank may, at any time, through action of its board of directors and without requiring any action of its stockholders, issue and sell its capital notes or debentures, which shall be subordinate and subject to the claims of depositors and may be subordinated and subjected to the claims of other creditors or the holders of investment certificates.

With the prior approval of the owners of record of two-thirds of the capital stock and the prior written approval of the Commissioner any state bank may issue and sell its convertible capital notes or debentures, which shall be subordinate and subject to the claims of depositors and may be subordi-

nated and subjected to the claims of other creditors or the holders of investment certificates.

The term "capital" as used in this article relating to solvency of state banks shall be construed to embrace the amount of outstanding capital notes and debentures legally issued by any state bank and sold by it to the Reconstruction Finance Corporation or any other corporation or individual. The capital stock of any such bank may be deemed to be unimpaired when the amount of capital notes and debentures as represented by cash or sound assets exceeds the impairment as found by the Commissioner. Before any such capital notes or debentures are retired or paid by the bank, any existing deficiency of its capital (disregarding the notes or debentures to be retired) must be paid in cash, to the end that the sound capital assets shall at least equal the capital stock of the bank. Provided, in the event the net profits are not sufficient to meet the interest and retirement payments on the capital notes or debentures issued prior to the effective date of this Act, the Commissioner may require the bank's stockholders to pay into the bank in cash an amount sufficient to meet the deficiency. Such capital notes or debentures shall in no case be subject to any assessment. The holders of such capital notes or debentures shall not be held individually responsible as such holders for any debts, contracts, or engagements of such bank, and shall not be held liable for assessments to restore impairment in the capital of such bank.

[Acts 1943, 48th Leg., p. 152, ch. 97, subch. VI, art. 7. Amended by Acts 1981, 67th Leg., p. 1826, ch. 415, § 1, eff. Aug. 31, 1981.]

Art. 342-608. Limitation Upon Withdrawals

Upon the request of any state bank which is suffering from or threatened with unusual and excessive withdrawals due to financial conditions, panic or crisis, the Commissioner may, if he deems such action necessary in order to prevent unnecessary loss to or preference among the depositors and creditors of such bank, and to preserve the financial structure of the bank and its usefulness to the community, limit the right of withdrawal by or payment to depositors and creditors, and other persons to whom the bank is liable, provided, however, that such limitations shall be uniform in their application to each class of liability, and shall not defer any person in his right to full payment or withdrawal for more than ten (10) days.

[Acts 1943, 48th Leg., p. 152, ch. 97, subch. VI, art. 8.]

CHAPTER SEVEN. DEPOSITORY CONTRACTS

Art.

- 342-701. Depository Contract—Limitation of Actions—Amendments to Contracts.
 342-702. Brokered Funds Defined—Reporting—Commissioner's Authority.
 342-703. Deposits—Discharge from Liability on Public Funds.

Art.

- 342-704. Deposits—Discontinuance or Reduction of Interest.
 342-705. Adverse Claims to Deposits—Disclosure as to Amount Deposited—Subpoenas and Production.
 342-706. Joint Deposits—Minors, Married Women—Trustees.

Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, enacting the Uniform Commercial Code, repealed Articles 1 to 6, 11 and 12 of Subchapter VII of the Banking Code of 1943 [former arts. 342-701 to 342-706, 342-711 and 342-712 respectively], effective June 30, 1966. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721 was itself repealed by Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code effective September 1, 1967. However, the latter Act specifically provided that the repeal did not affect the prior operation of the 1965 Act or any prior action taken under it. See, now, Business and Commerce Code, § 4.101 et seq.

Acts 1971, 62nd Leg., p. 2875, ch. 947, §§ 1, 2, effective August 30, 1971, amended Subchapter VII of the Banking Code of 1943 by adding Article 2 [art. 342-702], and by renumbering Articles 7, 7a to 10 [formerly numbered arts. 342-707, 342-707a to 342-710] as Articles 1, 3 to 6 [arts. 342-701, 342-703 to 342-706], respectively.

Art. 342-701. Depository Contract—Limitation of Actions—Amendments to Contracts

Sec. 1. The depository contract between a bank and a depositor, whether evidenced by deposit tickets, signature cards, notices provided for in Section 2 of this article, resolutions, rules and regulations, or otherwise shall be deemed a contract in writing for all purposes. The cause of action on any such depository contract, other than a time deposit, shall not accrue until the bank has denied liability and given the depositor notice thereof. Provided that the delivery to the depositor of a statement of his account or pass book reflecting the balance, or the mailing of a statement of such account (with or without cancelled items) to the depositor at his address as reflected by the books of the bank, shall constitute a denial of any liability on the part of the bank in excess of the balance reflected by such statement or pass book, and notice thereof to the depositor, and, to the extent of any excess over the balance reflected shall accrue the cause of action.

Sec. 2. A bank at its option may amend a depository contract or incorporate new terms or provisions therein by mailing written notice to the depositor of such amendments or new terms or provisions, such notice (or enclosures therewith) to include (i) the text of each new or amended term or provision and (ii) a statement of the depositor's right to terminate the account prior to the effective date of such new

or amended term or provision (which effective date shall not be less than 30 days after the date of mailing the notice) without becoming bound by such new or amended term or provision; provided that the effective date of new or amended terms or provisions need not be delayed for such period (and notice of a right to terminate need not be given) if such amendment or addition is made to comply with law or regulation authorizing such earlier effective date, is made to change the rate of interest to be paid by the bank on an interest bearing account (if such change is otherwise made in accordance with the depository contract or other applicable law or regulation), or is made for reasons relating to security of accounts. Such notice may be given by separate mailing addressed to the depositor at the address reflected by the records of the bank or may be included with the statement of account and mailed or delivered to the depositor in the manner otherwise prescribed for the mailing or delivery of statements of account.

Sec. 3. The procedure for amending depository contracts provided for in Section 2 of this article shall not limit nor impair but shall be in addition to and cumulative of any procedures otherwise permitted by applicable law for establishing or amending depository contracts.

[Acts 1943, 48th Leg., p. 154, ch. 97, subch. VII, art. 7. Renumbered by Acts 1971, 62nd Leg., p. 2876, ch. 947, § 2, eff. Aug. 30, 1971. Amended by Acts 1983, 68th Leg., p. 3056, ch. 525, § 1, eff. Sept. 1, 1983.]

Section 3 of the 1983 amendatory act provides:

"This Act shall not restrict or apply to amendment of depository contracts, addition of new terms or provisions to depository contracts, or disclosure or production of deposits or of records of accounts and other bank records where such amendment, addition, or disclosure is made under or in substantial compliance with applicable federal laws or regulations. This Act shall not restrict or apply to the use or disclosure by a bank of information or records pertaining to deposits, accounts, or bank transactions where such use or disclosure is made in good faith in the usual course of the financial business of the bank, is made by the bank in the course of the litigation affecting its interests, or is made with express or implied consent of the depositor or customer. The provisions of this Act shall not apply to the investigation or prosecution of criminal offenses."

Art. 342-702. Brokered Funds Defined—Reporting—Commissioner's Authority

For the purpose of this article, "brokered funds" are funds accepted by a bank on which a fee in money is paid or agreed to be paid, directly or indirectly, either to the depositor of such funds or a third party by such bank or a third party, in addition to any interest to be paid under the contract of repayment.

In the event that any bank shall accept brokered funds as defined herein, it shall forthwith notify the Commissioner in writing of the acceptance of such funds, the depositor and his address, any loans, if any, made in consideration of or conditioned upon said deposit, and listing the borrower, his address, and any collateral securing said loan, and such other information concerning said deposit and loan as the Commissioner may require and on such forms as

may be prescribed by the Commissioner. The Commissioner may further require any bank to report such brokered funds and loans as above described, if any, which have been accepted or made previous to the effective date of this Act.

Provided, however, should the Commissioner find from examination or other evidence that a bank is being operated in an unsafe manner, or insolvency of the bank is threatened, or the continued acceptance of brokered funds will threaten the liquidity of the bank, then the Commissioner shall have the authority to act as follows:

(a) to issue an order to cease and desist from further accepting any brokered funds, or otherwise to regulate the amount of such funds which may be accepted or the rate of interest to be paid, and

(b) to issue a written order stating that after the effective date thereof all brokered funds accepted by said bank shall be and are hereby classified as the issuance, sale and negotiation of "notes, bonds, and other evidence of indebtedness" by the bank as provided in Paragraph (h), Article 1, Chapter III of such Code,¹ and not as deposits received by the bank as provided in Paragraph (a), Article 1, Chapter III of the Banking Code of 1943 as amended.² In the event that brokered funds are accepted after issuance of such order, it shall be the duty of said bank to state in the contract of repayment that in the event of liquidation of the issuing bank, the owner and holder of such contract of repayment shall be considered and treated as a common creditor and not as a depositor of the bank, and a cash reserve of ten percent (10%) of the total outstanding brokered funds shall be maintained against such funds, in the same manner as cash reserves are maintained against demand deposits and time deposits.

Provided further, that the Commissioner may exercise any or all of the powers above provided, which shall be cumulative of any other powers and remedies provided elsewhere in this Code.

[Acts 1971, 62nd Leg., p. 2875, ch. 947, § 1, eff. Aug. 30, 1971.]

¹ Article 342-301(h).

² Article 342-301(a).

Sections 3 and 4 of the 1971 act provide:

"Sec. 3. If any provision, section, sentence, clause or part of this Act or the application thereof to any person or circumstance is held invalid, such holding shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application and to this end the provisions of this Act are declared to be severable.

"Sec. 4. All laws or parts of laws which are in conflict with this Act are hereby repealed or modified to the extent of such conflict only."

Art. 342-703. Deposits—Discharge from Liability on Public Funds

Any bank or depository with whom there may be deposited funds of the State or of any county, city, school district, improvement district or any other municipal subdivision or district or public agency,

upon the payment of any warrant, check or draft drawn by the qualified public official or officials authorized to make withdrawals of such funds or any part thereof, shall be fully discharged of any further liability on account of the deposit covered by such withdrawals.

[Acts 1949, 51st Leg., p. 832, ch. 450, § 1. Renumbered by Acts 1971, 62nd Leg., p. 2876, ch. 947, § 2, eff. Aug. 30, 1971.]

Art. 342-704. Deposits—Discontinuance or Reduction of Interest

Any bank heretofore or hereafter contracting to pay interest on any deposit or investment certificate without a definite maturity date may reduce the rate of, or discontinue its liability for, interest by posting prior notice thereof for at least thirty (30) days in the lobby of its banking house. This article shall not affect any contractual provision relative to the reduction of the rate of, or the discontinuing of liability for, interest.

[Acts 1943, 48th Leg., p. 154, ch. 97, subch. VII, art. 8. Renumbered by Acts 1971, 62nd Leg., p. 2876, ch. 947, § 2, eff. Aug. 30, 1971.]

Art. 342-705. Adverse Claims to Deposits—Disclosure as to Amount Deposited—Subpoenas and Production

Sec. 1. No bank shall be required to recognize the claim of any third party to any deposit, or withhold payment of any deposit to the depositor or to his order, unless and until the bank is served with citation or other appropriate process issuing out of a court of competent jurisdiction in connection with a suit instituted by such third party for the purpose of recovering or establishing an interest in such deposit; neither shall any bank be required to disclose or produce to third parties, or permit third parties to examine the amount deposited by any depositor or records of accounts or other bank records except (i) where the depositor or owner of such deposit or other bank customer as to whom records of accounts or other bank records are to be disclosed is a proper or necessary party to a proceeding in a court of competent jurisdiction in which event the records pertaining to the deposits, accounts, or other bank transactions of such depositor, owner, or customer shall be subject to disclosure or (ii) where the bank itself is a proper or necessary party to a proceeding in a court of competent jurisdiction or (iii) in response to a subpoena issued by a legislative investigating committee of the Legislature of Texas, or (iv) in response to a request for examination of its records by the Attorney General of Texas pursuant to Article 1302-5.01 et seq. of the Texas Miscellaneous Corporation Laws Act.

Sec. 2. Unless ordered otherwise by a court of competent jurisdiction, before disclosure, production, or examination may be required under Section 1 of this article, the agency, body, or party issuing or obtaining the order, subpoena, or request for the

disclosure, examination, or production of records of deposits or accounts and other bank records shall (1) give notice of such order, subpoena, or request to the depositor or bank customer by personally serving the depositor or customer with a copy thereof or by mailing a copy thereof to the depositor or customer by certified mail, return receipt requested, at least 10 days preceding the date when compliance with the order, subpoena, or request is required, and (2) certify to the bank (at the time the order, subpoena, or request is served or delivered to the bank) that the depositor or bank customer has been served with or has been mailed a copy of the order, subpoena, or request as required herein. A bank shall be entitled to recover reasonable costs of reproduction which it incurs in complying with orders, subpoenas, and requests for the disclosure, examination, or production of records of deposits or accounts and other bank records. The bank may notify its customer or depositor (unless ordered otherwise by a court of competent jurisdiction) of its receipt of any subpoena, order, or request for production.

Sec. 3. Each customer or depositor to whom notice of an order, subpoena, or request for disclosure, examination, or production of records of deposits or accounts or other bank records may, prior to the date specified therein for disclosure, examination, or production, file in an appropriate district court of the State of Texas a motion to quash the order, subpoena, or request or for protective order and shall make personal service of such motion on the party, agency, or body issuing or obtaining such order, subpoena, or request and on the bank prior to the date for disclosure, examination, or production. Any motion to quash or for protection shall be verified. Failure to file and serve such motion to quash or for protection shall constitute consent for all purposes to disclosure, production, or examination made pursuant to this article.

[Acts 1943, 48th Leg., p. 154, ch. 97, subch. VII, art. 9. Amended by Acts 1963, 58th Leg., p. 1135, ch. 440, § 1, eff. Aug. 23, 1963. Renumbered by Acts 1971, 62nd Leg., p. 2875, ch. 947, § 2, eff. Aug. 30, 1971. Amended by Acts 1983, 68th Leg., p. 3057, ch. 525, § 2, eff. Sept. 1, 1983.]

Section 3 of the 1983 amendatory act provides:

"This Act shall not restrict or apply to amendment of depository contracts, addition of new terms or provisions to depository contracts, or disclosure or production of deposits or of records of accounts and other bank records where such amendment, addition, or disclosure is made under or in substantial compliance with applicable federal laws or regulations. This Act shall not restrict or apply to the use or disclosure by a bank of information or records pertaining to deposits, accounts, or bank transactions where such use or disclosure is made in good faith in the usual course of the financial business of the bank, is made by the bank in the course of the litigation affecting its interests, or is made with express or implied consent of the depositor or customer. The provisions of this Act shall not apply to the investigation or prosecution of criminal offenses."

Art. 342-706. Joint Deposits—Minors, Married Women—Trustees

A bank may pay a present or future deposit, payable to or on the order of (a) any one of two or

more persons, or (b) a minor, married woman, or other person under disability, or in form payable to or on the order of one person, for the benefit of or in trust for another, without the terms of the trust being disclosed to the bank in writing, to any one of such joint depositors (before or after the death of the other joint depositor or depositors), or to such minor, married woman, or other person under disability, or, on the death or disability of the trustee, to the beneficiary of such trust.

[Acts 1943, 48th Leg., p. 154, ch. 97, subch. VII, art. 10. Amended by Acts 1971, 62nd Leg., p. 2876, ch. 947, § 2, eff. Aug. 30, 1971.]

CHAPTER EIGHT. LIQUIDATION

Art.

- 342-801. Exclusive Methods of Liquidation.
- 342-801a. Supervision of Banks—Conservatorship Proceedings—Review—Procedure.
- 342-802. Voluntary Liquidation of Solvent State Bank—Cancellation of Charter—Resumption of Business Prohibited.
- 342-803. Closing State Bank—By Commissioner—By Directors.
- 342-804. Posting of Notice—Creation of Liens, Transfers and Payment after Closing.
- 342-805. Contest of Liquidation.
- 342-806. Inventory of Assets—Custodia Legis—Jurisdiction.
- 342-807. Resumption of Business—Reorganization.
- 342-808. Notice to Depositors and Creditors.
- 342-809. Presentation of Claim.
- 342-810. Approval—Classification and Rejection.
- 342-811. Appeal by Claimant.
- 342-812. Powers of Commissioner—Sale of Assets—Compromises and Agreements.
- 342-813. Expenses of Administration.
- 342-814. Dividends—Delayed Claims.
- 342-815. Final Dividend—Report—Disposition of Assets—Discharge.
- 342-816. Deposit of Funds by Commissioner in Banks—Preferred Payment.

Art. 342-801. Exclusive Methods of Liquidation

The methods of liquidation of state banks as provided for in this Code shall be exclusive and no state bank shall make an assignment for the benefit of creditors, nor shall any court appoint a receiver for any state bank. Provided, however, nothing in this article shall prohibit the liquidation of a state bank by The Federal Deposit Insurance Corporation as provided in Article 489b, Acts 1935, Forty-fourth Legislature of Texas, Page 459, Chapter 183.

[Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 1.]

Art. 342-801a. Supervision of Banks—Conservatorship Proceedings—Review—Procedure

Definition of Terms

Sec. 1. As used in this article, the following words, terms and phrases include the meanings, significance or application described in this section, except as another meaning is clearly requisite from

the purposes or is otherwise clearly indicated by the context:

(a) In respect of a bank, "unsafe condition" shall mean and include, and the conditions to which this article is applicable include, but are not limited to, any one or more of the following circumstances or conditions.

(1) if a bank's capital is impaired, or impairment of capital is threatened, or

(2) if a bank violates the provisions of this code or any other law or regulation applicable to State banks, or

(3) if a bank conducts any fraudulent or questionable practice in the conduct of the bank's business that endangers the bank's reputation or threatens its solvency, or

(4) if a bank conducts business in an unsafe or unauthorized manner, or

(5) if a bank violates any conditions of its charter or any agreement entered with the Banking Commissioner or the Banking Department.

(b) "Exceeded its Powers" shall mean and include, but is not limited to, the following circumstances:

(1) if a bank has refused to permit examination of its books, papers, accounts, records, or affairs by the Banking Commissioner of Texas, his deputy, or duly commissioned examiner, or

(2) if a bank has neglected or refused to observe an order of the Commissioner to make good, within the time prescribed, any impairment of its capital.

(c) "Consent" includes and means a written agreement by the bank to either supervision or conservatorship under this article.

Conditions for Supervision by Commissioner

Sec. 2. If upon examination or at any other time it appears to or is the opinion of the Banking Commissioner that any bank is in an unsafe condition (as defined herein) and its condition is such as to render the continuance of its business hazardous to the public or to its depositors and creditors, or if such bank appears to have exceeded its powers (as defined herein) or has failed to comply with the law, or if such bank gives its consent (as defined herein), then the Banking Commissioner shall upon his determination (a) notify the bank of his determination, and (b) furnish to the bank a written list of the Commissioner's requirements to abate his determination, and (c) if the Commissioner makes a further determination to supervise he shall notify the bank that it is under the supervision of the Banking Commissioner and that the Commissioner is invoking the provisions of this article. If placed under supervision such bank shall comply with the lawful requirements of the Banking Commissioner within such time as provided in the notice of the Commissioner, subject however to the provisions of this article. In the event of such bank's failure to

comply within such time the Banking Commissioner may appoint a conservator as hereafter provided.

Prohibited Acts During Period of Supervision

Sec. 3. During the period of supervision the Commissioner may appoint a supervisor to supervise such bank and may provide that the bank may not do any of the following things during the period of supervision, without the prior approval of the Commissioner or his supervisor:

- (1) Dispose of, convey or encumber any of its assets;
- (2) Withdraw any of its bank accounts;
- (3) Lend any of its funds;
- (4) Invest any of its funds;
- (5) Transfer any of its property; or
- (6) Incur any debt, obligation or liability.

Conservatorship Proceedings

Sec. 4. After the period of supervision specified by the Commissioner for compliance, if it is determined that such bank has failed to comply with the lawful requirements of the Commissioner, then upon due notice and hearing, or by consent of the bank, the Commissioner may appoint a conservator, who shall immediately take charge of such bank and all of the property, books, records, and effects thereof. The conservator shall conduct the business of the bank and take such steps toward the removal of the causes and conditions which have necessitated such order, as the Commissioner may direct. During the pendency of conservatorship the conservator shall make such reports to the Commissioner from time to time as may be required by the Commissioner, and shall be empowered to take all necessary measures to preserve, protect, and recover any assets or property of such bank, including claims or causes of action belonging to or which may be asserted by such bank, and to deal with the same in his own name as conservator, and shall be empowered to file, prosecute, and defend any suit or suits which have been filed or which may thereafter be filed by or against such bank which are deemed by the conservator to be necessary to protect all of the interested parties or any property affected thereby. The Banking Commissioner, or any duly appointed deputy, may be appointed to serve as the conservator. If the Banking Commissioner, however, is satisfied that such bank is not in condition to continue business in the interest of its depositors or creditors, under the conservator as above provided, the Banking Commissioner may proceed with an appropriate remedy provided by any other provision of this Code.

Supervisor's and Conservator's Service Charge

Sec. 5. The cost incident to the supervisor's and conservator's service shall be fixed and determined by the Banking Commissioner and shall be a charge against the assets and funds of the bank to be

allowed and paid as the Banking Commissioner may determine.

Review and Stay of Action

Sec. 6. During the period of supervision and during the period of conservatorship, the bank may request the Banking Commissioner or in his absence, the duly appointed deputy for such purpose, to review an action taken or proposed to be taken by the supervisor or conservator, specifying wherein the action complained of is believed not to be in the best interests of the bank, and such request shall stay the action specified pending review of such action by the Commissioner or his duly appointed deputy. Any order entered by the Commissioner appointing a supervisor and providing that the bank shall not do certain acts as provided in Section 3 and Section 4 of this article, any order entered by the Commissioner appointing a conservator, and any order by the Commissioner following the review of an action of the supervisor or conservator as hereinabove provided shall be immediately reviewed by the Banking Section of the Finance Commission upon the filing of an appeal by the bank. The Banking Section of the Finance Commission may stay the effectiveness of any order appealed from, pending its review of such order. Such appeal shall have precedence over all other business of a different nature pending before the Banking Section of the Finance Commission; and all matters and evidence pertaining to the bank's condition and the subject appeal shall be presented to the Banking Section of the Finance Commission in a closed hearing. Upon hearing the Banking Section shall promptly render a decision which may affirm or terminate the order appealed from, modify the order, continue or discontinue such supervision, conservatorship or other order in connection therewith, or enter such other order as is appropriate and consistent with this article. The Banking Section of the Finance Commission shall make such other rules and regulations with regard to such appeals and their consideration as it deems advisable. Any bank dissatisfied with any order rendered by the Banking Section of the Finance Commission under this article shall have the right to appeal to the district court in the manner prescribed elsewhere in this Code, which order shall be considered final for the purpose of such appeal.

Venue

Sec. 7. Any suit filed against a bank or its conservator, after the entrance of an order by the Banking Commissioner placing such bank in conservatorship and while such order is in effect, shall be brought in a court of competent jurisdiction in Travis County, Texas, and not elsewhere. The conservator appointed hereunder for such bank may file suit in any court of competent jurisdiction in Travis County, Texas, against any person for the purpose of preserving, protecting, or recovering any assets or property of such bank including claims or causes

of action belonging to or which may be asserted by such bank.

Duration of Conservatorship

Sec. 8. As respects a conservatorship, the conservator shall serve for such time as is necessary to accomplish the purposes of the conservatorship as intended by this Act. If rehabilitated, the rehabilitated bank shall be returned to management or new management under such conditions as are reasonable and necessary to prevent recurrence of the conditions which occasioned the conservatorship.

Administrative Election of Remedies

Sec. 9. If the Commissioner determines to act under authority of this article, or is directed by the Banking Section of the Finance Commission to act under this article, the sequence of his acts and proceedings shall be as set forth herein. However, it is a purpose and substance of this article to authorize administrative discretion—to allow Commissioner and the Banking Section of the Finance Commission administrative discretion in the event of unsound banking operations—and in furtherance of that purpose, the Commissioner is hereby authorized to proceed with regulation either under this article or under any other applicable article or law, or under this law in conjunction with other law, either as such law is now existing or as is hereafter enacted, and it is so provided.

Rules and Regulations

Sec. 10. The Banking Section of the Finance Commission shall be empowered to adopt and promulgate such reasonable rules and regulations as may be necessary for the augmentation and accomplishment of this Act, including its purposes.

[Acts 1971, 62nd Leg., p. 2877, ch. 948, § 1, eff. June 15, 1971.]

Sections 3 and 4 of the 1971 Act provide:

"Sec. 3. All laws or parts of laws which are in conflict with this Act are hereby repealed or modified to the extent of such conflict only.

"Sec. 4. If any provision, section, sentence, clause or part of this Act or the application thereof to any person or circumstance is held invalid, such holding shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application and to this end the provisions of this Act are declared to be severable."

Art. 342-802. Voluntary Liquidation of Solvent State Bank—Cancellation of Charter—Resumption of Business Prohibited

A solvent state bank may be closed and liquidated upon the written consent or vote of the owners of record of two thirds of its capital, which consent, or the resolution adopted by the stockholders, shall specify the date when such bank is to be closed and shall designate one or more individuals to act as the liquidating agent, who shall conduct the liquidation under the supervision of the board of directors, after giving suitable bond as prescribed by said board and approved by the Commissioner. Prior to

the closing of such state bank, the directors shall file with the Commissioner a transcript of the proceedings authorizing the closing of the bank. Notice to its depositors and creditors to present their claims shall be published once a week for thirteen (13) weeks, beginning within ten (10) days after the closing of the bank, in a newspaper of general circulation published in the county of the bank's domicile, or if no such newspaper is published in said county, in an adjacent county. Upon presentment of lawful claims, the bank shall pay its depositors and creditors, provided that such payment may be effected through a disbursing agent as authorized under Article 10 of Chapter 3 of this Code.¹ The liquidating agent shall make a written report to the stockholders at each annual meeting, a copy of which, signed and sworn to by the liquidating agent, shall be filed with the Commissioner. The stockholders at any regular or special meeting may remove the liquidating agent and name a successor. The Commissioner may from time to time examine the liquidating bank and may, if the depositors and creditors are not paid upon presentment of their lawful claims, or if, prior to the payment of all depositors and creditors, he finds any condition which would authorize the closing of the bank were it not in voluntary liquidation, take possession of the assets and liquidate the same in the manner herein provided for the liquidation of insolvent state banks.

Upon the expiration of six (6) months from the first publication of notice as above provided, the bank shall file with the Commissioner an affidavit sworn to by a majority of the qualified directors stating that all depositors and creditors who have presented their claims have been paid the amounts due them, and listing those depositors and creditors who have not presented their claims, giving their addresses as shown by the books of the bank and the amounts respectively due each. Such affidavit shall be accompanied by a publisher's certificate showing publication of notice as above provided, and by a sum equal to the aggregate amount due the non-claiming depositors and creditors. The Commissioner shall hold such money for the benefit of said depositors and creditors in the manner provided in Article 15 of this Chapter.²

At any time after the filing of such affidavit, the board of directors may distribute the remaining assets among the shareholders in proportion to their ownership of stock of the bank and shall thereafter file with the Commissioner an affidavit sworn to by a majority of the qualified directors showing such distribution. The filing of such affidavit and the approval thereof by the Commissioner shall have the effect of cancelling the charter of the bank without the necessity of any judicial action.

No state bank which has been closed pursuant to the provisions of this article shall resume business

or reopen without the prior written consent of the Commissioner.

[Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 2.]

¹ Article 342-310.

² Article 342-815.

Art. 342-803. Closing State Bank—By Commissioner—By Directors

Whenever the Commissioner, through examination, finds that the interests of depositors and creditors of a state bank are seriously jeopardized through its insolvency or imminent insolvency and that it is to the best interest of such depositors and creditors that the bank be closed and its assets liquidated, he may close and liquidate the bank, unless its board of directors close the bank and place it in his hands for liquidation.

[Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 3. Amended by Acts 1983, 68th Leg., p. 3108, ch. 532, § 8, eff. Aug. 29, 1983.]

Art. 342-804. Posting of Notice—Creation of Liens, Transfers and Payment after Closing

Immediately after the closing of any state bank by its directors or by the Commissioner under the provisions of Article 3 of this chapter,¹ the Commissioner shall place an appropriate sign to that effect at the main entrance of the bank, and thereafter no judgment lien, attachment lien or other voluntary lien shall attach to any asset of said bank, nor shall the directors, officers or agents of such bank thereafter have authority to act for or on behalf of said bank or to convey, transfer, assign, pledge, mortgage or encumber any asset thereof, and any attempt by any officer, director or agent to transfer, assign, convey, mortgage or pledge any asset of the bank or to create any lien thereon or in any manner to prefer any depositor or creditor of the bank after the posting of such notice or in contemplation thereof shall be void. The Commissioner immediately after posting the notice at the entrance of such bank shall advise its correspondent banks of its closing. No correspondent shall pay any item drawn on the account of the closed bank which is presented for payment after the receipt of such advice, unless the same has been previously certified.

[Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 4.]

¹ Article 342-803.

Art. 342-805. Contest of Liquidation

At any time within two (2) days, excluding legal holidays for banks, after the Commissioner has closed any state bank under the provisions of Article 3 of this Chapter,¹ such bank, acting through its directors, may sue in the district court of the bank's domicile to enjoin the Commissioner from liquidating such bank, and the court, or the judge thereof if in vacation, may, without notice or hearing, restrain the Commissioner from liquidating the assets of

such bank pending hearing on the merits, and shall, in that event instruct the Commissioner to hold the assets of such bank in his possession pending final disposition of such suit. The Commissioner shall thereupon refrain from liquidating such assets, provided, however, the Commissioner may, with the approval of the district judge, take such action as may be necessary or proper to prevent loss or depreciation in the value of the assets. The court shall, as soon as possible, hear the suit upon its merits and shall enter a judgment (1), enjoining the Commissioner from liquidating the assets of such bank, or (2) refusing such injunction. Appeal shall lie from such judgment as in other civil cases, but the Commissioner, irrespective of the character of judgment entered by the trial court or any supersedeas bond filed, shall retain possession of the assets of such bank pending final disposition on appeal.

[Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 5. Amended by Acts 1983, 68th Leg., p. 3109, ch. 532, § 9, eff. Aug. 29, 1983.]

¹ Article 342-803.

Art. 342-806. Inventory of Assets—Custodia Legis—Jurisdiction

Promptly after the Commissioner has acquired possession of the assets of a state bank for liquidation, he shall prepare and file in the office of the district clerk of the county of the bank's domicile an inventory of such assets, and the clerk shall assign a cause number to the proceedings so instituted. The assets of the bank shall be deemed to be in the custody of the court in which such proceedings are pending and all suits and orders provided for under this chapter¹ shall be deemed to be in the nature of interventions or orders in said proceedings, of which suits and orders said court shall have exclusive jurisdiction. Provided, however, that during vacation of such court, the judge thereof shall be authorized to enter any of such orders and to conduct any hearing incident thereto.

[Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 6.]

¹ Article 342-801 et seq.

Art. 342-807. Resumption of Business—Reorganization

No state bank which has been closed under the provisions of Article 3 of this Chapter¹ shall be reopened unless the contest provided for under Article 5 of this chapter² is finally determined adversely to the Commissioner, or unless the Commissioner, acting under order of the district court, shall authorize such reopening by a certificate under the seal of his office. The Commissioner may in such certificate place such limitations upon the right of withdrawal by, or payment of, depositors and creditors of such bank as he may deem necessary to the protection of the depositors and creditors as a whole. Provided, however, that such limitation shall be applicable alike to all unsecured depositors and creditors and shall not defer their right of full withdrawal or payment for more than eighteen (18)

months from the date of the reopening of such bank, nor defer any secured depositor or creditor to any extent without his written consent.

The limitations upon the right of withdrawal or payment set out in the certificate of the Commissioner shall when the bank is reopened be binding upon all unsecured depositors and creditors and all secured depositors and creditors who have assented thereto in writing. The State of Texas, or any county, city, common or independent school district or any other political subdivision of this State, as depositor or creditor, may by the proper administrative official or officials, board, or tribunal agree to such limitations, if, in his or their opinion such agreement is to the best interest of all concerned.

[Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 7.]

¹ Article 342-803.

² Article 342-805.

Art. 342-808. Notice to Depositors and Creditors

Upon final determination that any state bank is to be liquidated by the Commissioner, he shall publish notice for the time and in the manner prescribed in Article 2 of this Chapter,¹ provided, however, that the Commissioner's notice shall require all depositors and creditors to file written proofs of claim with the Commissioner at his office in Austin, Texas, and the Commissioner shall within thirty (30) days after the first publication of such notice mail a similar notice to each depositor or creditor shown upon the books of the bank at his address as reflected thereby.

[Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 8.]

¹ Article 342-802.

Art. 342-809. Presentation of Claim

Each depositor, creditor or other person asserting any claim of any character against a state bank in the process of liquidation by the Commissioner, shall within eighteen (18) months of the date of the first publication of notice, as provided for in the preceding article,¹ present his claim in writing to the Commissioner at his office in Austin, Texas. Such claims shall state the facts upon which the same are based; shall set out any right of priority of payment or other specific rights asserted by the claimant and shall be signed and sworn to by the claimant.

[Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 9.]

¹ Article 342-808.

Art. 342-810. Approval—Classification and Rejection

Within three (3) months after receipt of any claim against a state bank which is in his hands for liquidation, the Commissioner shall, unless such time is extended by written agreement with the claimant, approve or reject such claim in whole or in part. If he approves such claim, or any part thereof, he shall classify the same and enter such claim and his action thereon in a claim register. If the Commissioner rejects any claim in whole or in part,

or if he denies any right of priority of payment or any other right asserted by the claimant, he shall notify the claimant of his action by registered mail.

[Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 10.]

Art. 342-811. Appeal by Claimant

Any claimant may, within three (3) months from the date of mailing of notice by the Commissioner as provided by the preceding Article,¹ sue upon such claim in the district court; otherwise the action of the Commissioner shall be final and not subject to review. The trial of such suit shall be de novo as if originally filed in said court and subject to the rules of procedure and appeal applicable to civil cases.

[Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 11.]

¹ Article 342-810.

Art. 342-812. Powers of Commissioner—Sale of Assets, Compromises and Agreements

Pursuant to the order of the district court, entered with or without hearing, the Commissioner may sell any of the assets of a state bank in his hands for liquidation; may borrow money and pledge the whole or any part of such assets of such bank to secure the debt created; may compromise or compound any bad or doubtful claim held by or asserted against such bank; and may enter into any other kind or character of contract or agreement on behalf of such bank which he deems necessary or proper to the management, conservation or liquidation of its assets and all parties interested in the affairs of such bank shall be bound and precluded by the action of the Commissioner. Provided that said court, if it deems it advantageous or proper, may require notice and hearing before entering any order, and in that event shall, by order, fix the time and place of the hearing and prescribe the character of notice to be given thereof. Further provided that said court, in its discretion, and subject to such limitations as it may prescribe, may by general order authorize the Commissioner (a) to compound or compromise any claim or debt involving not more than Ten Thousand Dollars (\$10,000) held by or asserted against the bank, and (b) to sell all chattels belonging to the bank.

[Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 12. Amended by Acts 1981, 67th Leg., p. 1825, ch. 414, § 1, eff. June 11, 1981.]

Art. 342-813. Expenses of Administration

The expense of liquidation of state banks shall be paid out of the assets thereof, subject to review and approval by order of the district court. The Commissioner is authorized to employ such special agents, attorneys and other assistants as may be necessary or proper to the administration of the affairs of such banks, and shall, if he deems it to be in the interest of economy and efficiency, establish a central office unit to assist in the supervision of the liquidation of said banks.

[Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 13.]

Art. 342-814. Dividends—Delayed Claims

The Commissioner may from time to time in the course of the liquidation of a state bank, upon order of the district court, pay dividends to those depositors and creditors who have established their claims, provided that no final dividend shall be paid within eighteen (18) months of the date of the first publication of notice as prescribed in Article 8 of this Chapter.¹ All claims filed after the declaration and payment of any dividend and prior to the expiration of such eighteen (18) months shall, if approved, participate in dividends previously paid before any additional dividend is declared. Claims which are not presented within said eighteen (18) months period shall not participate in any dividend or distribution of assets until after full payment of all approved claims presented during such period.

[Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 14.]

¹ Article 342-808.

Art. 342-815. Final Dividend—Report—Disposition of Assets—Discharge

At any time after the expiration of eighteen (18) months from the first publication of notice as specified in Article 8 of this Chapter,¹ after the Commissioner has liquidated all of the assets of a bank capable of liquidation or has realized sufficient funds from such liquidation to pay the costs thereof, to pay all claims which have been filed and established, and leave funds available to provide for the payment of all non-claiming depositors and creditors, the Commissioner shall, acting under order of the district court, declare and pay a final dividend. The Commissioner shall deposit in one or more state banks all funds hereafter available for the benefit of non-claiming depositors and creditors. All unclaimed dividends and all funds hereafter available for nonclaiming depositors and creditors, together with all funds held pursuant to the provisions of Article 540 of the Revised Civil Statutes of Texas,² (which latter funds shall be transmitted by the State Treasurer to the Commissioner together with a list of the depositors and creditors for whose benefit the same is held), shall be deposited by the Commissioner in one or more State banks for the benefit of the depositors and creditors entitled thereto. The Commissioner shall pay any depositor or creditor, upon his demand, any amount so held for his benefit. In event the Commissioner is in doubt as to the identity of any claimant or his right to the funds thus held, he shall reject the claim and notify the claimant by registered mail. The claimant shall, within three (3) months after mailing of such notice by the Commissioner, institute suit against the Commissioner in the district court to recover such funds, which suit shall be in the nature of an action in rem governed by the rules of procedure and appeal applicable to civil cases and the judgment therein shall be binding upon all persons interested in such funds. If such suit is not filed within the time prescribed, the rejection of the Commissioner shall be final. After paying a final dividend as above

provided and doing each and every act necessary or proper in connection with the liquidation of the assets of such bank for the benefit of the depositors and creditors, the Commissioner shall file in the district court his final report of such liquidation, and said court shall by order fix and designate a time and place when and where such report shall be heard, and direct the Commissioner to give such notice thereof as the court may deem proper. If said court, after such notice and hearing shall find that the affairs of said bank have been administered properly and in accordance with law it shall approve such report, and the order of approval shall have the force and effect of forfeiting and cancelling the corporate charter of such bank, vesting title to the remaining assets, if any, in the stockholders of said bank, and releasing and discharging the Commissioner from any further duty, obligation or liability in connection with the administration of the affairs of such bank, and thereafter no person shall have or maintain any claim, suit or action against the Commissioner individually or in his capacity as statutory liquidator of such bank other than suits to recover unclaimed deposits as above provided. The district court may, in such order, direct the Commissioner as to the disposition of the books, records and remaining assets, if any, of such bank and may designate a trustee to whom the Commissioner shall deliver physical possession of the same, and who, under the supervision of said court shall administer or liquidate such assets for the benefit of the former stockholders of such bank.

[Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 15.]

¹ Article 342-808.

² Repealed.

Art. 342-816. Deposit of Funds by Commissioner in Banks—Preferred Payment

The Commissioner shall, except where otherwise provided by law, deposit all funds coming into his hands in one or more state banks, and such funds so deposited by the Commissioner pursuant to the provisions of law shall constitute preferred claims against the assets of such bank in event of liquidation.

[Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 816.]

CHAPTER NINE. GENERAL PROVISIONS**Art.**

- 342-901. State Instrumentality—Depositary—Fiscal Agent.
- 342-902. Unauthorized Banking—Advertising—Private Banks—Penalty.
- 342-903. Branch Banking Prohibited.
- 342-903a. Unmanned Teller Machines.
- 342-903b. Repealed.
- 342-903c. Consumer Convenience Terminals.
- 342-904, 342-905. Repealed.
- 342-906. Safety Deposit Boxes—Access by Joint Lessees—Opening—Lien—Sale of Content.
- 342-907. Slander or Libel of Banks—Penalty.

Art.

- 342-908. Application of Code to National Banks—Discrimination Between State and National Banks.
- 342-909. Severability of Provisions.
- 342-910. Moratoriums—Emergency Closing of Banks or Bank Operations—Limitations On Liabilities During Emergencies.
- 342-910a. Legal Holidays for Banks or Trust Companies—Alternative Legal Holidays for Banks or Trust Companies—Discrimination Prohibited.
- 342-911. Repealer of Conflicting Laws.
- 342-911.1. Appeals from Orders of State Banking Board and Finance Commission.
- 342-912. Acquisition of Bank or Holding Company under Federal Law—Notice to Commissioner—Recommendations of Commissioner.
- 342-913. Acquisition of Nonbanking Institution under Federal Law—Notice to Commissioner—Order and Appeal.
- 342-951. Repealed.

Art. 342-901. State Instrumentality—Depository—Fiscal Agent

All state banks are hereby declared to be charged with the public interest and shall be under state control and be subject to such legislation as may be enacted for the regulation of such banking institutions. Such state banks shall be deemed instrumentalities and agencies of the state, and may, when lawfully designated thereto, act as depositories for the public funds of this State or any county, city, common or independent school district or any other political subdivision of this State, in accordance with the laws of this State governing depositories of public funds now or hereafter existing; and such state banks shall act as fiscal agents for the United States, the State of Texas, or any county, city, common or independent school district or any other political subdivision of this State on request and upon reasonable compensation.

[Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 1.]

Art. 342-902. Unauthorized Banking—Advertising—Private Banks—Penalty

It shall be unlawful for any person, corporation, firm, partnership, association or common law trust:

(1) To conduct a banking or trust business or to hold out to the public that it is conducting a banking or trust business; or

(2) To use in its name, stationery or advertising, the term "bank," "bank and trust," "savings bank," "certificate of deposit," "trust" or any other term or word calculated to deceive the public into the belief that such person, corporation, firm, partnership, association, common law trust, or other group of persons is engaged in the banking or trust business.

Provided, however, that this Article shall not apply to (1) national banks; (2) state banks; (3) other corporations heretofore or hereafter organized under the laws of this state or of the United States to

the extent that such corporations are authorized under their charter or the laws of this state or of the United States to conduct such business or to use such term; and (4) private banks which were actually and lawfully conducting a banking business on the effective date of this Act so long as the owners of such bank, their successors or assigns, shall continuously conduct a banking business in the city or town where such private bank was domiciled on the effective date of this Act; provided, however, that such private banks shall include the word "Unincorporated" in their firm or business names and such word shall be prominently set out upon the stationery and in all the advertising of such private banks.

This article shall not bar an individual from acting in any fiduciary capacity if he does not hold out to the public that he is conducting any branch of the trust business.

Any person, corporation, firm, partnership, association or common law trust violating any provision of this article shall forfeit Five Hundred Dollars (\$500.00) for every day it continues so to do. Suits to recover such penalty shall be instituted in the name of the State of Texas by the Attorney General or by a District or County Attorney under his direction either in the county where the principal office of such person, corporation, firm, partnership, association or common law trust is situated, or in Travis County, Texas. Such penalties, when recovered, shall be paid into the State Treasury for the use of the School Fund.

[Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 2; Acts 1957, 55th Leg., p. 305, ch. 137.]

Art. 342-903. Branch Banking Prohibited

No State, national or private bank shall engage in business in more than one place, maintain any branch office, or cash checks or receive deposits except in its own banking house or through unmanned teller machines as authorized in Article 3a.¹ For purposes of this article "banking house" means the building in whose offices the business of the bank is conducted and which is functionally one place of business, including (a) office facilities whose nearest wall is located within five hundred (500) feet of the nearest wall of the central building and is physically connected to the central building by tunnel, passageway or hallway providing direct access between the central building and the connected office facility or by closed circuit television or pneumatic tube or other physically connected delivery device, and (b) not more than two (2) office facilities whose nearest wall is located within three thousand five hundred (3,500) feet of the central building and is physically connected to the central building by tunnel, passageway or hallway providing direct access between the central building and the connected office facility or by closed circuit television or pneumatic tube or other physically connected delivery device, and (c) in addition, not more than one (1) drive-in/walk-up facility whose

nearest boundary is located within ten thousand five hundred (10,500) feet of the nearest wall of the central building but more than five hundred (500) feet therefrom, is within the same county as the central building, and is connected to the central building by tunnel, passageway or hallway providing direct access between the central building and the connected drive-in/walk-up facility or by closed circuit television, pneumatic tube or other physically connected delivery device. The entire banking house shall for all purposes under the law be considered one integral banking house. The term "drive-in/walk-up facility" as herein used shall mean a facility offering banking services solely to persons who remain outside of the facility or in a secured teller lobby during the transaction of business with the bank.

Any bank adversely affected by a violation of this article may, and the Attorney General, upon request of the Commissioner, shall bring suit in a court of competent jurisdiction to enjoin a violation of this article. The party who prevails in such proceeding shall recover costs of suit and reasonable attorney's fees.

[Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 3. Amended by Acts 1957, 55th Leg., p. 448, ch. 220, § 1; Acts 1959, 56th Leg., p. 213, ch. 123, § 1; Acts 1963, 58th Leg., p. 134, ch. 81, § 6, eff. Aug. 23, 1963; Acts 1971, 62nd Leg., p. 1352, ch. 358, § 1, eff. Aug. 30, 1971; Acts 1975, 64th Leg., p. 531, ch. 215, § 1, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 2410, ch. 611, § 1, eff. Aug. 31, 1981; Acts 1983, 68th Leg., p. 2043, ch. 374, § 1, eff. Aug. 29, 1983.]

¹ Article 342-903a.

Sections 2 and 3 of the 1971 amendatory act provide:

"Sec. 2. If any provision, section, sentence, clause or part of this Act or the application thereof to any person or circumstance is held invalid, such holding shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application and to this end the provisions of this Act are declared to be severable.

"Sec. 3. All laws or parts of laws which are in conflict with this Act are hereby repealed or modified to the extent of such conflict only."

Section 2 of the 1981 amendatory act provides:

"This Act is not a validating act and does not authorize any automobile drive-in facility, drive-in/walk-up facility, or other facility that on or before the effective date of this Act violated Article 3, Chapter IX, The Texas Banking Code of 1943, as amended (Article 342-903, Vernon's Texas Civil Statutes), as it existed before being amended by this Act."

Art. 342-903a. Unmanned Teller Machines

Sec. 1. Subject to the provisions of this article, a bank or group of banks, for the convenience of customers, may install, maintain, operate, or utilize one or more unmanned teller machines at locations separate and apart from the banking house within the county or the city of the bank's domicile.

Sec. 2. As used in this article, the following terms shall have these meanings, unless otherwise clearly indicated by the context in which they are used:

(a) "Unmanned teller machine" means a machine, other than a telephone, capable of being operated solely by a customer, by which a customer may communicate to the bank:

(1) a request to withdraw money directly from the customer's account or from the customer's account pursuant to a line of credit previously authorized by the bank for the customer;

(2) an instruction to deposit funds into the customer's account with the bank;

(3) an instruction to transfer funds between one or more accounts maintained by the customer with the bank but not as between the customer's account and an account maintained in the bank or in some other financial institution by some other customer;

(4) an instruction to apply funds against an indebtedness of the customer to the bank; or

(5) a request for information concerning the balance of the account of the customer with the bank.

(b) "Bank" means a state, national, or private bank domiciled in this state.

Sec. 3. Authorization under this article for a bank to install, maintain, operate, or utilize one or more unmanned teller machines within the county or city of the bank's domicile does not preclude the use of bank or other personnel for the following purposes:

(a) to attend an unmanned teller machine on a temporary basis to instruct customers in the use of the machines; or

(b) to collect deposits or other funds placed in the machine, to replenish money dispensed by the machine, or to otherwise service, repair, or attend to the needs of an unmanned teller machine at frequent intervals.

Sec. 4. Banks shall have the right to share, under a written agreement, in the use of any unmanned teller machine that is located within the county or the city of the bank's domicile on a reasonable, nondiscriminatory basis and on the following conditions:

(a) any bank utilizing one or more unmanned teller machines may be required to meet necessary and reasonable technical standards and to pay charges for the use of the machines. The standards or charges imposed shall be reasonable, fair, equitable, and nondiscriminatory among banks. Any charges imposed shall not exceed an equitable proportion of both the cost of establishing the unmanned teller machines, including provisions for amortization of development costs and capital expenditures over a reasonable period of time, and the cost of operation and maintenance of the machine, plus a reasonable return on those costs, and those charges shall be related to the services provided to the bank or its customers.

(b) where more than one bank utilizes an unmanned teller machine and any bank uses, allows

the use, or is allowed to use visual or oral data identifying itself, each bank sharing the machine shall receive equal prominence in the visual and oral data available to the public at or adjacent to the machine, and no advertising with regard to the machine shall suggest, imply, or claim that any particular bank has exclusive control over the use of the machine.

Sec. 5. Where the city in which a bank is domiciled lies in more than one county, the bank may install, maintain, operate, utilize, or share one or more unmanned teller machines within the corporate limits of the city in addition to machines in the county of its domicile.

Sec. 6. On written complaint by a bank that is utilizing or that seeks to utilize on unmanned teller machine that it is being denied the use of the machine on a reasonable, nondiscriminatory basis and that the machine is, therefore, not being operated in the best interests of the public, the State Banking Board shall have jurisdiction to determine whether or not the bank has been denied the right to utilize the machine under this article. After a hearing conducted by the board in accordance with the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes), the board may enter an order directing compliance with this article and prescribing the manner and means of complying with this article.

Sec. 7. In the event that operation of an unmanned teller machine is to be discontinued, notice of intent to discontinue shall be given to the State Banking Board not less than 60 days before the date on which operation of the machine is to be discontinued, and a copy of that notice shall be sent to all institutions using the machine. The State Banking Board, on complaint by an affected bank or on its own motion, may delay discontinuance of an unmanned teller machine for a period of not more than 60 days past the proposed date of discontinuance if it finds that the banks sharing the unmanned teller machine would be unfairly prejudiced by discontinuance on the proposed date.

Sec. 8. Any person who violates this article or any order of the board issued pursuant to this article is subject to a civil penalty of not less than \$50 nor more than \$1,000 for each day of violation and for each act of violation. All civil penalties recovered under this article shall be paid to the Banking Department under Article 12, Chapter I of this code, as amended (Article 342-112, Vernon's Texas Civil Statutes), for the use of the State Banking Board in enforcing this article.

Sec. 9. Whenever it appears that a person has violated or is violating or is threatening to violate this article or any order of the State Banking Board issued pursuant to this article, the board may cause a civil suit to be instituted in a district court for injunctive relief to restrain the person from continuing the violation or threat or for the assessment and recovery of the civil penalty provided by this article,

or for both injunctive relief and civil penalty. At the request of the board, the attorney general shall institute and conduct a suit in the name of the state for injunctive relief or for the recovery and receipt of a civil penalty, or for both injunctive relief and penalty.

A suit for injunctive relief or for recovery of a civil penalty, or for both, may be brought either in the county where the defendant resides, or in the county where the violation or threat of violation occurs. In any suit to enjoin a violation or threat of violation of this article or of any order of the board, the court may grant the State Banking Board, without bond or other undertaking, any prohibitory or mandatory injunction as the facts may warrant, including temporary restraining orders after notice and hearing, temporary injunctions, and permanent injunctions.

Sec. 10. Banks, under a written agreement, may share unmanned teller machines with savings and loan associations or credit unions on the following conditions:

(1) only those functions permitted for banks under Section 2 of this article are available to the customers of any savings and loan association or credit union using the unmanned teller machine or machines; and

(2) the unmanned teller machine or machines may be utilized by a savings and loan association or credit union for the use of their customers only within the county and the city where the savings and loan association or credit union is domiciled and has its principal place of business.

Sec. 11. Nothing in this article abridges, modifies, affects, or expands any authority under existing law for any savings and loan association or credit union to operate unmanned teller machines separate and apart from their principal places of business.

Sec. 12. This article does not apply to:

(1) an unmanned teller machine located at a bank's banking house; or

(2) the use of an unmanned teller machine, wherever located, solely to withdraw cash.

Sec. 13. The legislature finds that the Congress of the United States has amended the Consumer Protection Act, as amended (15 U.S.C. 1601 et seq.), through passage of the Electronic Fund Transfer Act¹ and that the Consumer Protection Act is sufficiently comprehensive to provide for the full and complete protection of the rights of consumers using unmanned teller machines in this state. The legislature further finds that it would not be in the best interest of the public of this state to have separate regulation of the consumer protection aspects of unmanned teller machines by both the state and federal governments. To ensure the continuing protection of consumers using the unmanned teller machines authorized by this article, the State Bank-

ing Board and the attorney general are directed to make a continuing study of the substantive and procedural provisions of the Consumer Protection Act of the regulations promulgated under that Act, and of the effectiveness of enforcement of that Act in this state and to report their findings and recommendations to the legislature on or before June 30, 1981, and on the same date every fourth year after 1981.

[Acts 1979, 66th Leg., p. 1187, ch. 578, § 1.]

115 U.S.C.A. § 1693 et seq.

Section 2 of the 1979 Act provided:

"This Act takes effect on the later of:

"(1) the 270th day after approval by the qualified voters of this state of an amendment to the Texas Constitution providing that the legislature may authorize banks to use unmanned teller machines within the county and the city of their domicile, on a shared basis, to serve the public convenience; or

"(2) December 31, 1980. If the constitutional amendment is not adopted, this Act has no effect."

Such a constitutional amendment was adopted at an election held November 4, 1980.

Art. 342-903b. Repealed by Acts 1983, 68th Leg., p. 2044, ch. 374, § 2, eff. Aug. 29, 1983

See, now, art. 342-903.

Art. 342-903c. Customer Convenience Terminals

Construction and Application

Sec. 1. The underlying purpose of this article shall be to enhance the convenient and efficient transaction of retail trade by allowing electronic fund transfer technology to enter the existing financial payment and settlement system. This purpose shall be achieved by use of a particular type of unmanned teller machine of a different type from the type described in Article 3a, and its use shall be governed by the terms of this Article 3c, except as otherwise herein provided in Section 6. This article shall be liberally construed to this end.

Definitions

Sec. 2. As used in this article:

(1) "Account" means an asset account in a financial institution.

(2) "Financial institution" means

(A) a state, national or private bank;

(B) a savings and loan association; or

(C) a credit union.

(3) "Merchant" means any person other than a financial institution or a system.

(4) "Customer convenience terminal" is a device which is a particular kind of unmanned teller machine (i.e., the use of which does not involve personnel of a financial institution):

(A) by which a customer of a financial institution can authorize and effect the electronic transfer of funds from the customer's account at the financial institution to a merchant's account at a financial

institution within the county or the city in which the terminal is located in order to obtain cash or purchase or rent or pay for goods or services or both; and

(B) by which the merchant can ascertain that the transaction has been completed and the funds have been or will be transferred to the merchant's account at the merchant's financial institution within the county or the city in which the terminal is located.

(5) "System" means an electronic information communication and processing facility owned or operated by a person other than a merchant and used to receive, transmit, or retransmit electronic impulses or other electronic indicia of transactions, originating at a customer convenience terminal, to financial institutions or to other transmission facilities for purposes of effecting transfers of funds to or from one or more accounts.

Customer Convenience Transactions

Sec. 3. Any person may install, maintain, operate, utilize, own, or lease customer convenience terminals. For purposes of Chapter IX of this code, as amended (Article 342-901 et seq., Vernon's Texas Civil Statutes), no customer convenience terminal shall be deemed to constitute a branch office and no person who installs, maintains, operates, utilizes, owns, or leases a customer convenience terminal shall be deemed to be conducting a banking business. Nothing herein shall be deemed to affect the rights of any party to a transaction of the type described herein under any applicable statute or contract.

Sharing

Sec. 4. All financial institutions domiciled in this state shall have the right to share in the use of any system operated in this state on a reasonable, non-discriminatory basis, and any system may require the utilization of reasonable and necessary technical standards.

Advertising

Sec. 5. No participants in a system shall receive greater prominence in the identification necessary to enable the public to determine accessibility of the terminal, and no advertising with regard to the terminal shall suggest, imply, or claim that any particular financial institution has exclusive control over the use of the terminal.

Compliance

Sec. 6. On written complaint by a financial institution that is utilizing or that seeks to utilize a system that it is being denied the use of that system on a reasonable, nondiscriminatory basis, the State Banking Board shall have jurisdiction to determine whether or not the financial institution has been denied the right to utilize the system under this article. The provisions of Sections 6 and 13, Article

3a, Chapter IX, The Texas Banking Code of 1943, as amended (Article 342-903a, Vernon's Texas Civil Statutes), shall apply to this article.

Unauthorized Use

Sec. 7. A customer of a financial institution shall not be liable for an unauthorized electronic fund transfer or a series of related unauthorized transfers in an amount in excess of \$50 if the customer notifies the financial institution within two business days after learning of the loss or theft of the access device and if the customer fails to notify the financial institution, the customer's liability shall not exceed \$500. The terms "access device" and "unauthorized electronic transfer" as used herein shall have the same meaning as the same terms under the "Electronic Fund Transfer Act," 15 U.S.C. 1693a(1) as amended and Regulation E promulgated thereunder.

Charges

Sec. 8. Charges. No charges or fees may be imposed by a financial institution in relation to an account in which funds located in that account may be electronically transferred unless such charges or fees are reasonably related to the cost of services performed by the financial institution. The burden of proving the reasonableness of such fees or charges is on the financial institution.

[Acts 1983, 68th Leg., p. 2144, ch. 391, § 1, eff. Aug. 29, 1983.]

Art. 342-904. Repealed by Acts 1981, 67th Leg., p. 2064, ch. 454, § 1, eff. Aug. 31, 1981

Art. 342-905. Repealed by Acts 1981, 67th Leg., p. 425, ch. 177, § 1, eff. Aug. 31, 1981

Art. 342-906. Safety Deposit Boxes—Access by Joint Lessees—Opening—Lien—Sale of Content

Any state, national or private bank may maintain safety deposit boxes and rent the same. In all such transactions the relationship of the bank and the renter shall, in the absence of a contract to the contrary, be that of lessor and lessee and landlord and tenant and the rights and liabilities of the bank shall be governed accordingly, and the lessee shall be deemed in law for all purposes to be in possession of the box and the content thereof. If a safety deposit box is held in the name of two (2) or more persons jointly, any one of such persons shall be entitled to access to such box and shall be permitted to remove the content thereof and the bank shall not be responsible for any damage arising by reason of such access or removal by one of said persons. If the box rental is delinquent for six (6) months, the bank after at least sixty (60) days' notice by mail addressed to the lessee at his address on the books of the bank, may, if the rent is not paid within the time specified in said notice, open the box in the presence of two (2) executive officers of the bank and a notary public and place the content of

the box in a sealed envelope or container bearing the name of the lessee. The bank shall then hold the content of the box subject to a lien for its rental, the cost of opening the box and the damages in connection therewith. If such rental, cost and damages are not paid within two (2) years from the date of opening of such box, the bank may sell any part or all of the content at public auction in like manner and upon like notice as is prescribed for the sale of real property under deed of trust.

[Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 6.]

Art. 342-907. Slander or Libel of Banks—Penalty

Any person who shall knowingly make, utter, circulate, or transmit to another or others, any statement untrue in fact, derogatory to the financial condition of any bank, banking house, banking company, trust company, in the State, with intent to injure any such financial institution; or who shall counsel, aid, procure, or induce another to originate, make, utter, transmit, or circulate any such statement or rumor, with like intent, shall be guilty of an offense and upon conviction shall be punished by a fine of not more than Five Thousand Dollars (\$5,000) or confined in the State penitentiary not more than five (5) years, or both.

[Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 7.]

Art. 342-908. Application of Code to National Banks—Discrimination Between State and National Banks

State and national banks are hereby declared to be within the same class under the Constitution and laws of this state. It is not the intention of the Legislature to discriminate between state banks, national banks, and private banks. To the extent that the State of Texas has power to legislate with reference to national banks, all laws of this state shall apply alike to state banks, private banks, and national banks domiciled in this state; and state banks and private banks shall be subject to only such taxes heretofore or hereafter imposed by the state, or any political subdivision thereof, as could lawfully be imposed upon such state banks or private banks were they operating as national banks.

[Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 8. Amended by Acts 1963, 58th Leg., p. 134, ch. 81, § 7; Acts 1965, 59th Leg., p. 1527, ch. 666, § 1, eff. June 18, 1965.]

Art. 342-909. Severability of Provisions

If any provision of this Code or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Code which can be given effect without the invalid provision or application, and to this end the provisions of this Code are declared to be severable.

[Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 9.]

Art. 342-910. Moratoriums—Emergency Closing of Banks or Bank Operations—Limitations On Liabilities During Emergencies

(a) The Commissioner, with the approval of a majority of the Finance Commission and the Governor of Texas, may proclaim a financial moratorium for and invoke a uniform limitation on withdrawal of deposits of every character from all banks within the State. Any bank refusing to comply with any written proclamation of the Commissioner, signed by a majority of the members of the Finance Commission and the Governor of Texas, shall forfeit its charter, if it is a State chartered bank; or forfeit its right to continue to do business, if it is a private bank; or forfeit any and all rights it may have under State law, if it is a national bank, to act as reserve agent for any State chartered bank and to act as depository of any State, county, municipal or other public funds, and such funds shall be immediately withdrawn by the depositor on order of the Commissioner and shall not be deposited thereafter in said national bank without the written approval of the Commissioner.

(b) 1. Whenever the officers of a bank are of the opinion that an emergency exists, or is impending, which affects, or may affect, a bank's offices or particular bank operations, they shall have the authority, in the reasonable and proper exercise of their discretion, to determine not to conduct the particular bank operations or open the bank's offices on any business or banking day or, if having opened, to close such offices or suspend and close the particular bank operations during the continuation of such emergency, even if the Commissioner has not issued a proclamation of emergency. The office or operations so closed shall remain closed until such time as the officers determine that the emergency has ended, and for such further time thereafter as may reasonably be required to reopen; however, in no case shall such office or operations remain closed for more than 48 consecutive hours, excluding other legal holidays, without receiving the approval of the Commissioner. A bank closing an office or operations pursuant to the authority granted under this article shall give as prompt notice of its action as conditions will permit and by any means available, to the Commissioner.

2. Whenever the Commissioner is of the opinion that an emergency exists, or is impending, in this State or in any part or parts of this State, he may, by proclamation, authorize banks located in the affected area or areas to close any part or all of their offices or operations. In addition, if the Commissioner is of the opinion that an emergency exists, or is impending, which affects, or may affect, a particular bank or banks, or a particular bank operation, but not banks located in the area generally, he may authorize the particular bank or banks so affected, to close or to suspend and close a particular bank operation. The office or bank operations so closed shall remain closed until the Commissioner

proclaims that the emergency has ended, or until such earlier time as the officers of the bank determine that the office or bank operation, theretofore closed because of the emergency, should reopen, and, in either event, for such further time thereafter as may reasonably be required to reopen.

3. "Emergency" means any condition or occurrence which may interfere physically with the conduct of normal business at the offices of a bank or of particular bank operations, or which poses an imminent or existing threat to the safety or security of persons or property, or both. Without limiting the generality of the foregoing, an emergency may arise as a result of any one or more of the following: fire; flood; earthquake; hurricane; tornado; wind, rain, or snow storm; labor dispute and strike; power failure; transportation failure; interruption of communication facilities; shortage of fuel, housing, food, transportation or labor; robbery or burglary or attempted robbery or burglary; actual or threatened enemy attack; epidemic or other catastrophe; riot; civil commotion, and other acts of lawlessness or violence, actual or threatened.

4. Any day on which a bank, or any one or more of its operations, is closed during all or any part of its normal banking hours pursuant to the authorization granted under this article shall be, as to such bank or, if not all of its operations are closed, then as to any operations which are closed, a legal holiday for all purposes with respect to any banking business of any character. No liability, or loss of rights of any kind, on the part of any bank, or any director, officer, or employee thereof, shall accrue or result by virtue of any closing authorized by this article.

5. The provisions of this article shall be construed and applied as being in addition to, and not in substitution for or limitation of, any other provision in this Code or other law of this State or of the United States, authorizing the closing of a bank or excusing the delay by a bank in the performance of its duties and obligations because of emergencies or conditions beyond the bank's control, or otherwise.

[Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 10. Amended by Acts 1971, 62nd Leg., p. 881, ch. 113, § 1, eff. Aug. 30, 1971.]

Sections 2 and 3 of the 1971 amendatory act provide:

"Sec. 2. If any provision, section, sentence, clause or part of this Act or the application thereof to any person or circumstance is held invalid, such holding shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or applications of this Act which can be given effect without the invalid provision or application and to this end the provisions of this Act are declared to be severable.

"Sec. 3. All laws or parts of laws which are in conflict with this Act are hereby repealed or modified to the extent of such conflict only."

Art. 342-910a. Legal Holidays for Banks or Trust Companies—Alternative Legal Holidays for Banks or Trust Companies—Discrimination Prohibited

Sec. 1. Legal Holidays For Banks Or Trust Companies. Notwithstanding any existing provi-

sions of law relative to negotiable or nonnegotiable instruments or commercial paper, but subject to the provisions of Section 2 of this article, only the following enumerated days are declared to be legal holidays for banking purposes on which each bank or trust company in Texas shall remain closed: Saturdays, Sundays, January 1, the third Monday in February, the last Monday in May, July 4, the first Monday in September, the second Monday in October, the 11th day of November, the fourth Thursday in November, and December 25.

When the dates July 4, November 11, or December 25 fall on Saturday, then the Friday immediately preceding such Saturday shall also be a legal holiday for banking purposes on which each bank or trust company in Texas shall remain closed. When the dates January 1, July 4, November 11, or December 25 fall on Sunday, then the Monday next following such Sunday shall also be a legal holiday for banking purposes on which each bank or trust company in Texas shall remain closed.

All such legal holidays shall be neither business days nor banking days under the laws of this State or the United States, and any act authorized, required or permitted to be performed at or by any bank or trust company on such days may be performed on the next succeeding business day and no liability or loss of right of any kind shall result therefrom to any bank or trust company.

Sec. 2. Alternative Legal Holidays For Banks Or Trust Companies. Any bank or trust company may elect to designate days on which it may close for general banking purposes pursuant to the provisions of this section, instead of Section 1 of this article, provided that any bank or trust company which has elected to be governed by this section shall remain closed on the following enumerated days, which days are declared to be legal holidays for banking purposes: Sundays, January 1, the third Monday in February, the last Monday in May, July 4, the first Monday in September, the second Monday in October, the 11th day of November, the fourth Thursday in November, and December 25. When the dates July 4, November 11, or December 25 fall on Saturday, then the Friday immediately preceding such Saturday shall also be a legal holiday for all banking purposes on which each bank or trust company shall remain closed. When the dates January 1, July 4, November 11, or December 25 fall on Sunday, then the Monday next following each Sunday shall also be a mandatory legal holiday for banking purposes on which each bank or trust company shall remain closed. Except as herein provided, any bank or trust company doing business in this state may, at its option, elect to be governed by this section and close for general banking purposes either on Saturday or on any other weekday of any week in the year in addition to mandatory legal holidays, provided:

(a) such day is designated at least 15 days in advance by adoption of a resolution concurred in by

a majority of the board of directors thereof (or, if an unincorporated bank or trust company, by its owner or a majority of its owners, if there be more than one owner); and

(b) notice of the day or days designated in such resolution is posted in a conspicuous place in such bank or trust company for at least 15 days in advance of the day or days designated; and

(c) a copy of such resolution certified by the president or cashier of such bank or trust company is filed with the Banking Department of Texas.

The filing of such copy of resolution as aforesaid with the Banking Department of Texas shall be deemed to be proof in all courts in this state that such bank or trust company has duly complied with the provisions of this section. Any such election to so close shall remain in effect until a subsequent resolution shall be adopted and notice thereof posted and a copy thereof filed in the manner above provided.

If any bank or trust company elects to close for general banking purposes on Saturday or any other weekday as herein provided, it may, at its option, remain open on such day for the purpose of performing limited banking services. Notice of election to perform limited banking services shall be contained in the resolution and notices, above provided, with respect to closing for general banking purposes. Limited banking services may include such of the ordinary and usual services provided by the bank as the board of directors may determine, except the following: making loans, renewing or extending loans, certifying checks, and issuing cashier's checks.

Such day upon which such bank or trust company may elect to close for general banking purposes shall with respect to such institution be treated as a legal holiday for all purposes and not a business day; provided that if such bank shall elect to perform limited banking services on such day, the same shall not be deemed a legal holiday for the performance of limited banking services. Any bank or trust company which elects to close for general banking purposes on Saturday or any other weekday but which elects to perform limited banking services shall not be subjected to any liability or loss of rights for performing limited banking services or refusing to perform any other banking services on such day.

Sec. 3. Discrimination Prohibited. The provisions of Section 2 of this article shall be completely permissive with each individual bank or trust company in this State, and no bank, trust company, clearing house association, or group of banks or trust companies, shall discriminate against or refuse its services to any bank or trust company or enter into any agreement to discriminate against or refuse its services, either director or indirectly, to any bank or trust company which may or may not elect to exercise any of the options contained in Section 2 of this article. The provisions of the Antitrust

Laws of this State shall be applicable to the provisions of this article, and the Attorney General of Texas shall institute and prosecute any legal proceedings authorized by law to enforce the provisions of this article, including forfeiture of right to do business in Texas for violation of such provisions.

[Acts 1947, 50th Leg., p. 424, ch. 230, § 1. Amended by Acts 1955, 54th Leg., p. 19, ch. 16, § 1; Acts 1957, 55th Leg., p. 428, ch. 205, § 2; Acts 1967, 60th Leg., p. 1857, ch. 722, § 6, eff. June 18, 1967; Acts 1971, 62nd Leg., p. 872, ch. 108, § 1, eff. Oct. 1, 1971; Acts 1973, 63rd Leg., p. 49, ch. 33, § 1, eff. April 12, 1973; Acts 1975, 64th Leg., p. 14, ch. 11, § 2, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 210, ch. 103, §§ 1, 2, eff. Aug. 29, 1977.]

Acts 1967, 60th Leg., p. 1853, ch. 722, § 7, provided:

"Acts 1955, 54th Legislature, Chapter 16, page 16, as amended, codified as Article 4591d, Vernon's Texas Civil Statutes, is in its entirety and as amended by this Act, hereby transferred to and made a part of Chapter IX of the Texas Banking Code of 1943 and designated as Article 10a of said Chapter IX."

Sections 2 and 3 of the 1971 amendatory act provide:

"Sec. 2. If any provision, section, sentence, clause or part of this Act or the application thereof to any person or circumstance is held invalid, such holding shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application and to this end the provisions of this Act are declared to be severable.

"Sec. 3. All laws or parts of laws which are in conflict with this Act are hereby repealed or modified to the extent of such conflict only."

Art. 342-911. Repealer of Conflicting Laws

The following statutes, together with all other laws or parts of laws in conflict herewith, are hereby repealed: [enumeration of repealed statutes omitted].

[Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 11.]

Art. 342-911.1. Appeals from Orders of State Banking Board and Finance Commission

Any person, firm or corporation who is a party to, or is necessarily aggrieved by, any final order, ruling or judgment of the State Banking Board or the Banking Section of the Finance Commission shall have the right to appeal by filing a suit to set aside such order, ruling or judgment in the District Court of Travis County, Texas, within thirty (30) days following the date of rendition of such order, ruling or judgment. Provided, that in such cases the substantial evidence rule shall apply and govern the trial, as is the common practice in cases of appeal from administrative orders and as construed by the courts of this State. Pending final judgment of the court the order shall remain in effect, unless otherwise stayed or enjoined by the court upon proper application.

[Acts 1971, 62nd Leg., p. 2888, ch. 952, § 1, eff. June 15, 1971.]

Sections 2 and 3 of the 1971 Act provide:

"Sec. 2. If any provision, section, sentence, clause or part of this Act or the application thereof to any person or circumstance is held invalid, such holding shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application and to this end the provisions of this Act are declared to be severable.

"Sec. 3. All laws or parts of laws which are in conflict with this Act are hereby repealed or modified to the extent of such conflict only."

Art. 342-912. Acquisition of Bank or Holding Company under Federal Law—Notice to Commissioner—Recommendations of Commissioners

Sec. 1. A state bank, a national bank in the state, or a bank holding company seeking to acquire a state bank or national bank within the state, that submits an application for approval to the Board of Governors of the Federal Reserve System pursuant to Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. Sec. 1842), shall transmit a copy of the application, as and when finally accepted for filing by the board of governors, to the commissioner.

Sec. 2. If the application is made by a state bank or involves the acquisition of the voting shares or assets of a state bank, the commissioner, on receipt of the notice prescribed by Subsection (b) of Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. Sec. 1842(b)), shall respond in writing within the time limit prescribed by that subsection. The response shall set forth the views and recommendations of the commissioner concerning the application. If the commissioner disapproves the application, he shall, with the assistance of the attorney general, present evidence at the hearing held pursuant to Subsection (b) of Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. Sec. 1842(b)).

Sec. 3. If the application is made by a national bank in the state or involves the acquisition of the voting shares or assets of a national bank in the state, the commissioner shall advise the Board of Governors of the Federal Reserve System of any views and recommendations he may have concerning the application and other material before the board of governors in connection with the application. If the commissioner recommends to the board of governors that the application be denied, he shall request that a hearing pursuant to Subsection (b) of Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. Sec. 1842(b)) be held. If the board of governors should grant such request, the commissioner shall, with the assistance of the attorney general, present evidence at the hearing as hereinabove provided. If the board of governors should deny such request, the commissioner is authorized and directed to pursue the remedies available to him as an aggrieved party in accordance with the provisions of Section 9 of the Bank Holding Company Act of 1956 (12 U.S.C. Section 1848).

[Acts 1977, 65th Leg., p. 1615, ch. 631, § 2, eff. June 15, 1977.]

Art. 342-913. Acquisition of Nonbanking Institution under Federal Law—Notice to Commissioner—Order and Appeal

Sec. 1. A bank holding company doing business in the state that submits an application or notice to

the Board of Governors of the Federal Reserve System concerning an acquisition or activity regulated by Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. Sec. 1843), other than an application or notice concerning an activity initiated prior to the effective date of this article, shall transmit a copy of the application or notice, as and when finally accepted for filing by the board of governors, to the commissioner. The commissioner may on his own motion order a public hearing on the matter. The commissioner shall order a hearing if the holding company requests a hearing in writing at the time it transmits the application or notice to the commissioner.

Sec. 2. After the close of the hearing, if one is held, the commissioner shall disapprove the acquisition or activity unless he finds that it can reasonably be expected to produce benefits to the public, such as greater convenience or increased competition, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices.

Sec. 3. An acquisition or activity is approved if:

(1) the applicant does not request a hearing and the commissioner does not, within 30 days after the application or notice is filed, order that a hearing be held; or

(2) a hearing is held and the commissioner's final order approves the acquisition or activity.

Sec. 4. The Administrative Procedure and Texas Register Act¹ governs proceedings under this article, except that the final order of the commissioner approving or disapproving the acquisition or activity shall be rendered within 30 days after the hearing is closed.

Sec. 5. If it appears to the commissioner that any person has engaged in or is about to engage in an acquisition or activity subject to this article without complying with the provisions of this article or in violation of an order of the commissioner entered pursuant to this article, the attorney general on behalf of the commissioner may apply to the district court of Travis County for an order enjoining the acquisition or activity and for any other equitable relief the nature of the case may require. A "person" subject to the provisions of this section shall include an individual, two or more individuals acting in concert, any type of partnership, corporation, association, syndicate, trust, or any other organization, or any combination thereof.

[Acts 1977, 65th Leg., p. 1615, ch. 631, § 2, eff. June 15, 1977.]

¹ Article 6252-13a.

Art. 342-951. Repealed by Acts 1983, 68th Leg., p. 3110, ch. 532, § 10, eff. Aug. 29, 1983

MISCELLANEOUS LAWS

Art. 342 to 489. Repealed.

FEDERAL DEPOSIT INSURANCE

- Art. 489a. Repealed.
- 489b. Federal Deposit Insurance.
- 489c. Executed.

SALE OF CHECKS ACT

- 489d. Sale of Checks Act.
- 490 to 548a. Repealed.

PREPAID FUNERAL SERVICES OR MERCHANDISE

- 548b. Sale of Prepaid Funeral Services or Funeral Merchandise.

PENAL PROVISIONS

- 548c. Affidavit of Solvency.
- 548d. Statement of Private Bank.
- 548e. Advertisement of Responsibility.
- 548f. Punishment.
- 548g. Exceptions.

Arts. 342 to 489. Repealed by Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 11

FEDERAL DEPOSIT INSURANCE

Art. 489a. Repealed by Acts 1937, 45th Leg., p. 370, ch. 180, § 1

Art. 489b. Federal Deposit Insurance

Banking Institution Defined

Sec. 1. The term "banking institution," as used in this Act shall be construed to mean any bank, trust company, bank and trust company, stock savings bank or mutual savings bank, which is now or may hereafter be organized under the laws of this State.

Authority to Banking Institutions to Contract under Acts of Congress Safeguarding Banks

Sec. 2. Any banking institution now or hereafter organized under the laws of this State are hereby empowered, on the authority of its board of directors, or a majority thereof, by and with the consent and approval of the State Banking Commissioner, to enter into such contracts, incur such obligations and generally to do and perform any and all such acts and things whatsoever as may be necessary or appropriate in order to take advantage of any and all memberships, loans, subscriptions, contracts, grants, rights, or privileges, which may at any time be available or enure to banking institutions or to their depositors, creditors, stockholders, conservators, receivers or liquidators, by virtue of those provisions of Section 8 of the Federal "Banking Act of 1933" Sec. 12B of the Federal Reserve Act, as amended,¹ which establish the Federal Deposit Insurance Corporation and provide for the insurance of deposits, or of any other provisions of that or any other Act or Resolution of Congress to aid, regulate or safeguard banking institutions and their depositors, including any amendments of the same or any substitutions therefor; also, to subscribe for and acquire any stock, debentures, bonds or other types of securities of the Federal Deposit

Insurance Corporation and to comply with the lawful regulations and requirements from time to time issued or made by such Corporation.

¹ 12 U.S.C.A. § 1811 et seq.

Federal Deposit Insurance Corporation as Receiver or Liquidator Without Bond

Sec. 3. The Federal Deposit Insurance Corporation created by Section eight of the Federal "Banking Act of 1933" (Section 12B of the Federal Reserve Act, as amended) is hereby authorized and empowered to be and act without bond as receiver or liquidator of any banking institution, the deposits in which are to any extent insured by said Corporation, and which shall have been closed on account of inability to meet the demands of its depositors.

The appropriate State authority, having the right to appoint a receiver or liquidator of a banking institution, may in the event of such closing, tender to said Corporation the appointment as receiver or liquidator of such banking institution, and if the Corporation accepts said appointment, the Corporation shall have and possess all powers and privileges provided by the laws of this State with respect to a receiver or liquidator respectively of a banking institution; its depositors and other creditors, and be subject to all the duties of such receiver or liquidator, except in so far as such powers, privileges or duties are in conflict with the provisions of subsection (1) of Section 8 of said "Banking Act of 1933."

Subrogation of Federal Deposit Insurance Corporation to Rights Against Closed Institution

Sec. 4. Whenever any banking institution shall have been closed as aforesaid, and said Federal Deposit Insurance Corporation shall pay or make available for payment the insured deposit liabilities of such closed institution, the Corporation, whether or not it shall have become receiver or liquidator of such closed banking institution, as herein provided, shall be subrogated to all rights against such closed banking institution of the owners of such deposits in the same manner and to the same extent as subrogation of the Corporation is provided for in subsection (1) of Section 12B of the said Federal Reserve Act, as amended (being Section 8 of the said "Banking Act of 1933") in the case of the closing of a national bank: Provided, that the rights of depositors and other creditors of such closed institution shall be determined in accordance with the applicable provisions of the laws of this State.

Copies of Banking Commissioner's Examinations Furnished Federal Deposit Insurance Corporation

Sec. 5. The Banking Commissioner may furnish to said Corporation, or to any official or examiner thereof, a copy or copies of any or all examinations made of any such banking institutions and of any or all reports made by same, and shall give access to and disclose to said Corporation or any official or examiner thereof any and all information possessed by the office of said Banking Commissioner with

reference to the conditions or affairs of any such insured institution.

Nothing in this Section shall be construed to limit the duty of any banking institution in this State, deposits in which are to any extent insured under the provisions of Section 8 of the "Banking Act of 1933" (Section 12B of the Federal Reserve Act, as amended) or of any amendment of or substitution for the same, to comply with the provisions of said Act, its amendments or substitutions, or the requirements of said Corporation relative to examinations and reports, nor to limit the powers of the Banking Commissioner with reference to examinations and reports under existing law.

Borrowing by Closed Institutions

Sec. 6. With respect to any banking institution, which is now or may hereafter be closed on account of inability to meet the demands of its depositors or by action of the Banking Commissioner or of a court or by action of its directors or in the event of its insolvency or suspension, the Banking Commissioner and/or the receiver or liquidator of such institution with the permission of said Banking Commissioner may borrow from said Corporation or any other source and furnish any part or all of the assets of said institution as security for a loan from same; provided, that where said Corporation is acting as such receiver or liquidator, the order of a court of record of competent jurisdiction shall be first obtained approving such loan. Such Banking Commissioner upon the order of a court of record of competent jurisdiction, and upon a like order and with the permission of said Banking Commissioner, the receiver or liquidator of any such institution may sell to said Corporation any part or all of the assets of such institution.

The provisions of this Section shall not be construed to limit the power of any banking institution, the Banking Commissioner, or receivers or liquidators to pledge or sell assets in accordance with any existing law.

Acceptance as Receiver as Vesting Title in Federal Deposit Insurance Corporation

Sec. 7. Upon the acceptance of the appointment of receiver or liquidator aforesaid by said Corporation, the possession of and title to all the assets, business and property of such banking institution of every kind and nature shall pass to and vest in said Corporation and without the execution of any instruments of conveyance, assignment, transfer or endorsement.

Sec. 8. Repealed by Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 11.

Partial Invalidity

Sec. 9. The validity of any provision or part of this Act shall not be dependent upon any other provision or part thereof. If any provision or part thereof should for any reason be held unconstitu-

tional or invalid such decision shall not affect the validity of any of the remaining provisions or parts of this Act.

[Acts 1935, 44th Leg., p. 459, ch. 183. Amended by Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 11.]

Art. 489c. Executed

The article was derived from Acts 1937, 45th Leg., p. 370, ch. 180, and provided for the liquidation of the Bank Deposit Insurance Company created by art. 489a, which was thereby repealed. It is omitted as executed. Provision for insurance of deposits through the Federal Deposit Insurance Corporation is made by art. 489b.

SALE OF CHECKS ACT

Art. 489d. Sale of Checks Act

Citation

Sec. 1. This Act may be cited as "The Sale of Checks Act."

Definitions

Sec. 2. For the purposes of this Act:

(a) "Person" means any individual, partnership, association, joint stock association, trust, or corporation, but does not include the United States Government or the government of this state.

(b) "Licensee" means a person duly licensed by the Commissioner pursuant to this Act.

(c) "Check" means any check, draft, money order, personal money order, or other instrument for the transmission or payment of money.

(d) "Personal money order" means any instrument for the transmission or payment of money in relation to which the purchaser or remitter appoints or purports to appoint the seller thereof as his agent for the receipt, transmission, or handling of money, whether such instrument be signed by the seller or by the purchaser or remitter or some other person.

(e) "Sell" means to sell, to issue, or to deliver a check.

(f) "Deliver" means to deliver a check to the first person who in payment for same makes or purports to make a remittance of or against the face amount thereof, whether or not the deliveror also charges a fee in addition to the face amount, and whether or not the deliveror signs the check.

(g) "Commissioner" means the Commissioner of the State Banking Department.

License Required

Sec. 3. No person, except those specified in Section 4 shall engage in the business of selling checks, as a service or for a fee or other consideration, without having first obtained a license hereunder. Any person engaged in said business on the effective date of this Act may continue to engage therein without a license until the Commissioner shall have acted upon his application for a license, provided

that such application be filed within thirty (30) days after the effective date of this Act.

Exemption from Licensing

Sec. 4. No license to sell checks as aforesaid shall be required hereunder of any of the following:

(a) Banks, trust companies, building and loan associations, and savings and loan associations, whether organized under the laws of this state or of the United States; provided, however, that nothing herein shall be deemed to enlarge the powers of the foregoing persons;

(b) Incorporated telegraph companies insofar as they receive money at any of their respective offices or agencies for immediate transmission by telegraph; or

(c) Agents of a licensee, as provided in Section 11.

Qualifications

Sec. 5. To qualify for a license hereunder an applicant shall meet the following requirements:

(a) The applicant shall have a net worth of at least Ten Thousand Dollars (\$10,000), computed according to generally accepted accounting principles.

(b) The financial responsibility, financial condition, and business experience, and character and general fitness of the applicant shall be such as reasonably to warrant the belief that applicant's business will be conducted honestly, carefully and efficiently. To the extent deemed advisable by the Commissioner, the Commissioner may investigate and consider the qualifications of officers and directors of an applicant in determining whether this qualification has been met.

Applications

Sec. 6. Each application for such a license shall be made in writing and under oath to the Commissioner in such form as he may prescribe. The application shall state the full name and business address of:

(a) The proprietor, if the applicant is an individual;

(b) Every member, if the applicant is a partnership or association, except that if the applicant is a joint stock association having fifty (50) or more members, the name and business address need be given only of the association and each officer and director thereof;

(c) Every trustee and officer if the applicant is a trust; and

(d) The corporation and each officer and director thereof, if the applicant is a corporation.

Accompanying Fee, Statements and Bond

Sec. 7. Each application for a license shall be accompanied by:

(a) An investigation fee of Fifty Dollars (\$50) which shall not be subject to refund but which, if the license be granted, shall constitute the license fee for the first license year or part thereof;

(b) Financial statements reasonably satisfactory to the Commissioner;

(c) A surety bond issued by a bonding company or insurance company authorized to do business in this state, in the principal sum of Twenty-five Thousand Dollars (\$25,000), and an additional principal sum of Five Thousand Dollars (\$5,000) for each location, in excess of one, at which the applicant proposes to sell checks in this state, but in no event shall the bond be required to be in excess of Two Hundred Fifty Thousand Dollars (\$250,000). If the bond accompanying the application be in a principal sum of less than Two Hundred Fifty Thousand Dollars (\$250,000), the application shall also be accompanied by a list of the locations at which the business is to be conducted. The bond shall be in form satisfactory to the Commissioner and shall run to the state for the benefit of any claimants against the applicant or his agents to secure the faithful performance of the obligations of the applicant and his agents with respect to the receipt, handling, transmission and payment of money in connection with the sale of checks. The aggregate liability of the surety in no event shall exceed the principal sum of the bond. Such claimants against the applicant or his agents may themselves bring suit directly on the bond, or the Attorney General may bring suit thereon in behalf of such claimants, either in one action or successive actions; or

(d) In lieu of such corporate surety bond or bonds, or of any portion of the principal thereof as required by this Section, the applicant may deposit with the Commissioner or with such banks or trust companies or national banks in this state as such applicant may designate and the Commissioner may approve interest-bearing stocks and bonds, notes, debentures or other obligations of the United States or any agency or instrumentality thereof, or guaranteed by the United States, or of this state, or of a city, county, town, village, school district or instrumentality of this state, or guaranteed by this state, to an aggregate amount, based upon principal amount or market value, whichever is lower, of not less than the amount of the required corporate surety bond or portion thereof. The securities shall be deposited as aforesaid and held to secure the same obligations as would the surety bond, but the depositor shall be entitled to receive all interest and dividends thereon, shall have the right, with the approval of the Commissioner, to substitute other securities for those deposited, and shall be required so to do on written order of the Commissioner made for good cause shown.

(e) Notwithstanding the provisions of (c) above, when the Commissioner determines with respect to any applicant or licensee that a bond or equivalent deposit of less than the sums prescribed therein will

be sufficient to fully secure the faithful performance of the obligations of the applicant or licensee and his agents with respect to the receipt, handling, transmission and payment of money in connection with the sale of checks, then he is authorized to reduce the bond or equivalent deposit required of such applicant or licensee to such sums as will be sufficient. In making such determination, the Commissioner may consider the maximum sums of checks sold or to be sold by the applicant or licensee and which are or can reasonably be expected to be outstanding at any one time and all other relevant facts. Nothing herein shall be deemed to restrict or limit the authority of the Commissioner to require the filing of a new or supplemental bond or the deposit of new or additional securities as provided for in subsection (b) of Section 9.

Investigation; Granting of License

Sec. 8. Upon the filing of an application in due form, accompanied by the fee and documents mentioned in Section 7, the Commissioner shall investigate to ascertain whether the qualifications prescribed by Section 5 have been met. If he finds that such qualifications have been met, and if he approves the said documents and finds that said bond is in the prescribed amount, he shall issue to the applicant a license to engage in the business of selling checks in this state.

Maintenance of Bond or Securities

Sec. 9. After a license has been granted, the licensee shall maintain said bond or securities in the amount prescribed by Section 7, as follows:

(a) Each licensee who does not have on file or deposit a bond or securities, as aforesaid, in the undiminished principal sum of Two Hundred Fifty Thousand Dollars (\$250,000), shall file quarterly reports with the Commissioner setting forth the locations at which he sells checks in this state as of January 1, April 1, July 1, and October 1 in each year, the report for each such date being due on or before the 15th day thereafter. Within ten (10) days following the filing of such a report, the principal sum of the bond or securities shall be increased to reflect any increase in the number of locations, and may be decreased to reflect any decrease in the number of locations.

(b) If the Commissioner shall at any time reasonably determine that the bond or securities aforesaid are insecure, deficient in amount, or exhausted in whole or part, he may by written order require the filing of a new or supplemental bond or the deposit of new or additional securities in order to secure compliance with this Act, such order to be complied with within thirty (30) days following service thereupon upon the licensee.

Annual License Fee

Sec. 10. Each licensee shall pay to the Commissioner annually on or before April 15 of each year a license fee of Fifty Dollars (\$50).

Agents and Sub-agents

Sec. 11. A licensee may conduct his business at one or more locations within this state, as follows:

(a) The business may be conducted through or by means of such agents and sub-agents as the licensee may from time to time designate or appoint.

(b) No license under this Act shall be required of any agent or sub-agent of a licensee except as provided in the following subsection.

(c) An agent or sub-agent, other than a person referred to in subsections (a) and (b) of Section 4, who sells the licensee's checks over-the-counter to the public shall not be exempt from licensing under this Act if such agent or sub-agent in the regular conduct of such business receives or at any time has access to (1) the licensee's checks which, having been paid, are returned through banking channels or otherwise for verification or for reconciliation or accounting with respect thereto or (2) bank statements relating to checks so returned. This subsection shall not affect the exemption of any agent of a licensee who does not sell checks over-the-counter to the public.

Liability of Licensees

Sec. 12. Each licensee shall be liable for the payment of all checks which he sells, in whatever form and whether directly or through an agent, as the maker or drawer thereof according to the negotiable instrument laws of this state; and a licensee who sells a check, whether directly or through an agent, upon which he is not designated as maker or drawer shall nevertheless have the same liabilities with respect thereto as if he had signed same as the drawer thereof.

Disclosure of Responsibility

Sec. 13. Every check sold by a licensee, directly or through an agent, shall bear the name of the licensee clearly imprinted thereon.

Revocation of License; Investigations

Sec. 14. The Commissioner may revoke a license on any ground on which he may refuse to grant a license or for violation of any provision of this Act. In furtherance of the foregoing, the Commissioner, if he has reasonable cause to believe that the grounds for revocation exist, may investigate the business, books and records of the licensee.

Hearings

Sec. 15. No license shall be denied or revoked except after a hearing thereon. The Commissioner shall give the applicant or licensee at least twenty (20) days written notice of the time and place of such hearing by registered or certified mail addressed to the principal place of business of such applicant or licensee. Any order of the Commissioner denying or revoking such license shall state the grounds upon which it is based and shall not be effective until twenty (20) days after written notice

thereof has been sent by registered or certified mail to the applicant or licensee at such principal place of business.

Penalties

Sec. 16. Any person who directly or through another violates or attempts to violate any provision of this Act shall be guilty of a misdemeanor, and shall be fined not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500) or imprisoned in the county jail for not more than ninety (90) days, or both. Each transaction in violation of this Act and each day that a violation continues shall be a separate offense.

Severability

Sec. 17. Should any provision, sentence, clause, Section or part of this Act for any reason be held unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, Sections or parts of this Act. It is hereby declared to be the intention of this Legislature that this Act would have been adopted had such unconstitutional, illegal or invalid sentence, clause, Section or part thereof not been included herein.

[Acts 1963, 58th Leg., p. 523, ch. 196.]

Arts. 490 to 548a. Repealed by Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 11

PREPAID FUNERAL SERVICES OR MERCHANDISE

Art. 548b. Sale of Prepaid Funeral Services or Funeral Merchandise

Permit from State Banking Department Authorizing Transaction of Business

Sec. 1. Any individual, firm, partnership, corporation, or association (hereinafter called "organization" or "seller") desiring to sell prearranged or prepaid funeral services or funeral merchandise (including caskets, grave vaults, and all other articles of merchandise incidental to a funeral service, but excluding grave lots, grave spaces, grave markers, monuments, tombstones, crypts, niches, and mausoleums), or accepting funds for such services or merchandise, in this state, under any contract, expressed or implied, providing for prepaid burial or funeral benefits or merchandise (hereinafter called "prepaid funeral benefits"), or who shall solicit the designations by an individual of the items of funeral merchandise or services which he desires to be provided out of any fund, investment, security, or contract to be created or purchased by such individual at the suggestion or solicitation of the organization shall obtain a permit from the State Banking Department (hereinafter called Department) of this state authorizing the transaction of this type of business, before conducting such business. Seller shall not be entitled to enforce a contract made in violation of this Act, but the purchaser or his heirs, or legal representative, shall be entitled to recover

all amounts paid to the seller under any contract made in violation thereof, and all amounts paid whether or not paid seller, to any fund or for any investment, security, or contract where the seller has violated the provisions of this Act. Delivery of funeral merchandise prior to death shall not constitute performance or fulfillment, either wholly or in part, of any prepaid funeral benefits contract entered into after the effective date of this amendatory Act.

Provided, however, that grave lots, grave spaces, grave markers, monuments, tombstones, crypts, niches, and mausoleums shall not be excluded from the provisions of this Section when these items and articles are sold in contemplation of trade or barter for services and articles designated as included by the provisions of this Section.

Solicitation of Designation of Funeral Services or Merchandise Without Approval of Fund, Investment, Security or Contract

Sec. 1a. No organization covered by this Act shall solicit by any means whatsoever the designation by an individual of funeral services or merchandise which he desires to be provided to be paid out of any fund, investment, security, or contract, to be created or purchased by or for such an individual at the suggestion or solicitation of the organization, unless such a fund is to be created by a contract of insurance with an insurance company licensed in Texas, or unless such fund, investment, security, or contract shall have been approved by the Department as safeguarding the right and interests of the individual, his heirs and assigns, to substantially the same or greater degree as is provided with respect to funds regulated by Section 5 hereof. Provided, however, that the Department may require evidence of payment of premiums on any contract of insurance used to create a fund to guarantee prepaid funeral benefits. Any seller failing to provide such evidence to the Department after being so requested by written notice shall be subject to cancellation of its permit under the provisions of Section 4 of this Act.

Administration of Act by Banking Department; Rules and Regulations; Contracts

Sec. 2. This law shall be administered by the State Banking Department. The Department is authorized to prescribe reasonable rules and regulations concerning the keeping and inspection of records, the filing of contracts and reports, and all other matters incidental to the orderly administration of this law; and the Department may approve forms for sales contracts for prepaid funeral benefits. All such contracts must be in writing and no contract form shall be used without prior approval of the Department. All such contracts shall state the name of the funeral home or other organization primarily responsible for providing the funeral services or merchandise specified in such contracts. In the event the seller is not the funeral home designated to provide the specified funeral services or

merchandise, such contract shall not be valid unless the funeral home so designated is a party to the contract and therein agrees and obligates itself to provide such specified funeral services or merchandise. It is further provided, that all prearranged or prepaid funeral contracts shall set forth the particulars of the funeral merchandise, including a description and specifications of the material used in the caskets or grave vaults to be furnished, and such contracts shall set forth the particulars of the professional services to be performed and the funeral home facilities to be provided.

Application for and Issuance of Permit; Filing Fees; Duration of Permit

Sec. 3. Each organization desiring to sell prepaid funeral benefits shall file an application for a permit with the Department and shall pay a filing fee of \$50. The Banking Commissioner may issue a permit upon receipt of the application and payment of the filing fee. Permits shall expire on March 1st each year, but may be renewed for a period of one year upon payment of a fee of \$40 on or before March 1st.

Cancellation of Permit; Refusal to Renew; Appeal

Sec. 4. The Department may cancel a permit or refuse to renew a permit for failure to comply with any provision of this Act or any valid rule or regulation which the Department has prescribed, after reasonable notice to the permittee and after a hearing if the permittee requests a hearing.

No organization shall be entitled to a new permit for a period of one year after cancellation or refusal by the Department to renew its permit, but shall thereafter be entitled to a new permit upon satisfactory proof of compliance with this law.

Any person aggrieved by the action of the Department may appeal therefrom to a District Court in Travis County, Texas.

Handling of Funds Paid or Collected Under Contract

Sec. 5. All sums heretofore or hereafter paid or collected on contracts for prepaid funeral benefits entered into prior to the effective date of this Act shall be handled in accordance with the manner in which they have heretofore been handled. All sums paid or collected on such contracts entered into after the effective date of this Act (with the exception of those paid where a contract of insurance is created or those approved by the Department, as both are provided for in Section 1a of this Act) shall be handled in the following manner:

(1) The funeral home (or other entity collecting said funds) may retain as its own money, for the purpose of covering its selling expenses, servicing costs, and general overhead, an amount not to exceed one-half of all funds so collected or paid until it has received for its use and benefit an amount not to exceed ten percent of the total amount agreed to be paid by the purchaser of said prepaid funeral

benefits as such total amount is reflected in the contract. No charges or assessments, except premiums collected on an insurance policy guaranteeing the payments on a prepaid funeral contract or the unpaid balance thereof, shall be collected from the purchaser other than those included in the total amount of said contract.

(2) All amounts paid or collected, with the exception of those permitted to be retained as set forth above, shall, within thirty days after such collection, be (a) deposited in a savings and loan association in this state, or (b) deposited in a state or national bank in this state, or (c) placed with the trust department in a state or national bank in this state, or in a trust company authorized to do business in this state, to be invested by such trust department or company in accordance with the terms and provisions of the Texas Trust Code (Subtitle B, Title 9, Property Code).¹ Such deposits or trust accounts shall be carried in the name of the funeral home or other entity to whom the purchaser makes payment, but accounting records shall be maintained showing the amount deposited or invested with respect to any particular purchaser's contract.

(3) The date of death of the purchaser of such contract (or other individual who may be designated in the contract as the person for whose funeral such funds may be used) shall be the maturity date of the contract, and as soon as conveniently practicable after such maturity date and upon presentation of a certified copy of the death certificate of such person together with proper affidavits as may be required by the Department, such funds shall be released in fulfillment of the contract, and the funeral home (or other entity to the contract which has collected the funds) shall, if the amount so withdrawn does not equal one hundred percent of the total amount paid under such contract, make up the difference so that the amount available for funeral benefits shall equal one hundred percent of the total amount paid in under such contract. Any amounts accumulated at maturity on any particular contract in excess of one hundred percent of the amount paid in on such contract shall be available to the funeral home (or other entity collecting said funds) in making up the difference on any particular contract which at maturity did not have funds available equal to one hundred percent of the amount paid under such contract.

The seller may withdraw at any time funds out of accrued interest or income of the deposit accounts or trust accounts for the purpose of paying reasonable and necessary charges made by a savings and loan association, or bank, or trust department of a bank, or trust company, and trustee's fees made by a savings and loan association, or bank, or trust department of a bank, or trust company, with respect to such accounts, or for the purpose of paying any taxes caused or created by reason of the existence of such deposit accounts or trust accounts.

Upon the maturity date of a contract as above provided and only after the funeral home has fully performed its obligations under said contract with the purchaser, or at the time of cancellation prior to maturity as provided in Subsection (4) herein, the seller may additionally withdraw from said deposit account (whether a trust or other funded account) any enhanced value, accrued interest, or accrued income of said contract. Such withdrawal shall be the proportionate part of the total enhanced value, accrued interest or accrued income, that the amount deposited under said contract bears to the total amount deposited from all unexpired contracts.

(4) In the event a purchaser under a contract should desire to cancel the contract prior to maturity, such cancellation may be accomplished by the purchaser giving fifteen days notice in writing to the Department and to the seller of the contract, and thereafter, upon written authorization from the Department, such purchaser may withdraw the funds in such depository being held for his use and benefit; provided, however, such purchaser shall be entitled to withdraw and receive only the actual amounts paid in by him less the amounts permitted to be retained as provided in Subsection (1) hereof. Purchaser may make no partial cancellations or withdrawals.

¹ Property Code, § 111.001 et seq.

Agents Responsible for Funds Collected; Designation; Violation a Misdemeanor

Sec. 6. Each organization subject to this Act shall designate an agent or agents, either by names of the individuals or by titles of their offices or positions, who shall be responsible for deposit of funds collected under contracts for prepaid funeral benefits. The organization shall notify the Department of such designation within 10 days after it becomes subject to this Act, and shall also notify the Department of any change in such designation within 10 days after such change occurs. If any person acting on behalf of the seller collects any money under such a contract and fails to deliver it, within 30 days after collection, to a designated agent, or if any designated agent fails to deposit the money within 30 days after he receives it, he shall be guilty of a misdemeanor and a violation of this Act and shall be punished by those means prescribed in Section 9 of this Act.

Annual Report

Sec. 7. The Department may require an annual report from any permit holder in such form as the Department may require. Any organization which has discontinued the sale of prepaid funeral benefits but which still has outstanding contracts shall not be required to obtain a renewal of its permit, but the Department may require annual reports of said organization until all such contracts have been fully discharged. If any officer of any organization fails or refuses to file an annual report or to cause it to be filed within 30 days after he has been notified of

the requirement by the Department, he shall be guilty of a misdemeanor and a violation of this Act and shall be punished by those means prescribed in Section 9 of this Act.

Records Required; Examination; Fee

Sec. 8. Each organization which has outstanding contracts for prepaid funeral benefits shall maintain within this state such records as the Department may require to enable it to determine whether the organization is complying with the provisions of this Act. Such records shall be subject to annual examination by the Department or its agent and to such additional examinations as it deems necessary. The organization shall pay for the cost of examination, including the salary and traveling expenses paid to the person making the examination during the time spent in making the examination and in traveling to and returning from the point where the records are kept, and all other expenses necessarily incurred in the examination. The Banking Commissioner or his agent shall assess and collect a fee in connection with each examination, based on the organization's total outstanding contracts, covering the cost of such examination, the equitable or proportionate cost of maintenance and operation of the Banking Department, and the enforcement of the provisions of this Act; but the cost to the organization shall not be more than a total cost of \$1,000 for each examination. Those organizations with less than 50 contracts outstanding shall be assessed an examination fee of \$50 plus one-fourth of one percent of the dollar amount of the organization's outstanding contract funds on deposit, in trust, or vested in any other program subject to this Act. Those organizations with 50 or more contracts outstanding shall be assessed an examination fee of \$100 plus one-fourth of one percent of the dollar amount of the organization's outstanding contract funds on deposit, in trust, or vested in any other program subject to this Act.

Violation of Act; Punishment

Sec. 9. Any officer, director, agent, or employee of any organization subject to the terms of this Act who makes or attempts to make any contract in violation of this Act, or who refuses to allow an inspection of the organization's records, or who violates any other provision of this Act, or who is guilty of fraud, deception, misrepresentation or any other dishonest practice in sale of any contract subject to this Act, shall be punished by a fine of not less than \$100 and not more than \$500, or by imprisonment in the county jail for not less than one month and not more than six months, or by both such fine and imprisonment. Each violation of any provision of this Act shall be deemed a separate offense and prosecuted individually.

The Department may bring each such violation of this Act to the attention of the Attorney General of this state and it shall be the duty of the Attorney General to institute suit in the manner of the State

of Texas against such violator in any county in this state where such violation might occur.

In addition to the misdemeanor penalties prescribed above, the Attorney General shall have the power and authority to institute quo warranto proceedings in a District Court of Travis County, Texas to forfeit the charter and right to do business of a corporation whose officer, director, agent or employee refuses or fails to correct a violation of this Act after such violation has been called to the attention of said officer, director, agent or employee by the Department or the Attorney General. A period of 30 days shall be considered sufficient time to correct such violation after notice from the Department or Attorney General.

Fees, Penalties and Revenues; Disposition

Sec. 10. All fees, penalties and revenues collected by the department shall be paid to the State Treasury, placed in the prepaid funeral account fund and shall be expended as authorized by legislative appropriation.

Applicability to Insurance Code and Group Term Life Insurance

Sec. 10a. Nothing in this Act shall alter or affect any provisions of the Insurance Code of the State of Texas; provided however, that purchasers of contracts for prepaid funeral benefits from the same seller of such contracts shall constitute a lawful group for the issuance of a group contract of decreasing term life insurance by a life insurance company authorized to do a life insurance business in the State of Texas. The amount of insurance relative to any particular purchaser shall at all times approximate the future unpaid balance of such contract for prepaid funeral benefits. The seller of prepaid funeral benefit contracts shall have an insurable interest in the life of any purchaser of such contract to the extent of any unpaid balance thereof, and the proceeds of any life insurance policy received by a seller of a prepaid funeral benefit contract on the life of a purchaser of such contract shall be applied to the reduction or elimination of any unpaid balance thereof. This section shall not be construed as having any effect on the funding of prepaid funeral benefits by other contracts of insurance as provided for in Section 1a of this Act.

Secs. 11, 12 [Omitted in 1967.]

[Acts 1955, 54th Leg., p. 1292, ch. 512. Amended by Acts 1963, 58th Leg., p. 1304, ch. 496, §§ 1 to 4, eff. July 15, 1963; Acts 1967, 60th Leg., p. 1937, ch. 726, § 1, eff. Aug. 28, 1967; Acts 1973, 63rd Leg., p. 250, ch. 119, § 1, eff. May 18, 1973; Acts 1973, 63rd Leg., p. 373, ch. 168, §§ 1 to 3, eff. Aug. 27, 1973; Acts 1981, 67th Leg., p. 469, ch. 200, § 1, eff. Aug. 31, 1981; Acts 1981, 67th Leg., p. 2402, ch. 608, § 1, eff. June 15, 1981; Acts 1983, 68th Leg., p. 3389, ch. 567, art. 2, § 4, eff. Jan. 1, 1984.]

Saved From Repeal

Acts 1963, 58th Leg., p. 1283, ch. 494, which amended art. 4582b, relating to funeral directing and embalming, provided in § 5 of the Act that nothing therein should be construed as repealing, amending, modifying, altering, or in any way prohibiting the effect and application of the provisions of Acts 1963, 58th Leg., p. 1304, ch. 496 (S.B. No. 129), which amended this article, and further provided that if there were conflicts between the provisions of Acts 1963, 58th Leg., p. 1283, ch. 494, and Acts 1963, 58th Leg., p. 1304, ch. 496, the provisions of ch. 496 should prevail.

Sections 4 and 5 of Acts 1973, 63rd Leg., p. 250, ch. 119 provide:

"Sec. 4. If any provision, section, sentence, clause or part of this Act or the application thereof to any person or circumstance is held invalid, such holding shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application and to this end the provisions of this Act are declared to be severable.

"Sec. 5. All laws or parts of laws which are in conflict with this Act are hereby repealed or modified to the extent of such conflict only."

Sections 2 and 3 of Acts 1973, 63rd Leg., p. 374, ch. 168 provide:

"Sec. 2. If any provision, section, sentence, clause, or part of this Act or the application thereof to any person or circumstance is held invalid, such holding shall not affect other provisions or application of this Act which can be given effect without the invalid provision or application and to this end the provisions of this Act are declared to be severable.

"Sec. 3. All laws or parts of laws which are in conflict with this Act are hereby repealed or modified to the extent of such conflict only."

PENAL PROVISIONS**Art. 548c. Affidavit of Solvency**

Annually, not later than January 15th of each year, each person or persons, association of persons or partnerships, or trustee or trustees acting under any common law declaration of trust, or the officers or the managers thereof, owning or operating any bank of deposit within this State, shall file with the county clerk of the county wherein the principal business of said institution is conducted an affidavit stating that said person or association of persons, partnership or institution, operating under a common law declaration of trust, is solvent and has and owns property and assets in this State the value of which is in excess of any and all of the liabilities of such person, association of persons, partnership or institution operating under a declaration of trust.

[1925 P.C.]

Art. 548d. Statement of Private Bank

Every person, partnership or association of persons, the trustee or trustees of every joint stock association, or institution, operating under any common law declaration of trust, owning or operating a bank of deposit within this State, shall annually, not later than January 20th, file with the county clerk of the county in which the principal office of said

joint stock association or institution operating under a common law declaration of trust is located, a written sworn statement giving the names of each partner or stockholder, or member holding or owning any financial interest or stock in such partnership or institution operating under a common law declaration of trust or association of persons; and a copy of such statement shall be published by the institution, partnership or association of persons, trustee or trustees of such institution, in some newspaper of general circulation in said county, if such newspaper be published within said county.

[1925 P.C.]

Art. 548e. Advertisement of Responsibility

No person, association of persons, partnership, or any trustee or trustees, acting under any common law declaration of trust, owning or operating any private banking institution or bank of deposit within this State, shall advertise in any newspaper or otherwise within this State, that said person or association of persons, partnership or institution operating under any common law declaration of trust, owns, possesses or has a financial responsibility in excess of, or above the real and true financial responsibility of such person, association of persons, partnership or institution operating under a declaration of trust. By the term "financial responsibility" as herein used, is meant money or real or personal property within this State.

[1925 P.C.]

Art. 548f. Punishment

The violation of any provision of the six preceding articles¹ by any person, association of persons, partnership, or trustees acting under any common law declaration of trust, shall constitute a misdemeanor as to such person, as to each member or association of persons, and as to each and every trustee acting under such common law declaration of trust, punishable by a fine of not less than one hundred nor more than one thousand dollars, or by imprisonment in jail for not less than thirty days nor more than twelve months, or by both such fine and imprisonment. Each day said business is carried on or attempted to be carried on shall be a separate offense.

[1925 P.C.]

¹ Former Vernon's Ann.P.C. (1925) arts. 558 to 563.

Art. 548g. Exceptions

The provisions of the eight preceding articles shall not apply to any person, association of persons, partnerships or trustees, or trustees acting under any common law declaration of trust, who, at the time this Act becomes effective are actively engaged in the operation of any bank, trust company, bank and trust company or savings bank within this State, nor to any bank which may have been in successful operation in this State for twenty years and shall have suspended operation prior to the

passage of this Act, but which shall resume operation within twelve months after the passage of this Act. The right to continue such business of such bank, trust company, bank and trust company or savings bank so engaged, or shall resume business as provided in this Act, and by their heirs, legal representatives, assigns and successors, is hereby expressly recognized, confirmed and fixed. Said provisions shall not apply to any person, association of persons, partnerships or trustee, or trustees acting under any common law declaration of trust, who

has for a period of one year next preceding the date that this Act becomes effective, and who, as such, in the course of the liquidation of any bank or trust company or bank and trust company within this State, has acquired the assets, or any part thereof, including the real estate used as its banking house or place of business and has assumed the liabilities, or a part thereof, of such liquidated bank or trust company or bank and trust company.

[1925 P.C.]

TITLE 17

BEES

Art. 549 to 565b. Repealed.

Arts. 549 to 565b. Repealed by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 388, repealing these articles, enacts the Agriculture Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Agriculture Code.

TITLE 18

BILLS AND NOTES

Art. 566 to 578. Repealed.

Art. 566. Repealed by Acts 1935, 44th Leg., p. 566, ch. 268, § 1

Arts. 567 to 571. Repealed by Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, § 10-102, eff. June 30, 1966

Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, enacting the Uniform Commercial Code, repealed arts. 567 to 571 effective June 30, 1966. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721 was itself repealed by Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code effective September 1, 1967. However, the latter Act specifically provided that the repeal did not affect the prior operation of the 1965 Act or any prior action taken under it.

Arts. 572 to 574. Repealed by Rules of Civil Procedure, Acts 1939, 46th Leg., p. 201, § 1

Arts. 575, 576. Repealed by Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, § 10-102, eff. June 30, 1966

Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, enacting the Uniform Commercial Code, repealed arts. 575, 576 effective June 30, 1966. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721 was itself repealed by Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code effective September 1, 1967. However, the latter Act specifically provided that the repeal did not affect the prior operation of the 1965 Act or any prior action taken under it.

Arts. 577, 578. Repealed by Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, § 4, eff. Sept. 1, 1967

Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code, repealed arts. 577 and 578 effective September 1, 1967.

TITLE 19

BLUE SKY LAW—SECURITIES

<p>Art. 579 to 581. Repealed. 581-1. Short Title of Act. 581-2. Creating the State Securities Board and Providing for Appointment of Securities Commissioner. 581-3. Administration and Enforcement by the Securities Commissioner and the Attorney General and Local Law Enforcement Officials. 581-4. Definitions. 581-5. Exempt Transactions. 581-6. Exempt Securities. 581-7. Permit or Registration for Issue by Commissioner; Information for Issuance of Permit or Registration. 581-8. Consent to Service and Certificate of Good Standing. 581-9. Protection to Purchasers of Securities. 581-10. Examination of Application; Permit. 581-10-1. Purposes. 581-11. Papers Filed with Commissioner; Records Open to Inspection. 581-12. Registration of Persons Selling. 581-13. Method of Registration Required of Each Dealer and Each Agent or Salesman of Each Dealer. 581-14. Denial, Suspension or Revocation of Registration as Dealer, Agent, or Salesman. 581-15. Issuance of Registration Certificates to Dealers. 581-16. Consent to Suit in this State, by Dealers Who Are Foreign Companies or Non-residents. 581-17. Form of Certificates to Dealers. 581-18. Registration of Agents or Salesmen of Dealers. 581-19. Annual Registration; Renewals. 581-20. Display or Advertisement of Fact of Registration Unlawful. 581-21. Posting Certificates of Authority. 581-22. Regulation of Offers. 581-23. Cease-Desist Orders; Stop-Offer Notices; List of Securities Offered. 581-24. Hearings upon Exception to Actions of Commissioner. 581-25. Revocation of Registration of any Dealer, Agent, or Salesman. 581-25-1. Receiverships of Persons or Assets of Persons Acting as Dealers. 581-26. Notices by Registered Mail. 581-27. Judicial Review. 581-28. Subpoenas or Other Process in Investigations by Commissioner. 581-28-1. Adoption of Rules and Regulations. 581-29. Penal Provisions. 581-29-1. Limitation. 581-30. Certified Copies of Papers Filed with Commissioner as Evidence. 581-31. Construction. 581-32. Injunctions and Restitution. 581-33. Civil Liabilities.</p>	<p>Art. 581-34. Actions for Commission; Allegations and Proof of Compliance. 581-35. Fees. 581-35-1. Sale of Securities in Excess of Amount Registered; Fees. 581-36. Deposit to General Revenue Fund. 581-37. Pleading Exemptions. 581-38. Partial Invalidity; Severability. 581-39. Repeal of Securities Act and Insurance Securities Act Now in Effect; Saving Clause as to Pending Proceedings. 582 to 600. Repealed.</p> <p style="text-align: center;">Saved from Repeal</p> <p style="text-align: center;"><i>The Uniform Commercial Code, enacted by Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, provided that the Act did not repeal or diminish arts. 581-1 through 581-39, and further provided that if in any respect there was any inconsistency between those articles and the Commercial Code, the provisions of those articles should control. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, was itself repealed by Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code effective September 1, 1967. However, the latter Act specifically provided that the repeal did not affect the prior operation of the 1965 Act or any prior action taken under it.</i></p> <p>Art. 579. Repealed by Acts 1935, 44th Leg., p. 255, ch. 100, § 38</p> <p>Arts. 579-1 to 579-42. Repealed by Acts 1957, 55th Leg., p. 575, ch. 269, § 39.</p> <p>Art. 580. Repealed by Acts 1935, 44th Leg., p. 255, ch. 100, § 38</p> <p>Arts. 580-1 to 580-39. Repealed by Acts 1957, 55th Leg., p. 575, ch. 269, § 39</p> <p>Art. 581. Repealed by Acts 1935, 44th Leg., p. 255, ch. 100, § 38</p> <p>Art. 581-1. Short Title of Act</p> <p style="text-align: center;">This Act shall be known and may be cited as "The Securities Act."</p> <p>[Acts 1957, 55th Leg., p. 575, ch. 269, § 1.]</p>
--	--

Art. 581-2. Creating the State Securities Board and Providing for Appointment of Securities Commissioner

A. The State Securities Board is hereby created. The Board shall consist of three citizens of the state. With the advice and consent of the Senate, the Governor shall biennially appoint one member. The term of each member shall be six (6) years from the time of his appointment and qualification, and until his successor shall qualify. Vacancies shall be filled by the Governor for the unexpired term. Members shall be eligible for reappointment. Appointments to the Board shall be made without regard to the race, creed, sex, religion, or national origin of the appointees.

B. Board members must be members of the general public. A person is not eligible for appointment as a member if the person or the person's spouse:

(1) is registered as a dealer, salesman, agent, or investment adviser;

(2) is employed by or participates in the management of a business entity engaged in business as a securities dealer or investment adviser; or

(3) has, other than as a consumer, a financial interest in a business entity engaged in business as a securities dealer or investment adviser.

C. A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes), because of the person's activities for compensation in or for a profession related to the operation of the Board, may not serve as a member of the Board or act as the general counsel to the Board.

D. Each member of the Board is entitled to per diem as set by legislative appropriation for each day that the member engages in the business of the Board.

They shall select their own chairman. A majority of the members shall constitute a quorum for the transaction of any business.

E. It is a ground for removal from the Board if a member:

(1) does not have at the time of appointment the qualifications required by Subsection A or B of this section for appointment to the Board;

(2) does not maintain during the service on the Board the qualifications required by Subsection A or B of this section for appointment to the Board; or

(3) violates a prohibition established by Subsection C of this section.

F. The validity of an action of the Board is not affected by the fact that it was taken when a ground for removal of a member of the Board existed.

G. The Board shall appoint a Securities Commissioner who serves at the pleasure of the Board and who shall, under the supervision of the Board, administer the provisions of this Act. Each member of the Board shall have access to all offices and records under his supervision, and the Board, or a majority thereof, may exercise any power or perform any act authorized to the Securities Commissioner by the provisions of this Act.

H. The Commissioner, with the consent of the Board, may designate a Deputy Securities Commissioner who shall perform all the duties required by law to be performed by the Securities Commissioner when the said Commissioner is absent or unable to act for any reason.

I. Before assuming office, the Securities Commissioner shall first give a bond in the sum of Twenty-five Thousand Dollars (\$25,000.00) payable to and to be approved by the Governor, conditioned that he will faithfully execute the duties of his office. The same requirement is made of the Deputy Securities Commissioner, and the Securities Commissioner may require any or all of his staff and employees to be likewise bonded. The expense of all such bonds may be paid by the state.

J. On or before January 1 of each year, the Board, with the advice of the Commissioner, shall report to the Governor and the presiding officer of each house of the Legislature as to its administration of this Act, as well as plans and needs for future securities regulation. The report must include a detailed accounting of all funds received and disbursed by the Board during the preceding year.

K. The Commissioner or his designee shall develop an intraagency career ladder program, one part of which shall be the intraagency posting of all nonentry level positions for at least ten (10) days before any public posting. The Commissioner or his designee shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay for Board employees must be based on the system established under this section.

L. The Board shall prepare information of consumer interest describing the regulatory functions of the Board and Commissioner and describing the Board's and Commissioner's procedures by which consumer complaints are filed with and resolved by the Board or Commissioner. The Board shall make the information available to the general public and appropriate state agencies. There shall be prominently displayed at all times in the place of business of each dealer, salesman, or agent regulated under this Act, a sign containing the name, mailing address, and telephone number of the Board and a statement informing consumers that complaints against a dealer, salesman, or agent may be directed to the Board.

M. The State Auditor shall audit the financial transactions of the Board during each fiscal year.

N. The Board and Commissioner are subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

O. The State Securities Board is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the board is abolished, and this Act expires effective September 1, 1995.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 2. Amended by Acts 1977, 65th Leg., p. 1841, ch. 735, § 2.066, eff. Aug. 29, 1977; Acts 1983, 68th Leg., p. 2688, ch. 465, § 1, eff. Sept. 1, 1983.]

Section 6 of the 1983 amendatory act provides:

"The requirements under Subsection K, Section 2, The Securities Act, as amended (Article 581-1 et seq., Vernon's Texas Civil Statutes), that the commissioner develop an intraagency career ladder program and a system of annual performance evaluations shall be implemented before September 1, 1984. The requirement of that section that merit pay be based on the performance evaluation system shall be implemented before September 1, 1985."

Art. 581-3. Administration and Enforcement by the Securities Commissioner and the Attorney General and Local Law Enforcement Officials

The administration of the provisions of this Act shall be vested in the Securities Commissioner. It shall be the duty of the Securities Commissioner and the Attorney General to see that its provisions are at all times obeyed and to take such measures and to make such investigations as will prevent or detect the violation of any provision thereof. The Commissioner shall at once lay before the District or County Attorney of the proper county any evidence which shall come to his knowledge of criminality under this Act. In the event of the neglect or refusal of such attorney to institute and prosecute such violation, the Commissioner shall submit such evidence to the Attorney General, who is hereby authorized to proceed therein with all the rights, privileges and powers conferred by law upon district or county attorneys, including the power to appear before grand juries and to interrogate witnesses before such grand juries.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 3.]

Art. 581-4. Definitions

The following terms shall, unless the context otherwise indicates, have the following respective meanings:

A. The term "security" or "securities" shall include any share, stock, treasury stock, stock certificate under a voting trust agreement, collateral trust certificate, equipment trust certificate, preorganization certificate or receipt, subscription or reorganization certificate, note, bond, debenture, mortgage certificate or other evidence of indebtedness, any

form of commercial paper, certificate in or under a profit sharing or participation agreement, certificate or any instrument representing any interest in or under an oil, gas or mining lease, fee or title, or any certificate or instrument representing or secured by an interest in any or all of the capital, property, assets, profits or earnings of any company, investment contract, or any other instrument commonly known as a security, whether similar to those herein referred to or not. Provided, however, that this definition shall not apply to any insurance policy, endowment policy, annuity contract, optional annuity contract, or any contract or agreement in relation to and in consequence of any such policy or contract, issued by an insurance company subject to the supervision or control of the Board of Insurance Commissioners when the form of such policy or contract has been duly filed with the Board as now or hereafter required by law.

B. The terms "person" and "company" shall include a corporation, person, joint stock company, partnership, limited partnership, association, company, firm, syndicate, trust, incorporated or unincorporated, heretofore or hereafter formed under the laws of this or any other state, country, sovereignty or political subdivision thereof, and shall include a government, or a political subdivision or agency thereof. As used herein, the term "trust" shall be deemed to include a common law trust, but shall not include a trust created or appointed under or by virtue of a last will and testament or by a court of law or equity. Under the criminal penal provisions of Section 29 of this Act, the word "person" shall mean a natural person.

C. The term "dealer" shall include every person or company, other than a salesman, who engages in this state, either for all or part of his or its time, directly or through an agent, in selling, offering for sale or delivery or soliciting subscriptions to or orders for, or undertaking to dispose of, or to invite offers for, or rendering services as an investment adviser, or dealing in any other manner in any security or securities within this state. Any issuer other than a registered dealer of a security or securities, who, directly or through any person or company, other than a registered dealer, offers for sale, sells or makes sales of its own security or securities shall be deemed a dealer and shall be required to comply with the provisions hereof; provided, however, this section or provision shall not apply to such issuer when such security or securities are offered for sale or sold either to a registered dealer or only by or through a registered dealer acting as fiscal agent for the issuer; and provided further, this section or provision shall not apply to such issuer if the transaction is within the exemptions contained in the provisions of Section 5 of this Act.

D. The term "salesman" shall include every person or company employed or appointed or authorized by a dealer to sell, offer for sale or delivery, or solicit subscriptions to or orders for, or deal in any

other manner, in securities within this state, whether by direct act or through subagents; provided, that the officers of a corporation or partners of a partnership shall not be deemed salesmen, where such corporation or partnership is registered as a dealer hereunder.

E. The terms "sale" or "offer for sale" or "sell" shall include every disposition, or attempt to dispose of a security for value. The term "sale" means and includes contracts and agreements whereby securities are sold, traded or exchanged for money, property or other things of value, or any transfer or agreement to transfer, in trust or otherwise. Any security given or delivered with or as a bonus on account of any purchase of securities or other thing of value, shall be conclusively presumed to constitute a part of the subject of such purchase and to have been sold for value. The term "sell" means any act by which a sale is made, and the term "sale" or "offer for sale" shall include a subscription, an option for sale, a solicitation of sale, a solicitation of an offer to buy, an attempt to sell, or an offer to sell, directly or by an agent or salesman, by a circular, letter, or advertisement or otherwise, including the deposit in a United States Post Office or mail box or in any manner in the United States mails within this State of a letter, circular or other advertising matter. Nothing herein shall limit or diminish the full meaning of the terms "sale," "sell" or "offer for sale" as used by or accepted in courts of law or equity. The sale of a security under conditions which entitle the purchaser or subsequent holder to exchange the same for, or to purchase some other security, shall not be deemed a sale or offer for sale of such other security; but no exchange for or sale of such other security shall ever be made unless and until the sale thereof shall have been first authorized in Texas under this Act, if not exempt hereunder, or by other provisions of law.

F. The terms "fraud" or "fraudulent practice" shall include any misrepresentations, in any manner, of a relevant fact; any promise or representation or predication as to the future not made honestly and in good faith, or an intentional failure to disclose a material fact; the gaining, directly or indirectly, through the sale of any security, of an underwriting or promotion fee or profit, selling or managing commission or profit, so gross or exorbitant as to be unconscionable; any scheme, device or other artifice to obtain such profit, fee or commission; provided, that nothing herein shall limit or diminish the full meaning of the terms "fraud," "fraudulent," and "fraudulent practice" as applied or accepted in courts of law or equity.

G. "Issuer" shall mean and include every company or person who proposes to issue, has issued, or shall hereafter issue any security.

H. "Broker" shall mean dealer as herein defined.

I. "Mortgage" shall be deemed to include a deed of trust to secure a debt.

J. If the sense requires it, words in the present tense include the future tense, in the masculine gender include the feminine and neuter gender, in the singular number include the plural number, and in the plural number include the singular number; "and" may be read "or" and "or" may be read "and".

K. "No par value" or "non-par" as applied to shares of stock or other securities shall mean that such shares of stock or other securities are without a given or specified par value. Whenever any classification or computation in this Act mentioned is based upon "par value" as applied to shares of stock or other securities of no par value, the amount for which such securities are sold or offered for sale to the public shall be used as a basis of such classification or computation.

L. The term "include" when used in a definition contained in this Act shall not be deemed to exclude other things or persons otherwise within the meaning of the term defined.

M. "Registered dealer" shall mean a dealer as hereinabove defined who has been duly registered by the Commissioner as in Section 15 of this Act provided.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 4. Amended by Acts 1971, 62nd Leg., p. 1085, ch. 235, § 1, eff. May 17, 1971; Acts 1979, 66th Leg., p. 348, ch. 160, § 1, eff. May 15, 1979.]

Section 10 of the 1979 amendatory act provided:

"This Act does not affect Section 11.01, Texas Savings and Loan Act, as amended (Article 852a, Vernon's Texas Civil Statutes), or Article 11a, Chapter IV, The Texas Banking Code of 1943, as added (Article 342-411a, Vernon's Texas Civil Statutes)."

Art. 581-5. Exempt Transactions

Except as hereinafter in this Act specifically provided, the provisions of this Act shall not apply to the sale of any security when made in any of the following transactions and under any of the following conditions, and the company or person engaged therein shall not be deemed a dealer within the meaning of this Act; that is to say, the provisions of this Act shall not apply to any sale, offer for sale, solicitation, subscription, dealing in or delivery of any security under any of the following transactions or conditions:

A. At any judicial, executor's, administrator's, guardian's or conservator's sale, or any sale by a receiver or trustee in insolvency or bankruptcy.

B. The sale by or for the account of a pledge holder or mortgagee, selling or offering for sale or delivery in the ordinary course of business to liquidate a bona fide debt, of a security pledged in good faith as security for such debt.

C. (1) Sales of securities made by or in behalf of a vendor, whether by dealer or other agent, in the ordinary course of bona fide personal investment of the personal holdings of such vendor, or change in

such investment, if such vendor is not engaged in the business of selling securities and the sale or sales are isolated transactions not made in the course of repeated and successive transactions of a like character; provided, that in no event shall such sales or offerings be exempt from the provisions of this Act when made or intended by the vendor or his agent, for the benefit, either directly or indirectly, of any company or corporation except the individual vendor (other than a usual commission to said agent), and provided further, that any person acting as agent for said vendor shall be registered pursuant to this Act;

(2) Sales by or on behalf of any insurance company subject to the supervision or control of the Board of Insurance Commissioners of any security owned by such company as a legal and bona fide investment, provided that in no event shall any such sale or offering be exempt from the provisions of this Act when made or intended, either directly or indirectly, for the benefit of any other company as that term is defined in this Act.

D. The distribution by a corporation of securities direct to its stockholders as a stock dividend or other distribution paid out of earnings or surplus.

E. Any offer and any transaction pursuant to any offer by the issuer of its securities to its existing security holders (including persons who at the time of the transaction are holders of convertible securities or nontransferable warrants) if no commission or other remuneration (other than a stand-by commission) is paid or given directly or indirectly for soliciting any security holder in this State.

F. The issue in good faith of securities by a company to its security holders, or creditors, in the process of a bona fide reorganization of the company made in good faith, or the issue in good faith of securities by a company, organized solely for the purpose of taking over the assets and continuing the business of a predecessor company, to the security holders or creditors of such predecessor company, provided that in either such case such securities are issued in exchange for the securities of such holders or claims of such creditors, or both, and in either such case security holders or creditors do not pay or give or promise and are not obligated to pay or give any consideration for the securities so issued other than the securities of or claims against said company or its predecessor then held or owned by them.

G. The issue or sale of securities (a) by one corporation to another corporation or the security holders thereof pursuant to a vote by one or more classes of such security holders, as required by the certificate of incorporation or the applicable corporation statute, in connection with a merger, consolidation or sale of corporate assets, or (b) by one corporation to its own stockholders in connection with the change of par value stock to no par value stock or vice versa, or the exchange of outstanding

shares for the same or a greater or smaller number of shares; provided that in any such case such security holders do not pay or give or promise and are not obligated to pay or give any consideration for the securities so issued or sold other than the securities of the corporation then held by them.

H. The sale of any security to any bank, trust company, building and loan association, insurance company, surety or guaranty company, savings institution, investment company as defined in the Investment Company Act of 1940,¹ small business investment company as defined in the Small Business Investment Act of 1958, as amended,² or to any registered dealer actually engaged in buying and selling securities; or the issue or sale of any investment contract in connection with an employees' stock bonus, annuity, pension, profit-sharing or similar employee benefit plan provided the securities purchased under the plan either would be exempt if sold by a registered dealer under Section 6 hereof or shall be qualified under Section 7 hereof or purchased in a transaction exempt under Section 5 hereof.

I. Provided such sale is made without any public solicitation or advertisements, (a) the sale of any security by the issuer thereof so long as the total number of security holders of the issuer thereof does not exceed thirty-five (35) persons after taking such sale into account; (b) the sale of shares of stock pursuant to the grant of an employees' restricted stock option as defined in the Internal Revenue Laws of the United States; or (c) the sale by an issuer of its securities during the period of twelve (12) months ending with the date of the sale in question to not more than fifteen (15) persons (excluding, in determining such fifteen (15) persons, purchasers of securities in transactions exempt under other provisions of this Section 5, purchasers of securities exempt under Section 6 hereof and purchasers of securities which are part of an offering registered under Section 7 hereof); provided such persons purchased such securities for their own account and not for distribution.

The commissioner may by order revoke or suspend the exemption under clause (c) of this Subsection I with respect to any security if he has reasonable cause to believe that the plan of business of the issuer of such security, the security, or the sale thereof would tend to work a fraud or deceit upon the purchaser or purchasers thereof, such order to be subject to review in the manner provided by Section 24 of this Act. The revocation or suspension of this exemption shall be inapplicable to the issuer until such issuer shall have received actual notice from the commissioner of such revocation or suspension.

J. Wherein the securities disposed of consist exclusively of notes or bonds secured by mortgage or vendor's lien upon real estate or tangible personal property, and the entire mortgage is sold or trans-

ferred with all of the notes or bonds secured thereby in a single transaction.

K. Any security or membership issued by a corporation or association, organized exclusively for religious, educational, benevolent, fraternal, charitable, or reformatory purposes and not for pecuniary profit, and no part of the net earnings of which inures to the benefit of any stockholder, shareholder, or individual members, and where no commission or remuneration is paid or given or is to be paid or given in connection with the disposition thereof.

L. The sale by the issuer itself, or by a registered dealer, of any security issued or guaranteed by any bank organized and subject to regulation under the laws of the United States or under the laws of any State or territory of the United States, or any insular possession thereof, or by any savings and loan association organized and subject to regulation under the laws of this State, or the sale by the issuer itself of any security issued by any federal savings and loan association.

M. The sale by the issuer itself, or by a registered dealer, of any security either issued or guaranteed by the United States or by any territory or insular possession thereof, or by the District of Columbia, or by any state of the United States, or political subdivision thereof (including but not limited to any county, city, municipal corporation, district, or authority), or by any public or governmental agency or instrumentality of any of the foregoing.

N. The sale and issuance of any securities issued by any farmers' cooperative association organized under Article 5737 et seq., Revised Civil Statutes of Texas, 1925, as amended;³ the sale and issuance of any securities issued by mutual loan corporations organized under Article 2500 et seq., Revised Civil Statutes of Texas, 1925;⁴ the sale and issuance of any equity securities issued by any cooperative association organized under the Cooperative Association Act, as amended (Article 1396-50-01, Vernon's Texas Civil Statutes); and the sale of any securities issued by any farmers' cooperative society organized under Article 2514 et seq., Revised Civil Statutes of Texas, 1925.⁵ Provided, however, this exemption shall not be applicable to agents and salesmen of any farmers' cooperative association, mutual loan corporation, cooperative association, or farmers' cooperative society when the sale of such securities is made to non-members, or when the sale of such securities is made to members or non-members and a commission is paid or contracted to be paid to the said agents or salesmen.

O. The sale by a registered dealer of outstanding securities provided that:

(1) Such securities form no part of an unsold allotment to or subscription by such dealer as a participant in the distribution of such securities by the issuer thereof; and

(2) Securities of the same class, of the same issuer, are outstanding in the hands of the public; and

(3) Such securities are offered for sale, in good faith, at prices reasonably related to the current market price of such securities at the time of such sale; and

(4) No part of the proceeds of such sale are paid directly or indirectly to the issuer of such securities; and

(5) Such sale is not directly or indirectly for the purposes of providing or furthering any scheme to violate or evade any provision of this Act; and

(6) The right to sell or resell such securities has not been enjoined by any court of competent jurisdiction in this State by proceedings instituted by an officer or agency of this State charged with enforcement of this Act; and

(7) The right to sell such securities has not been revoked or suspended by the commissioner under any of the provisions of this Act, or, if so, revocation or suspension is not in force and effect; and

(8) At the time of such sale, the issuer of such securities shall be a going concern actually engaged in business and shall then be neither in an organization stage nor in receivership or bankruptcy; and

(9) Such securities or other securities of the issuer of the same class have been registered by qualification, notification or coordination under Section 7 of this Act; or at the time of such sale at least the following information about the issuer shall appear in a recognized securities manual or in a statement, in form and extent acceptable to the commissioner, filed with the commissioner by the issuer or by a registered dealer:

(a) A statement of the issuer's principal business;

(b) A balance sheet as of a date within eighteen (18) months of the date of such sale; and

(c) Profit and loss statements and a record of the dividends paid, if any, for a period of not less than three (3) years prior to the date of such balance sheet or for the period of existence of the issuer, if such period of existence is less than three (3) years.

The term "recognized securities manual" means a nationally distributed manual of securities that is approved for use hereunder by the Board.

The commissioner may issue a stop order or by order prohibit, revoke or suspend the exemption under this Subsection O with respect to any security if he has reasonable cause to believe that the plan of business of the issuer of such security, the security, or the sale thereof would tend to work a fraud or deceit upon any purchaser or purchasers thereof, such order to be subject to review in the manner provided by Section 24 of this Act. Notice of any court injunction enjoining the sale, or resale, of any such security, or of an order revoking or suspending the exemption under this subdivision with re-

spect to any security, shall be delivered or shall be mailed by certified or registered mail with return receipt requested, to any dealers believed to be selling, or offering for sale, securities of the type referred to in the notice; and the prohibitions of (6) and (7) above of this Subsection O shall be inapplicable to any dealer until he has received actual notice from the commissioner of such revocation or suspension.

The Board may for cause shown revoke or suspend the recognition hereunder of any manuals previously approved under this Subsection but no such action may be taken unless upon notice and opportunity for hearing before the Board or a hearings officer appointed by the Board. A judgment sustaining the Board in the action complained of shall not bar after one year an application by the plaintiff for approval of its manual or manuals hereunder, nor shall a judgment in favor of the plaintiff prevent the Board from thereafter revoking such recognition for any proper cause which may thereafter accrue or be discovered.

P. The execution by a dealer of an unsolicited order for the purchase of securities, where the initial offering of such securities has been completed and provided that the dealer acts solely as an agent for the purchaser, has no direct or indirect interest in the sale or distribution of the security ordered, and receives no commission, profit, or other compensation from any source other than the purchaser.

Q. The sales of interest in and under oil, gas or mining leases, fees or titles, or contracts relating thereto, where (1) the total number of sales by any one owner of interests, whether whole, fractional, segregated or undivided in any single oil, gas or mineral lease, fee or title, or contract relating thereto, shall not exceed thirty-five (35) within a period of twelve (12) consecutive months and (2) no use is made of advertisement or public solicitation; provided, however, if such sale or sales are made by an agent for such owner or owners, such agent shall be licensed pursuant to this Act. No oil, gas or mineral unitization or pooling agreement shall be deemed a sale under this Act.

R. The sale by the issuer itself, or by a subsidiary of such issuer, of any securities which would be exempt if sold by a registered dealer under Section 6 (other than Subsection 6-E) of this Act.

S. The sale by or through a registered dealer of any option if at the time of the sale of the option:

(1) the performance of the terms of the option is guaranteed by any broker-dealer registered under the federal Securities Exchange Act of 1934, as amended,⁶ which guaranty and broker-dealer are in compliance with such requirements or regulations as may be approved or adopted by the board;

(2) the option is not sold by or for the benefit of the issuer of the security which may be purchased or sold upon exercise of the option;

(3) the security which may be purchased or sold upon exercise of the option is either (a) exempted under Subsection F of Section 6 of this Act or (b) quoted on the National Association of Securities Dealers Automated Quotation system and meets the requirements of Paragraphs (1), (6), (7), and (8) of Subsection O of Section 5 of this Act; and

(4) such sale is not directly or indirectly for the purposes of providing or furthering any scheme to violate or evade any provisions of this Act.

For purposes of this subsection the term "option" shall mean and include any put, call, straddle, or other option or privilege of buying or selling a specified number of securities at a specified price from or to another person, without being bound to do so, on or prior to a specified date, but such term shall not include any option or privilege which by its terms may terminate prior to such specified date upon the occurrence of a specified event.

T. Such other transactions or conditions as the board by rule, regulation, or order may define or prescribe, conditionally or unconditionally.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 5. Amended by Acts 1959, 56th Leg., p. 147, ch. 88, § 1; Acts 1963, 58th Leg., p. 473, ch. 170, §§ 1 to 6; Acts 1975, 64th Leg., p. 199, ch. 78, § 1, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 865, ch. 327, § 1, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 349, ch. 160, § 2, eff. May 15, 1979; Acts 1981, 67th Leg., p. 3198, ch. 839, § 1, eff. June 17, 1981; Acts 1983, 68th Leg., p. 2688, ch. 465, § 1, eff. Sept. 1 1983.]

¹ 15 U.S.C.A. § 80a-1 et seq.

² 15 U.S.C.A. § 631 et seq.

³ Repealed; see, now, Agriculture Code, § 52.001 et seq.

⁴ Repealed; see, now, Agriculture Code, § 54.001 et seq.

⁵ Repealed; see, now, Agriculture Code, § 51.001 et seq.

⁶ 15 U.S.C.A. § 78a et seq.

Sections 1 to 12a of the amendatory act of 1963 amended various articles of the Securities Act. Section 13 was a severability provision. Section 14 thereof provided:

"Prior law exclusively governs all suits, actions, proceedings, rights, liabilities and causes of action which are pending or accrue before the effective date of this Act; and same shall continue and remain in full force and effect until terminated as under the law now in force."

For effect of the 1979 amendatory act on arts. 852a, § 11.01, and 342-411a, see note under art. 581-4.

Art. 581-6. Exempt Securities

Except as hereinafter in this Act expressly provided, the provisions of this Act shall not apply to any of the following securities when offered for sale, or sold, or dealt in by a registered dealer or salesman of a registered dealer:

A to C. Deleted by Acts 1979, 66th Leg., p. 354, ch. 160, § 3, eff. May 15, 1979.

D. Any security issued or guaranteed either as to principal, interest, or dividend, by a corporation owning or operating a railroad or any other public service utility; provided, that such corporation is subject to regulation or supervision either as to its rates and charges or as to the issue of its own securities by the Railroad Commission of Texas, or

by a public commission, agency, board or officers of the Government of the United States, or of any territory or insular possession thereof, or of any state or municipal corporation, or of the District of Columbia, or of the Dominion of Canada, or any province thereof; also equipment trust certificates or equipment notes or bonds based on chattel mortgages, leases or agreements for conditional sale of cars, motive power or other rolling stock mortgages, leased or sold to or furnished for the use of or upon a railroad or other public service utility corporation, provided that such corporation is subject to regulation or supervision as above; or equipment trust certificates, or equipment notes or bonds where the ownership or title of such equipment is pledged or retained in accordance with the provisions of the laws of the United States, or of any state, territory or insular possession thereof, or of the District of Columbia, or the Dominion of Canada, or any province thereof, to secure the payment of such equipment trust certificates, bonds or notes.

E. Any security issued and sold by a domestic corporation without capital stock and not organized and not engaged in business for profit.

F. Securities which at the time of sale have been fully listed upon the American Stock Exchange, the Boston Stock Exchange, the Midwest Stock Exchange or the New York Stock Exchange, or upon any recognized and responsible stock exchange approved by the Commissioner as hereinafter in this section provided, and also all securities senior to, or if of the same issues, upon a parity with, any securities so listed or represented by subscription rights which have been so listed, or evidence of indebtedness guaranteed by any company, any stock of which is so listed, such securities to be exempt only so long as the exchange upon which such securities are so listed remains approved under the provisions of this Section. Application for approval by the Commissioner may be made by any organized stock exchange in such manner and upon such forms as may be prescribed by the Commissioner, but no approval of any exchange shall be given unless the facts and data supplied with the application shall be found to establish:

(1) That the requirements for the listing of securities upon the exchange so seeking approval are such as to effect reasonable protection to the public;

(2) That the governing constitution, by-laws or regulations of such exchange shall require:

1st: An adequate examination into the affairs of the issuer of the securities which are to be listed before permitting trading therein;

2nd: That the issuer of such securities, so long as they be listed, shall periodically prepare, make public and furnish promptly to the exchange, appropriate financial, income, and profit and loss statements;

3rd: Securities listed and traded in on such exchange to be restricted to those of ascertained, sound asset or income value;

4th: A reasonable surveillance of its members, including a requirement for periodical financial statements and a determination of the financial responsibility of its members and the right and obligation in the governing body of such exchange to suspend or expel any member found to be financially embarrassed or irresponsible or found to have been guilty of misconduct in his business dealings, or conduct prejudicial of the rights and interests of his customers;

The approval of any such exchange by the Commissioner shall be made only after a reasonable investigation and hearing, and shall be by a written order of approval upon a finding of fact substantially in accordance with the requirements hereinabove provided. The Commissioner, upon ten (10) days notice and hearing, shall have power at any time to withdraw approval theretofore granted by him to any such stock exchange which does not at the time of hearing meet the standards of approval under this Act, and thereupon securities so listed upon such exchange shall be no longer entitled to the benefit of such exemption except upon the further order of said Commissioner approving such exchange.

G. Deleted by Acts 1979, 66th Leg., p. 354, ch. 160, § 3, eff. May 15, 1979.

H. Negotiable promissory notes or commercial paper issued in good faith and in the usual course of carrying on and conducting the business of the issuer, provided that such notes or commercial paper mature in not more than twenty-four (24) months from the date of issue.

I. Notes, bonds, or other evidence of indebtedness or certificates of ownership which are equally and proportionately secured without reference of priority of one over another, and which, by the terms of the instrument creating the lien, shall continue to be so secured by the deposit with a trustee of recognized responsibility approved by the Commissioner of any of the securities specified in Subsection M of Section 5 or Subsection D of Section 6; such deposited securities, if of the classes described in Subsection M of Section 5, having an aggregate par value of not less than one hundred and ten per cent (110%) of the par value of the securities thereby secured, and if of class specified in Subsection D of Section 6, having an aggregate par value of not less than one hundred and twenty five per cent (125%) of the par value of the securities thereby secured.

J. Notes, bonds or other evidence of indebtedness of religious, charitable or benevolent corporations.

K. Deleted by Acts 1979, 66th Leg., p. 354, ch. 160, § 3, eff. May 15, 1979.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 6. Amended by Acts 1979, 66th Leg., p. 354, ch. 160, § 3, eff. May 15, 1979.]

For effect of the 1979 amendatory act on arts. 852a, § 11.01, and 342-411a, see note under art. 581-4.

Art. 581-7. Permit or Registration for Issue by Commissioner; Information for Issuance of Permit or Registration

A. Qualification of Securities.

(1) No dealer, agent or salesman shall sell or offer for sale any securities issued after September 6, 1955, except those which shall have been registered by Notification under subdivision B or by Coordination under subdivision C of this Section 7 and except those which come within the classes enumerated in Section 5 or Section 6 of this Act, until the issuer of such securities or a dealer registered under the provisions of this Act shall have been granted a permit by the Commissioner; and no such permit shall be granted by the Commissioner until the issuer of such securities or a dealer registered under the provisions of this Act shall have filed with the Commissioner a sworn statement verified under the oath of an executive officer or partner of the issuer, or of such registered dealer, and attested by the secretary or partner thereof, setting forth the following information:

a. The names, residences and post office addresses of the officers and directors of the company;

b. The location of its principal office and of all branch offices in this State, if any;

c. A copy if its articles of incorporation or partnership or association, as the case may be, and of any amendments thereto, if any; if a corporation, a copy of all minutes of any proceedings of its directors, stockholders or members relating to or affecting the issue of said security; if a corporation, a copy of its bylaws and of any amendments thereto; if a trustee, a copy of all instruments by which the trust is created and in which it is accepted, acknowledged or declared;

d. A statement showing the amount of capital stock, if any, and if no capital stock, the amount of capital of the issuer that is contemplated to be employed; the number of shares into which such stock is divided, or if not divided into shares of stock, what division is to be made or is contemplated; the par value of each share, or if no par stock, the price at which such security is proposed to be sold; the promotional fees or commissions to be paid for the sale of same, including any and all compensations of every nature that are in any way to be allowed the promoters or allowed for the sale of same; and how such compensation is to be paid, whether in cash, securities, service or otherwise, or partly of either or both; also, the amount of cash to be paid, or securities to be issued, given, transfer-

red or sold to promoters for promotion or organization services and expenses, and the amount of promotion or organization services and expenses which will be assumed or in any way paid by the issuer;

e. Copies of certificates of the stock and all other securities to be sold, or offered for sale, together with application blanks therefor; a copy of any contract it proposes to make concerning such security; a copy of any prospectus or advertisement or other description of security prepared by or for it for distribution or publication;

f. A detailed statement prepared in accordance with generally accepted auditing standards and procedures and generally accepted accounting principles, showing all the assets and all the liabilities of the issuer, said statement to reflect the financial condition of the issuer on a day not more than ninety (90) days prior to the date such statement is filed. Such statement shall list all assets in detail and shall show how the value of such assets was determined, that is, whether the value set forth in said statement represents the actual cost in money of such assets, or whether such value represents their present market value, or some other value than the actual cost in money, and shall show the present actual value of said assets; also, whether the value set forth in the statement is greater or less than the actual cost value in money and greater or less than the present market value of such assets. If any of the assets consist of real estate, then said statement shall show the amount for which said real estate is rendered for State and county taxes, or assessed for taxes. If any such assets listed shall consist of anything other than cash and real estate, same shall be set out in detail so as to give the Commissioner the fullest possible information concerning same, and the Commissioner shall have the power to require the filing of such additional information as he may deem necessary to determine whether or not the true value of said assets are reflected in the statement filed. Should any of the assets listed in said statement be subject to any repurchase agreement, or any other agreement of like character, by the terms of which the absolute ownership of, or title to said assets is qualified or limited in any way, then the terms and conditions of said agreement by which the absolute ownership of, or title to said assets is qualified or limited, as well as the amount and character of the assets subject thereto shall be fully stated. Said statement shall list all current liabilities, that is, all liabilities which will mature and become due within one year from the date of such application, and shall list separately from such current liabilities, all other liabilities, contingent or otherwise, showing the amount of those which are secured by mortgage or otherwise, the assets of the issuer which are subject to such mortgage, and the dates of maturity of any such mortgage indebtedness. Such application shall also include a detailed profit and loss statement, prepared in accordance with generally accepted auditing standards and procedures and generally ac-

cepted accounting principles, which shall cover the last three (3) years' operations of the issuer, if such issuer has been in operation for three (3) years, but if not, said profit and loss statement shall cover the time that said issuer has been operating. If said issuer has not been operating, but is taking over a concern of any kind which has been previously operating, then a financial and profit and loss statement showing the operations of the concern thus taken over for a period of the last three (3) years next preceding the taking over of said concern shall be included in said statement; said profit and loss statement shall clearly reflect the amount of net profit or net loss incurred during each of the years shown.

B. Registration by Notification.

(1) Securities may be registered by notification under this subsection B if they are issued by an issuer which has been in continuous operation for not less than three (3) years and which has shown, during the period of not less than three (3) years next prior to the date of registration under this section, average annual net earnings after deducting all prior charges including income taxes except charges upon securities to be retired out of the proceeds of sale, as follows:

a. In the case of interest-bearing securities, not less than one and one-half times the annual interest charges on such securities and on all other outstanding interest-bearing securities of equal rank;

b. In the case of securities having a specified dividend rate, not less than one and one-half times the annual dividend requirements on such securities and on all outstanding securities of equal rank;

c. In the case of securities wherein no dividend rate is specified, not less than five per cent (5%) on all outstanding securities of equal rank, together with the amount of such securities then offered for sale, based upon the maximum price at which such securities are to be offered for sale. The ownership by an issuer of more than fifty per cent (50%) of the outstanding voting stock of a corporation shall be construed as the proportionate ownership of such corporation and shall permit the inclusion of the earnings of such corporation applicable to the payment of dividends upon the stock so owned in the earnings of the issuer of the securities being registered by notification.

(2) Securities entitled to registration by notification shall be registered by the filing with the Commissioner by the issuer or by a registered dealer of a registration statement as required by subsection (a), and completion of the procedures outlined in subsection b hereof:

a. A registration statement in a form prescribed by the Commissioner signed by the applicant filing such statement and containing the following information:

1. Name and business address of main office of issuer and address of issuer's principal office, if any, in this state;

2. Title of securities being registered and total amount of securities to be offered;

3. Price at which securities are to be offered for sale to the public, amount of securities to be offered in this state, and amount of registration fee, computed as hereinafter provided;

4. A brief statement of the facts which show that the securities are entitled to be registered by notification;

5. Name and business address of the applicant filing statement;

6. Financial statements to include a certified profit and loss statement, a certified balance sheet, and certified statements of surplus, each to be for a period of not less than three (3) years prior to the date of registration. These financial statements shall reflect the financial condition of the issuer as of a date not more than ninety (90) days prior to the date of such filing with the Commissioner;

7. A copy of the prospectus, if any, describing such securities;

8. Filing of a consent to service of process conforming to the requirements of Section 8 of this Act, if the issuer is registering the securities and is not a resident of this state or is not incorporated under the laws of this state.

b. Such filing with the Commissioner shall constitute the registration of securities by notification and such registration shall become effective five (5) days after receipt of the registration statement and all accompanying papers by the Commissioner; provided that the Commissioner may in his discretion waive or reduce the five (5) days waiting period in any case where he finds no injury to the public will result therefrom. Upon such registration by notification, securities may be sold in this state by registered dealers and registered salesmen. Upon the receipt of a registration statement, prospectus, if any, payment of the filing fee and registration fee, and, if required, a consent to service of process, the Commissioner shall record the registration by notification of the securities described. Such registration shall be effective for a period of one (1) year and may be renewed for additional periods of one (1) year, if the securities are entitled to registration under this subsection at the time of renewal, by a new filing under this section together with the payment of the renewal fee of Ten Dollars (\$10.00).

c. If at any time, before or after registration of securities under this section, in the opinion of the Commissioner the information in a registration statement filed with him is insufficient to establish the fact that the securities described therein are, or were, entitled to registration by notification under this section, or that the registration information contains, or contained, false, misleading or fraudu-

lent facts, he may order the applicant who filed such statement to cease and desist from selling, or offering for sale, such securities registered, or proposed to be registered, under provisions of this section, until there is filed with the Commissioner such further information as may in his judgment be necessary to establish the fact that such securities are, or were, entitled to registration under this section. The provisions of Section 24 of this Act as to hearing shall be applicable to an order issued hereunder.

C. Registration by Coordination.

(1) Any security for which a registration statement has been filed under the Federal Securities Act of 1933, as amended,¹ in connection with the same offering, may be registered by coordination. A registration statement under this section shall be filed with the Commissioner by the issuer or any registered dealer and shall contain the following information and be accompanied by the following documents:

a. Three copies of the prospectus filed under the Federal Securities Act together with all amendments thereto;

b. The amount of securities to be offered in this state;

c. The states in which a registration statement or similar document in connection with the offering has been or is expected to be filed;

d. Any adverse order, judgment or decree previously entered in connection with the offering by any court or the Securities and Exchange Commission;

e. A copy of the articles of incorporation and by-laws (or their substantial equivalents) currently in effect, a copy of any agreements with or among underwriters, a copy of any indenture or other instrument governing the issuance of the security to be registered, and a specimen or copy of the security;

f. If the Commissioner requests any other information, or copies of any other documents, filed under the Federal Securities Act of 1933;

g. An undertaking to forward promptly all amendments to the federal registration statement, other than an amendment which merely delays the effective date; and

h. If the registration statement is filed by the issuer, or by a dealer who will offer such securities for sale as the agent of the issuer, and the issuer is not a resident of this state or is not incorporated under the laws of this state, a consent to service of process conforming to the requirements of Section 8.

(2) Upon receipt of a registration statement under this section the Commissioner shall examine such registration statement and he may enter an order denying registration of the securities described therein if he finds that the registrant has not proven the proposed plan of business of the issuer

to be fair, just and equitable, and also that any consideration paid, or to be paid, for such securities by promoters is fair, just and equitable when such consideration for such securities is less than the proposed offering price to the public, and that the securities which it proposes to issue and the methods to be used by it in issuing and disposing of the same will be such as will not work a fraud upon the purchaser thereof. If the Commissioner enters an order denying the registration of securities under this section, he shall notify the registrant immediately. The provisions of Section 24 of this Act as to hearing shall be applicable to an order issued hereunder. A registration statement under this section automatically becomes effective at the moment the federal registration statement becomes effective if all the following conditions are satisfied:

a. No order has been entered by the Commissioner denying registration of the securities;

b. The registration statement has been on file with the Commissioner for at least ten (10) days; and

c. A statement of the maximum and minimum proposed offering prices and the maximum underwriting discounts and commissions has been on file for two full business days or such shorter period as the Commissioner expressly permits and the offering is made within those limitations. The registrant shall promptly notify the Commissioner by telephone or telegram of the date and time when the federal registration statement became effective and the content of the price amendment, if any, and shall promptly file a post-effective amendment containing the information and documents in the price amendment. "Price amendment" means the final federal amendment which includes a statement of the offering price, underwriting and selling discounts or commissions, amount of proceeds, conversion rates, call prices, and other matters dependent upon the offering price.

Upon failure to receive the required notification and post-effective amendment with respect to the price amendment, the Commissioner may enter a stop order, without notice or hearing, retroactively denying effectiveness to the registration statement or suspending its effectiveness until compliance with this subsection, if he promptly notifies the registrant by telephone or telegram (and promptly confirms by letter or telegram when he notifies by telephone) of the issuance of the order. If the registrant proves compliance with the requirements of this subsection as to notice and post-effective amendment, the stop order is void as of the time of its entry. The Commissioner may waive either or both of the conditions specified in clauses b and c. If the federal registration statement becomes effective before all these conditions are satisfied and they are not waived, the registration statement automatically becomes effective as soon as all the conditions are satisfied. If the registrant advises the Commissioner of the date when the federal

registration statement is expected to become effective the Commissioner shall promptly advise the registrant by telephone or telegram, at the registrant's expense, whether all the conditions are satisfied and whether he then contemplates the issuance of an order denying registration; but this advice by the Commissioner does not preclude the issuance of such an order at any time.

(3) Registration of securities under this subsection shall be effective for a period of one (1) year and may be renewed for additional periods of one (1) year, if a renewal fee of Ten Dollars (\$10.00) is paid, and if the securities are entitled to registration at the time of renewal by the same standards of fairness, justice and equity as prescribed by this subsection for original approval.

D. Termination Of Fiscal Year; Certification Of Statements.

If the fiscal year of the issuer terminated on a date more than 90 days prior to the date of the filing, then the financial statements required in Subsections A and B of this Section 7, which must be as of a date not more than 90 days prior to the date of filing, need not be certified by an independent certified public or independent public accountant if there are filed in addition thereto financial statements containing the information required by the applicable subdivision which are certified by an independent certified public or independent public accountant as of the end of the preceding fiscal year of the issuer.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 7. Amended by Acts 1963, 58th Leg., p. 473, ch. 170, §§ 7, 12a; Acts 1977, 65th Leg., p. 870, ch. 327, §§ 2 to 4, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 356, ch. 160, § 4, eff. May 15, 1979.]

1 15 U.S.C.A. § 77a et seq.

For effect of the 1979 amendatory act on arts. 852a, § 11.01, and 342-411a, see note under art. 581-4.

Art. 581-8. Consent to Service and Certificate of Good Standing

If the application for a permit to sell securities be filed by an issuer, or by a dealer who will offer such securities for sale as the agent of the issuer, and the issuer is organized under the laws of any other state, territory, or government, or domiciled in any other state than Texas, such application shall also contain a certificate executed by the proper officer of such state, territory or government dated not more than thirty (30) days prior to the date of filing of the application showing that such issuer is authorized to transact business in such state, territory or government, and is not delinquent in any taxes or assessments required to be paid to such state, territory or government. Such application shall also contain a written instrument duly executed by an executive officer of such issuer, under proper resolution of its board of directors, and authenticated and attested by the seal of said issuer, appointing the Commissioner irrevocably its true and lawful

attorney upon whom all process in any action or proceedings against such issuer arising out of any transaction subject to this Act may be served with the same effect as if such issuer were organized or created under the laws of this state and had been lawfully served with process therein. It shall be the duty of the Commissioner, whenever he shall have been served with any process as is herein provided, to forward same by United States mail to the home office of such issuer.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 8.]

Art. 581-9. Protection to Purchasers of Securities

A. In the event any company, as defined herein, shall sell, or offer for sale, any securities, as defined in this Act, the Commissioner, if he deems it necessary to protect the interests of prospective purchasers of such securities, may require the company so offering such securities for sale to deposit all, or any part, of the proposed securities, or all, or any part, of the moneys and funds received from the sale thereof, except such amounts thereof as the Commissioner deems necessary to be used, and not to exceed the amount allowed as expenses and commissions for the sale of such securities, to be deposited in a trust account in some bank or trust company approved by the Commissioner and doing business in the State of Texas, until such time as such proposed company or existing company shall have sold a specified monetary amount or number of shares of such securities as in his opinion will reasonably assure protection of the public. When the Commissioner makes a written finding that the terms of the escrow agreement have been fully met, the bank or trust company shall transfer such funds to the proposed or existing corporation and its executive officers for the purpose of permitting it to use such securities or money in its business. In the event such proposed or existing company shall fail within two (2) years to sell the minimum amount of capital necessary under the escrow agreement, the Commissioner may authorize, and the bank or trust company shall return to the subscribers, upon receipt of such authority from the Commissioner, that portion of the funds which were deposited or escrowed under such escrow agreement; provided, however, that any securities held by such bank or trust company under the escrow agreement shall be returned to the corporation only after the bank or trust company has received evidence of cancellation thereof from the issuer. At the time of making the deposits, as herein provided for, the dealer or issuer shall furnish to such bank or trust company, and to the Commissioner, the names of the persons purchasing or subscribing for such securities, and the amount of money paid in by each.

B. The total expenses for marketing securities, including all commissions for the sale of such securities, and all other incidental selling expenses, shall not in the aggregate exceed twenty per cent (20%) of the price at which the stock or other securities of

any proposed or existing company are to be sold, or offered for sale, to the public of this State; and this amount may be limited by the Commissioner to a less percentage which is in his opinion fair, just and equitable under the facts of the particular case.

C. In connection with any permit to sell securities the Commissioner shall require all offers for sale of said securities to be made through and by prospectus which fairly discloses the material facts about the plan of finance and business. Said prospectus shall be filed with and approved by the Commissioner; provided, however, if the applicant files a prospectus or offering circular with the Commissioner which is also filed with the S.E.C. under the Securities Act of 1933, as amended, or the regulations thereunder, this subsection shall in all respects be satisfied. Failure to comply with this requirement shall be treated as a violation of this Act, subjecting the parties responsible to the consequences thereof as provided herein.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 9. Amended by Acts 1963, 58th Leg., p. 473, ch. 170, § 8.]

Art. 581-10. Examination of Application; Permit

A. Commissioner to Examine Application; Grant or Deny.

Upon the filing of an application for qualifying securities under Section 7A,¹ it shall be the duty of the Commissioner to examine the same and the papers and documents filed therewith. If he finds that the proposed plan of business of the applicant appears to be fair, just and equitable, and also that any consideration paid, or to be paid, for such securities by promoters is fair, just and equitable when such consideration for such securities is less than the proposed offering price to the public, and that the securities which it proposes to issue and the methods to be used by it in issuing and disposing of the same are not such as will work a fraud upon the purchaser thereof, the Commissioner shall issue to the applicant a permit authorizing it to issue and dispose of such securities. Should the Commissioner find that the proposed plan of business of the applicant appears to be unfair, unjust or inequitable, he shall deny the application for a permit and notify the applicant in writing of his decision.

B. Permit, Form and Contents; Term and Renewals.

Every permit qualifying securities shall be in such form as the Commissioner may prescribe, and shall recite in bold type that the issuance thereof is permissive only, and does not constitute a recommendation or endorsement of the securities permitted to be issued. Such permit shall be for a period of one (1) year; provided, however, that if the securities authorized to be sold are not sold within the term provided by the permit, a renewal application may be filed with the Commissioner. Such renewal application shall recite the total number of shares sold in Texas, the total number of shares

sold elsewhere, total number of shares outstanding, and shall contain a detailed balance sheet, an operating statement, and such other information as the Commissioner may require. The Commissioner shall examine applications for renewal by the same standards as stated in subsection A of this section for original applications and upon that basis issue or deny renewal permits; such permits, if issued, shall be for a period of one (1) year and be in such form as the Commissioner may prescribe. The Commissioner shall charge such fees for the issuance of permits to sell securities as are hereinafter provided. No permit instrument need be issued if securities are registered under Sections 7B or C of this Act, but the Commissioner will examine the registration papers to determine their sufficiency under the requirements there stated.

C. Use of Permit to Aid Sale of Securities Prohibited.

It shall be unlawful for any dealer or issuer, agent or salesman, to use a permit authorizing the issuance of securities in connection with any sale or effort to sell any security.

D. Commissioner's Discretion. In applying the standards of this Act, the Commissioner may waive or relax any restriction or requirement in the Board's rules that, in his opinion, is unnecessary for the protection of investors in a particular case.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 10. Amended by Acts 1983, 68th Leg., p. 2716, ch. 465, § 4, eff. Sept. 1, 1983.]

¹Article 581-7.

Art. 581-10-1. Purposes

A. This Act may be construed and implemented to effectuate its general purpose to maximize coordination with federal and other states' law and administration, particularly with respect to:

- (1) procedure, reports, and forms; and
- (2) exemptions.

B. This Act may be construed and implemented to effectuate its general purposes to protect investors and consistent with that purpose, to encourage capital formation, job formation, and free and competitive securities markets and to minimize regulatory burdens on issuers and persons subject to this Act, especially small businesses.

[Acts 1983, 68th Leg., p. 2716, ch. 465, § 3, eff. Sept. 1, 1983.]

Art. 581-11. Papers Filed with Commissioner; Records Open to Inspection

All information, papers, documents, instruments and affidavits required by this Act to be filed with the Commissioner shall be deemed public records of this state, and shall be open to the inspection and examination of any purchaser or prospective purchaser of said securities or the agent or representative of such purchaser or prospective purchaser; and the Commissioner shall give out to any such

purchaser or prospective purchaser or his agent or representative any information required to be filed with him under the provisions of this section, or any other part of this Act, and shall furnish any such purchaser, prospective purchaser, or his agent or representative requesting it, certified copies of any and all papers, documents, instruments and affidavits filed with him under the provisions of this section or of any part of this Act. The Commissioner shall maintain a record, which shall be open for public inspection, upon which shall be entered the names and addresses of all registered dealers and salesman and all orders of the Commissioner denying, suspending or revoking registration.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 11. Amended by Acts 1983, 68th Leg., p. 2688, ch. 465, § 1, eff. Sept. 1, 1983.]

Art. 581-12. Registration of Persons Selling

Except as provided in Section 5 of this Act no person, firm, corporation or dealer shall, directly or through agents or salesmen, offer for sale, sell or make a sale of any securities in this state without first being registered as in this Act provided. No salesman or agent shall, in behalf of any dealer, sell, offer for sale, or make sale of any securities within the state unless registered as a salesman or agent of a registered dealer under the provisions of this Act.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 12.]

Art. 581-13. Method of Registration Required of Each Dealer and Each Agent or Salesman of Each Dealer

A. A dealer to be registered must submit a sworn application therefor to the Commissioner, which shall be in such form as the Commissioner may determine and which shall state:

- (1) The principal place of business of the applicant wherever situated;
- (2) The location of the principal place of business and all branch offices in this state, if any;
- (3) The name or style of doing business and the address of the dealer;
- (4) The names, residences and the business addresses of all persons interested in the business as principal, officer, director or managing agent, specified as to each his capacity and title; and
- (5) The general plan and character of business of such applicant and the length of time during and the places at which the dealer has been engaged in the business.

B. Such application shall also contain such additional information as to applicant's previous history, record, associations and present financial condition as may be required by the Commissioner, or as is necessary to enable the Commissioner to determine whether the sale of any securities proposed to be issued or dealt in by such applicant would result in fraud.

C. Each application shall be accompanied by certificates or other evidences satisfactory to the Commissioner establishing the good reputation of the applicant, his directors, officers, copartners or principals.

D. The Commissioner shall require as a condition of registration for all registrations granted after the effective date of this Subsection D that the applicant (and, in the case of a corporation or partnership, the officers, directors or partners to be licensed by the applicant) pass successfully a written examination to determine the applicant's qualifications and competency to engage in the business of dealing in and selling securities as a dealer or as a salesman, or rendering services as an investment adviser. This condition may be waived as to any applicant or class of applicants by action of the State Securities Board.

E. Not later than the 30th day after the day on which an examination is administered under this Act, the Board shall notify each examinee of the results of the examination. However, if an examination is graded or reviewed by a national testing service, the Board shall notify examinees of the results of the examination not later than the 14th day after the day on which the Board receives the results from the testing service. If the notice of the examination results will be delayed for longer than ninety (90) days after the examination date, the Board shall notify the examinee of the reason for the delay before the 90th day.

F. If requested in writing by a person who fails an examination administered under this Act, the Board shall furnish the person with an analysis of the person's performance on the examination.

G. If the applicant is a corporation organized under the laws of any other state or territory or government or shall have its principal place of business therein, it shall accompany the application with a copy of its Articles of Incorporation and all amendments thereto, certified by the proper officer of such state or government or of the corporation, and its regulations and by laws.

H. If a limited partnership, either a copy of its Articles of Copartnership or a verified statement of the plan of doing business.

I. If an unincorporated association or organization under the laws of any other state, territory or government, or having its principal place of business therein, a copy of its Articles of Association, Trust Agreement or other form of organization.

J. It shall be the duty of the Commissioner to prepare a proper form to be used by the applicant under the terms of this Section, and the Commissioner shall furnish copies thereof to all persons desiring to make application to be registered as a dealer.

K. The Board may waive any registration requirement for an applicant with a valid registration

from another state having registration requirements substantially equivalent to those of this state.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 13. Amended by Acts 1963, 58th Leg., p. 473, ch. 170, § 9; Acts 1983, 68th Leg., p. 2688, ch. 465, § 1, eff. Sept. 1, 1983.]

Art. 581-14. Denial, Suspension or Revocation of Registration as Dealer, Agent, or Salesman

A. The Commissioner shall deny, revoke, or suspend a registration, place on probation a dealer, agent, or salesman whose registration has been suspended, or reprimand a person registered under this Act if the person:

(1) has been convicted of a felony, or of any misdemeanor of which fraud is an essential element;

(2) has engaged in any inequitable practice in the sale of securities or in any fraudulent business practice;

(3) in the case of a dealer, is insolvent;

(4) in the case of a dealer, is selling or has sold securities in this state through a salesman other than a registered salesman, or, in the case of a salesman, is selling or has sold securities in this state for a dealer, issuer or controlling person with knowledge that such dealer, issuer or controlling person has not complied with the provisions of this Act;

(5) has violated any of the provisions of this Act or a rule of the Board;

(6) has made any material misrepresentation to the Commissioner or Board in connection with any information deemed necessary by the Commissioner or Board to determine a dealer's financial responsibility or a dealer's or salesman's business repute or qualifications, or has refused to furnish any such information requested by the Commissioner or Board; or

(7) has not complied with a condition imposed by the Commissioner under Section 13-D. Provided, however, that this subdivision shall not apply to any person or company registered as a dealer or salesman on August 23, 1963.

B. The Commissioner shall keep an information file about each complaint filed with the Commissioner or Board relating to a person registered under this Act.

C. If a written complaint is filed with the Commissioner or Board relating to a person registered under this Act, the Commissioner, at least as frequently as quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

D. If the Commissioner proposes to suspend or revoke a person's registration, the person is entitled to a hearing before the Commissioner. Proceedings for the suspension or revocation of a registration are governed by the Administrative Procedure and

Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

E. This section does not affect the confidentiality of investigative records maintained by the Commissioner or Board.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 14. Amended by Acts 1963, 58th Leg., p. 473, ch. 170, § 10; Acts 1983, 68th Leg., p. 2688, ch. 465, § 1, eff. Sept. 1, 1983.]

Art. 581-15. Issuance of Registration Certificates to Dealers

If the Commissioner is satisfied that the applicant for a dealer's certificate of registration has complied with the requirements of the Act above, that the applicant has filed a written consent to service as and when required by Section 16 of this Act, and upon the payment of the fees required by Section 35 of this Act, the Commissioner shall register the applicant and issue to it or him a registration certificate, stating the principal place of business and address of the dealer, the names and business addresses of all persons interested in the business as principals, officers, directors or managing agents, and the fact that the dealer has been registered for a current calendar year as a dealer in securities. Pending final disposition of an application, the Commissioner may, for special cause shown, grant temporary permission, revocable at any time and subject to such terms and conditions as the Commissioner may prescribe, to transact business as a dealer under this Act. Any dealer acting under such a temporary permission, shall be considered a registered dealer for all purposes of this Act.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 15. Amended by Acts 1983, 68th Leg., p. 5219, ch. 953, § 1, eff. Sept. 1, 1983.]

Art. 581-16. Consent to Suit in this State, by Dealers Who Are Foreign Companies or Non-residents

Every company organized under the laws of any other state, or having its principal office therein, and every non-resident individual, shall file with its or his application for registration as a dealer a written consent, irrevocable, that actions growing out of any transaction subject to this Act may be commenced against it or him, in the proper court of any county of this state in which the cause of action may arise, or in which the plaintiff may reside, by a service of process upon the Commissioner as its or his agent, and stipulating and agreeing that such service of process shall be taken and held in all courts to be as valid and binding as if due service had been made upon the person or company itself according to the laws of this or any other state, and such instrument shall be authorized by the seal of such corporation, or by the signature of all the members of such co-partnership, or by the signature of the president and secretary of the association, if it is a corporation or association, and shall be accompanied by a duly certified copy of the resolutions of the board of directors, trustees, or managers of the

corporation authorizing the said secretary and president to execute the same.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 16.]

Art. 581-17. Form of Certificates to Dealers

The certificate shall be in such form as the Commissioner may determine. Any changes in the personnel of a partnership or in the principals, officers, directors or managing agents of any dealer shall be immediately certified under oath to the Commissioner and any change in the certificate necessitated thereby may be made at any time, upon written application setting forth the fact necessitating the change. Upon the issue of the amended certificates, the original certificate and the certified copies thereof outstanding shall be promptly surrendered to the Commissioner.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 17.]

Art. 581-18. Registration of Agents or Salesmen of Dealers

Upon written application by a registered dealer, and upon satisfactory compliance with the requirements of the Act above, the Commissioner shall register as agents or salesmen of such dealer such persons as the dealer may request. The application shall be in such form as the Commissioner may prescribe and shall state the residences and addresses of the persons whose registration is requested, together with such information as to such agent's or salesman's previous history, record and association as may be required by the Commissioner. Such application shall also be signed and sworn to by the agent or salesman for whom registration is requested. The Commissioner shall issue to such dealer, to be retained by such dealer for each person so registered, evidence of registration stating the person's name, the address of the dealer, and the fact that the person is registered for the current calendar year as an agent or salesman of the dealer. The evidence of registration shall be in such form as the Commissioner shall determine. Upon application by the dealer, the registration of any agent or salesman shall be cancelled.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 18. Amended by Acts 1983, 68th Leg., p. 2688, ch. 465, § 1, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 5220, ch. 953, § 2, eff. Sept. 1, 1983.]

Art. 581-19. Annual Registration; Renewals

A. Except as provided in Subsections B and C of this section, all registrations shall expire at the close of the calendar year, but new registrations for the succeeding year shall be issued upon written application and upon payment of the fees as hereinafter provided, without filing of further statements or furnishing any further information unless specifically requested by the Commissioner. Applications for renewals must be made not less than thirty (30) days nor more than sixty (60) days before the 1st of January of the ensuing year. If any applicant is registered after December 1st of any year, he may

immediately apply for a renewal of his registration for the ensuing year.

B. The Board by rule may adopt a system under which registrations expire on various dates during the year. For the year in which the registration expiration date is changed, registration fees payable after the 60th day and before the 30th day before January 1st of the next year shall be prorated on a monthly basis so that each person shall pay only that portion of the registration fee that is allocable to the number of months during which the registration is valid. On renewal of the registration on the new expiration date, the total registration renewal fee is payable.

C. A person may renew an unexpired registration by paying to the Board before the expiration date of the registration the required renewal fee. If a person's registration has been expired for not longer than ninety (90) days, the person may renew the registration by paying to the Board the required renewal fee and a fee that is one-half of the original application fee for the registration. If a person's registration has been expired for longer than ninety (90) days but less than two years, the person may renew the registration by paying to the Board all unpaid renewal fees and a fee that is equal to the original application fee for the registration. If a person's registration has been expired for two years or longer, the person may not renew the registration. The person may obtain a new registration by submitting to reexamination and complying with the requirements and procedures for obtaining an original registration. At least thirty (30) days before the expiration of a person's registration the person shall be notified in writing of the impending registration expiration. A person who sells securities after the person's registration has expired and before it is renewed is subject to the sanctions provided by this Act for selling securities without being registered.

D. The Board may recognize, prepare, or administer continuing education programs for dealers, salesmen, or agents. Participation in the programs is voluntary.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 19. Amended by Acts 1983, 68th Leg., p. 2688, ch. 465, § 1, eff. Sept. 1, 1983.]

Art. 581-20. Display or Advertisement of Fact of Registration Unlawful

It shall be unlawful for any dealer, agent or salesman to use the fact that¹ his registry, by public display or advertisement, except as herein-after expressly provided, for the registration certificate or any certified copy thereof, in connection with any sale or effort to sell any security.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 20.]

¹ So in enrolled bill; probably should read "of".

Art. 581-21. Posting Certificates of Authority

Immediately upon receipt of the dealer's registration certificate issued pursuant to the authority of

this Act, the dealer named therein shall cause such certificate to be posted and at all times conspicuously displayed in such dealer's principal place of business, if one is maintained in this state, and shall likewise forthwith cause a duplicate of such certificate to be posted and at all times conspicuously displayed in each branch office located within this state.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 21.]

Art. 581-22. Regulation of Offers

A. Permitted Written, Pictorial, or Broadcast Offers. A written or printed offer (including a pictorial demonstration with any accompanying script) or a broadcast offer (i. e., an offer disseminated by radio, television, recorded telephone presentation, or other mass media) to sell a security may be made in this State if:

(1) a copy of the offer is filed with the Commissioner prior to its use in this State; and

(2) the person making or distributing the offer in this State is a registered dealer or a registered salesman of a registered dealer, as required by this Act; and

(3) either:

(a) the security is registered under Subsection B or C of Section 7 or a permit has been granted for the security under Section 10, or

(b) an application for registration under Subsection B or C of Section 7 or for a permit under Section 10 has been filed with the Commissioner; and

(4) if registration has not become effective under Subsection B or C of Section 7 or a permit has not been granted under Section 10, the offer prominently states on the first page of a written or printed offer or as a preface to any pictorial or broadcast offer either:

(a)

INFORMATIONAL ADVERTISING ONLY.

THE SECURITIES HEREIN DESCRIBED HAVE NOT BEEN QUALIFIED OR REGISTERED FOR SALE IN TEXAS. ANY REPRESENTATION TO THE CONTRARY OR CONSUMMATION OF SALE OF THESE SECURITIES IN TEXAS PRIOR TO QUALIFICATION OR REGISTRATION THEREOF IS A CRIMINAL OFFENSE.

or

(b) other language required by the United States Securities and Exchange Commission that in the Commissioner's opinion will inform investors that the securities may not yet be sold; and

(5) the person making or distributing the offer in this State;

(a) has not received notice in writing of an order prohibiting the offer under Subsection A or B of Section 23, or

(b) has received such notice but the order is no longer in effect; and

(6) payment is not accepted from the offeree and no contract of sale is made before registration is effective under Subsection B or C of Section 7 or a permit is granted under Section 10.

B. Permitted Oral Offers. An oral offer (not broadcast, i. e., not disseminated by radio, television, recorded telephone presentation, or other mass media) to sell a security may be made in this State in person, by telephone, or by other direct individual communication if:

(1) the person making the offer in this State is a registered dealer or a registered salesman of a registered dealer, as required by this Act; and

(2) either:

(a) the security is registered under Subsection B or C of Section 7 or a permit has been granted for the security under Section 10, or

(b) an application for registration under Subsection B or C of Section 7 or for a permit under Section 10 has been filed with the Commissioner; and

(3) the person making or distributing the offer in this State:

(a) has not received notice in writing of an order prohibiting the offer under Subsection A or B of Section 23, or

(b) has received such notice but the order is no longer in effect; and

(4) payment is not accepted from the offeree and no contract of sale is made before registration is effective under Subsection B or C of Section 7 or before a permit is granted under Section 10.

C. Effect of Compliance. An offer in compliance with Subsection A or B of Section 22 is not a violation of Section 7.

D. Effect of Noncompliance. An offer not in compliance with Subsection A or B of Section 22 is unlawful and a violation of this Act.

E. Applicability. Section 22 does not apply to transactions or securities exempt under Section 5 or Section 6.

F. Dealers Named in Offer. A dealer whose name is included in a written or printed or broadcast offer along with the name of a registered dealer is not deemed to make an offer in this State by that fact alone.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 22. Amended by Acts 1961, 57th Leg., p. 1047, ch. 466, § 2; Acts 1977, 65th Leg., p. 873, ch. 327, § 5, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 357, ch. 160, § 5, eff. May 15, 1979.]

For effect of the 1979 amendatory act on arts. 852a, § 11.01, and 342-411a, see note under art. 581-4.

Art. 581-23. Cease-Desist Orders; Stop-Offer Notices; List of Securities Offered

Anything in this Act to the contrary notwithstanding,

A. If it appears to the commissioner at any time that the sale or proposed sale or method of sale of any securities, whether exempt or not, would not be in compliance with this Act or would tend to work a fraud on any purchaser thereof or would not be fair, just or equitable to any purchaser thereof, the commissioner may, after notice to the issuer, the registrant and the person on whose behalf such securities are being or are to be offered, by personal service or the sending of a confirmed telegraphic notice, and after opportunity for a hearing (at a time fixed by the commissioner) within 15 days after such notice by personal service or the sending of such telegraphic notice, if the commissioner shall determine at such hearing that such sale would not be in compliance with the Act or would tend to work a fraud on any purchaser thereof or would not be fair, just or equitable to any purchaser thereof, issue a written cease and desist order, prohibiting or suspending the sale of such securities or denying or revoking the registration of such securities. No dealer, agent or salesman shall thereafter knowingly sell or offer for sale any security named in such cease and desist order.

B. No person shall make an offer within this State after notice in writing has been given him by the commissioner that, in the commissioner's opinion, the same contains any statement that is false or misleading or otherwise likely to deceive a reader thereof.

C. The commissioner may, in the exercise of reasonable discretion hereunder, at any time, require a dealer to file with the commissioner a list of securities which he has offered for sale or has advertised for sale within this State during the preceding six months, or which he is at the time offering for sale or advertising, or any portion thereof.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 23. Amended by Acts 1973, 63rd Leg., p. 216, ch. 97, § 1, eff. Aug. 27, 1973; Acts 1979, 66th Leg., p. 359, ch. 160, § 6, eff. May 15, 1979.]

For effect of the 1979 amendatory act on arts. 852a, § 11.01, and 342-411a, see note under art. 581-4.

Art. 581-24. Hearings upon Exception to Actions of Commissioner

A. If any person or company should take exception to the action of the Commissioner under Sections 15 or 18, in failing or refusing to register and issue certificate for a dealer or salesman, under Section 23 in issuing an order against the sale of securities or the use of materials therein, or in any other particular where this Act specifies no other procedure, the complaining party may request a hearing before the Commissioner.

B. On complaint by a person aggrieved by a denial of a permit for the sale of securities under Section 10 of this article or a failure or refusal to register securities under Section 7 of this article, the Board or a hearings officer appointed by the Board shall conduct a hearing.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 24. Amended by Acts 1983, 68th Leg., p. 2688, ch. 465, § 1, eff. Sept. 1, 1983.]

Art. 581-25. Revocation of Registration of any Dealer, Agent, or Salesman

The revocation of a dealer's registration shall constitute a revocation of the registration of any agent or salesman of the dealer and notice of its operation on such agent or salesman shall be forthwith sent by the Commissioner to each of such agents or salesmen. All registrations revoked shall at once be surrendered to the Commissioner upon request.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 25. Amended by Acts 1983, 68th Leg., p. 2688, ch. 465, § 1 eff. Sept. 1, 1983.]

Art. 581-25-1. Receiverships of Persons or Assets of Persons Acting as Dealers

A. Whenever it shall appear to the commissioner, either upon complaint or otherwise, that:

(1) any person or company, a substantial portion of whose business consists of acting as a dealer (as defined in Subsection C of Section 4 of this Act), whether or not duly registered by the commissioner as in this Act provided, shall have engaged in any act, transaction, practice, or course of business declared by Section 32 of this Act to be a fraudulent practice;

(2) such person or company shall have acted as a dealer in connection with such fraudulent practice; and

(3) the appointment of a receiver for such person or company, or the assets of such person or company, is necessary in order to conserve and protect the assets of such person or company for the benefit of customers, security holders, and other actual and potential claimants of such person or company the commissioner may request the attorney general to bring an action for the appointment of a receiver for such person or company or the assets of such person or company.

B. Upon request by the commissioner pursuant to Subsection A of this Section 25-1, and if it appears to the attorney general that the facts enumerated in Paragraphs (1) through (3) of Subsection A of this Section 25-1 exist with respect to any person or company, the attorney general may bring an action in the name and on behalf of the State of Texas for the appointment of a receiver for such person or company. The facts set forth in the petition for such relief shall be verified by the commissioner upon information and belief. Such action may be brought in a district court of any

county wherein the fraudulent practice complained of has been committed in whole or part, or of any county wherein any defendant with respect to whom appointment of a receiver is sought has its principal place of business, and such district court shall have jurisdiction and venue of such action; this provision shall be superior to any other provision of law fixing jurisdiction or venue with regard to suits for receivership. In any such action the attorney general may apply for and on due showing be entitled to have issued the court's subpoena requiring the forthwith appearance of any defendant and his employees, salesmen, or agents and the production of documents, books, and records as may appear necessary for any hearing, to testify and give evidence concerning matters relevant to the appointment of a receiver.

C. In any action brought by the attorney general pursuant to Subsection B of this Section 25-1, the court, upon a proper showing by the attorney general of the existence of the facts enumerated in Paragraphs (1) through (3) of Subsection A of this Section 25-1 with respect to any person or company, may appoint a receiver for such person or company or the assets of such person or company. If such receiver is appointed without notice to and opportunity to be heard for such person or company, such person or company shall be entitled to apply in writing to the court for an order dissolving the receivership, and, if such application is made within 30 days after service upon such person or company of the court's order making such appointment, shall be entitled to a hearing thereon upon 10 days written notice to the attorney general.

D. No person shall be appointed a receiver pursuant to this Section 25-1 unless such person be found by the court, after hearing the views of the attorney general, the commissioner, and, if deemed by the court to be practicable, the person or company against whom such relief is sought, to be qualified to discharge the duties of receiver giving due consideration to the probable nature and magnitude of the duties of receiver in the particular case. No bond for receivership shall be required of the commissioner or attorney general in any proceeding under this Section 25-1 but the court shall require a bond of any receiver appointed hereunder, conditioned upon faithful discharge of the receiver's duties, in an amount found by the court to be sufficient giving due consideration to the probable nature and magnitude of the duties of receiver in the particular case.

E. The remedy of receivership provided by this Section 25-1 shall be in addition to any and all other remedies afforded the commissioner or the attorney general by other provisions of statutory or decisional law of this state, including, without limitation of the generality of the foregoing, any such provision authorizing receiverships.

[Acts 1975, 64th Leg., p. 199, ch. 78, § 4, eff. Sept. 1, 1975.]

Art. 581-26. Notices by Registered Mail

Any notice required by this Act shall be sufficient if sent by registered or certified mail unless otherwise specified in this Act, addressed to the dealer, agent or salesman, as the case may be, at the address designated in the application for registration. All testimony taken at any hearing before the Commissioner shall be reported stenographically and a full and complete record shall be kept of all proceedings had before the Commissioner on any hearing or investigation.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 26.]

Art. 581-27. Judicial Review

Judicial review of a decision of the Commissioner or Board is under the substantial evidence rule.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 27. Amended by Acts 1981, 67th Leg., p. 763, ch. 291, § 4, eff. Sept. 1, 1981; Acts 1983, 68th Leg., p. 2688, ch. 465, § 1, eff. Sept. 1, 1983.]

Section 149 of the 1981 amendatory act provides, in part: "This Act takes effect on September 1, 1981. Appeals to the courts of appeals filed on or after that date shall be filed in the court of appeals having jurisdiction."

Section 7(a) and (d) of the 1983 amendatory act provides:

"(a) The amendments that this Act makes to Section 27, The Securities Act, as amended (Article 581-1 et seq., Vernon's Texas Civil Statutes), apply only to a proceeding in which the petition for review is filed on or after September 1, 1983."

"(d) A proceeding in which the petition for review is filed before September 1, 1983, an offense committed before September 1, 1983, or the amount of the fees due before September 1, 1983, is governed by the law in effect at the time of the filing or offense, and that law is continued in effect for that purpose."

Art. 581-28. Subpoenas or Other Process in Investigations by Commissioner

The Commissioner may require, by subpoena or summons issued by the Commissioner, the attendance and testimony of witnesses and the production of any books, accounts, records, papers and correspondence or other records or indices showing the names and addresses of the stockholders (except such books of account as are necessary to the continued conduct of the business, which books the Commissioner shall have the right to examine or cause to be examined at the office of the concern and to require copies of such portion thereof as may be deemed necessary touching the matter in question, which copies shall be verified by affidavit of an officer of such concern and shall be admissible in evidence as provided in Section 30 hereof), relating to any matter which the Commissioner has authority by this Act to consider or investigate, and for this purpose the Commissioner may sign subpoenas, administer oaths and affirmations, examine witnesses and receive evidence; provided, however, that all information of every kind and nature contained therein shall be treated as confidential by the Commissioner and shall not be disclosed to the public except under order of court; but nothing in this section shall be interpreted to prohibit or limit the publication of rulings or decisions of the Commissioner nor shall this limitation apply to hearings

provided for in Sections 24 and 25 of this Act. In case of disobedience of any subpoena, or of the contumacy of any witness appearing before the Commissioner, the Commissioner may invoke the aid of the District Court within whose jurisdiction any witness may be found, and such court may thereupon issue an order requiring the person subpoenaed to obey the subpoena or give evidence, or produce books, accounts, records, papers, and correspondence touching the matter in question. Any failure to obey such order of the court may be punished by such court as contempt thereof.

In the course of an investigation looking to the enforcement of this Act, or in connection with the application of a person or company for registration or to qualify securities, the Commissioner or Deputy Commissioner shall have free access to all records of the Board of Insurance Commissioners, including company examination reports to the Board and reports of special investigations made by personnel of the Board, as well as records and reports of and to any other department or agency of the state government. In the event, however, that the Commissioner or Deputy Commissioner should give out any information which the law makes confidential, the affected corporation, firm or person shall have a right of action on the official bond of the Commissioner or Deputy for his injuries, in a suit brought in the name of the state at the relation of the injured party.

The Commissioner may in any investigation cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed for depositions in civil actions under the laws of Texas.

Each witness required to attend before the Commissioner shall receive, for each day's attendance, the sum of Two Dollars (\$2.00), and shall receive in addition the sum of Ten Cents (10c) for each mile traveled by such witness by the usual route going to and returning from the place where his presence is required. All disbursements made in the payment of such fees shall be included in and paid in the same manner as is provided for the payment of other expenses incident to the administration and enforcement of this Act as hereinafter provided.

The sheriff's or constable's fee for serving the subpoena shall be the same as those paid the sheriff or constable for similar services. The fees, expenses and costs incurred at or in connection with any hearing may be imposed by the Commissioner upon any party to the record, or may be divided between any and all parties to the record in such proportions as the Commissioner may determine.

Any subpoena, summons, or other process issued by the Commissioner may be served, at the Commissioner's discretion, by the Commissioner, his authorized agent, a sheriff, or a constable.

The Commissioner may, at his discretion, disclose any confidential information in his possession to any governmental authority approved by Board rule; or

to any quasi-governmental authority charged with overseeing securities activities which is approved by Board rule. The disclosure does not violate any other provision of this Act or any provision of Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes).

[Acts 1957, 55th Leg., p. 575, ch. 269, § 28. Amended by Acts 1977, 65th Leg., p. 873, ch. 327, § 6, eff. Aug. 29, 1977.]

Art. 581-28-1. Adoption of Rules and Regulations

A. For purposes of this Section 28-1, the term "rule and regulation" shall mean any statement by the board of general and future applicability that implements, interprets, or prescribes law or policy or describes the organization, procedure, or practice requirements of the board. The term includes the amendment or repeal of a prior rule or regulation, but does not include statements concerning only the internal management of the board not affecting private rights or procedures or forms or orders adopted or made by the board or the commissioner pursuant to other provisions of this Act.

B. The board may, from time to time, in accordance with the provisions of this Section 28-1, make or adopt such rules and regulations as may be necessary to carry out and implement the provisions of this Act, including rules and regulations governing registration statements, applications, notices, and reports, and defining any terms, whether or not used in this Act, insofar as the definitions are not inconsistent with the purposes fairly intended by the policy and provisions of this Act. For the purpose of adoption of rules and regulations, the board may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes. The board may, in its discretion, waive any requirement of any rule or regulation in situations where, in its opinion, such requirement is not necessary in the public interest or for the protection of investors.

C. No rule or regulation may be made or adopted unless the board finds, after notice and opportunity for comment in accordance with the provisions of this Section 28-1, that the action is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of this Act.

D. The board may, by rule or regulation adopted in accordance with this Section 28-1, delegate to the commissioner or the deputy commissioner such of the authority granted to the board under this Section 28-1 to hold hearings for adoption of rules and regulations and to make or adopt rules and regulations, or to waive the requirements thereof, as it may, from time to time, deem appropriate. All rules and regulations made or adopted by the commissioner or the deputy commissioner pursuant to

such delegated authority shall be made or adopted in accordance with this Section 28-1.

E. No provision of this Act imposing any liability or penalty applies to any act done or omitted in good faith in conformity with any rule or regulation of the board, notwithstanding that the rule or regulation may later be amended or rescinded or be determined by judicial or other authority to be invalid for any reason.

F. The Board may not adopt rules restricting competitive bidding or advertising by a person registered under this Act except to prohibit false, misleading, or deceptive practices by the person. The Board may not include in its rules to prohibit false, misleading, or deceptive practices by a person regulated by the Board a rule that restricts the person's use of any medium for advertising, restricts the person's personal appearance or use of his voice in an advertisement, relates to the size or duration of an advertisement by the person, or restricts the person's advertisement under a trade name. However, this section does not affect limitations on advertising contained in Subsections I or Q of Section 5 of this Act or in rules adopted by the Board under Subsection T of Section 5 of this Act.

G to L. Repealed by Acts 1983, 68th Leg., p. 2717, ch. 465, § 5, eff. Sept. 1, 1983.

[Acts 1975, 64th Leg., p. 199, ch. 78, § 2, eff. Sept. 1, 1975. Amended by Acts 1983, 68th Leg., p. 2715, ch. 465, §§ 2, 5, eff. Sept. 1, 1983.]

Art. 581-29. Penal Provisions

Any person who shall:

A. Sell, offer for sale or delivery, solicit subscriptions or orders for, dispose of, invite offers for, or who shall deal in any other manner in any security or securities without being a registered dealer or salesman or agent as in this Act provided shall be deemed guilty of a felony, and upon conviction thereof shall be sentenced to pay a fine of not more than \$5,000 or imprisonment in the penitentiary for not more than 10 years, or by both such fine and imprisonment.

B. Sell, offer for sale or delivery, solicit subscriptions to and orders for, dispose of, invite orders for, or who shall deal in any other manner in any security or securities issued after September 6, 1955, unless said security or securities have been registered or granted a permit as provided in Section 7 of this Act, shall be deemed guilty of a felony, and upon conviction thereof shall be sentenced to pay a fine of not more than \$5,000 or imprisonment in the penitentiary for not more than 10 years, or by both such fine and imprisonment.

C. In connection with the sale, offering for sale or delivery of, the purchase, offer to purchase, invitation of offers to purchase, invitations of offers to sell, or dealing in any other manner in any security or securities, whether or not the transaction or security is exempt under Section 5 or 6 of

this Act, directly or indirectly (1) engage in any fraud or fraudulent practice, or (2) employ any device, scheme, or artifice to defraud, or (3) knowingly make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, or (4) engage in any act, practice or course of business which operates or will operate as a fraud or deceit upon any person, is guilty of a felony and upon conviction shall be imprisoned for not less than 2 or more than 10 years, fined not more than \$5,000, or both, if the amount involved in the offense is less than \$10,000, or imprisoned for not less than 2 or more than 20 years, fined not more than \$10,000, or both, if the amount involved in the offense is \$10,000 or more.

D. Sell or offer for sale any security or securities named or listed in a notice in writing given him by the commissioner under the authority of Section 23A of this Act shall be deemed guilty of a felony, and upon conviction thereof shall be sentenced to pay a fine of not more than \$1,000 or imprisonment in the penitentiary for not more than two years, or by both such fine and imprisonment.

E. Knowingly make or cause to be made, in any document filed with the commissioner or in any proceeding under this Act, whether or not such document or proceeding relates to a transaction or security exempt under the provisions of Sections 5 or 6 of this Act, any statement which is, at the time and in the light of the circumstances under which it is made, false or misleading in any material respect shall be deemed guilty of a felony, and upon conviction thereof shall be sentenced to pay a fine of not more than \$1,000 or imprisonment in the penitentiary for not more than two years, or by both such fine and imprisonment.

F. Knowingly make any false statement or representation concerning any registration made under the provisions of this Act shall be deemed guilty of a felony, and upon conviction thereof shall be sentenced to pay a fine of not more than \$1,000 or imprisonment in the penitentiary for not more than two years, or by both such fine and imprisonment.

G. Make an offer within this State as to any security that is not in compliance with the requirements set forth in Section 22 of this Act shall be deemed guilty of a felony, and upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 or imprisonment in the penitentiary for not more than two years, or by both such fine and imprisonment.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 29. Amended by Acts 1961, 57th Leg., p. 1047, ch. 466, § 1; Acts 1963, 58th Leg., p. 473, ch. 170, § 11; Acts 1973, 63rd Leg., p. 217, ch. 97, § 2, eff. Aug. 27, 1973; Acts 1979, 66th Leg., p. 359, ch. 160, § 7, eff. May 15, 1979; Acts 1983, 68th Leg., p. 2688, ch. 465, § 1, eff. Sept. 1, 1983.]

For effect of the 1979 amendatory act on arts. 852a, § 11.01, and 342-411a, see note under art. 581-4.

Section 7(b) and (d) of the 1983 amendatory act provides:

"(b) The amendments that this Act makes to Subsection C, Section 29, The Securities Act, as amended (Article 581-1 et seq., Vernon's Texas Civil Statutes), apply only to an offense committed on or after September 1, 1983."

"(d) A proceeding in which the petition for review is filed before September 1, 1983, an offense committed before September 1, 1983, or the amount of the fees due before September 1, 1983, is governed by the law in effect at the time of the filing or offense, and that law is continued in effect for that purpose."

Art. 581-29-1. Limitation

An indictment for an offense under Subsection C of Section 29 may be brought only before the fifth anniversary of the day on which the offense is committed.

[Acts 1983, 68th Leg., p. 2716, ch. 465, § 3, eff. Sept. 1, 1983.]

Art. 581-30. Certified Copies of Papers Filed with Commissioner as Evidence

Copies of all papers, instruments, or documents filed in the office of the Commissioner, certified by the Commissioner, shall be admitted to be read in evidence in all courts of law and elsewhere in this state in all cases where the original would be admitted in evidence; provided, that in any proceeding in the court having jurisdiction, the court may, on cause shown, require the production of the originals.

The Commissioner shall assume custody of all records of the Securities Divisions within the offices of the Secretary of State and of the Board of Insurance Commissioners, and henceforth these prior records shall be proven under certificate of the Commissioner.

In any prosecution, action, suit or proceeding before any of the several courts of this state based upon or arising out of or under the provisions of this Act, a certificate under the seal of the state, duly signed by the Commissioner, showing compliance or non-compliance with the provisions of this Act respecting compliance or non-compliance with the provisions of this Act by any dealer or salesman, shall constitute prima facie evidence of such compliance or of such non-compliance with the provisions of this Act, as the case may be, and shall be admissible in evidence in any action at law or in equity to enforce the provisions of this Act.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 30.]

Art. 581-31. Construction

Nothing herein contained shall limit or diminish the liability of any person or company, or of its officers or agents, now imposed by law to prevent the prosecution of any person or company, or of its officers or agents, for the violation of the provisions of any other statute.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 31.]

Art. 581-32. Injunctions and Restitution

A. Whenever it shall appear to the Commissioner either upon complaint or otherwise, that in the

issuance, sale, promotion, negotiations, advertisement or distribution of any securities within this state, including any security embraced in the subsections of Section 6, and including any transaction exempted under the provisions of Section 5, any person or company who shall have employed, or is about to employ any device, scheme or artifice to defraud or to obtain money or property by means of any false pretense, representation or promise, or that any such person or company shall have made, makes or attempts to make in this state fictitious or pretended purchases or sales of securities or shall have engaged in or is about to engage in any practice or transaction or course of business relating to the purchase or sale of securities which is in violation of law or which is fraudulent or which has operated or which would operate as a fraud upon the purchaser, any one or all of which devices, schemes, artifices, fictitious or pretended purchases, or sales of securities, practices, transactions and courses of business are hereby declared to be and are hereafter referred to as fraudulent practices; or that any person or company is acting as dealer or salesman within this state without being duly registered as such dealer or salesman as provided in this Act, the Commissioner and Attorney General may investigate, and whenever he shall believe from evidence satisfactory to him that any such person or company has engaged in, is engaged in, or is about to be engaged in any of the practices or transactions heretofore referred to as and declared to be fraudulent practices, or is selling or offering for sale any securities in violation of this Act or is acting as a dealer or salesman without being duly registered as provided in this Act, the Attorney General may, on request by the Commissioner, and in addition to any other remedies, bring action in the name and on behalf of the State of Texas against such person or company and any other person or persons heretofore concerned in or in any way participating in or about to participate in such fraudulent practices or acting in such violation of this Act, to enjoin such person or company and such other person or persons from continuing such fraudulent practices or engaging therein or doing any act or acts in furtherance thereof or in violation of this Act. In any such court proceedings, the Attorney General may apply for and on due showing be entitled to have issued the court's subpoena requiring the forthwith appearance of any defendant and his employees, salesmen or agents and the production of documents, books and records as may appear necessary for the hearing of such petition, to testify and give evidence concerning the acts or conduct or things complained of in such application for injunction. The District Court of any county, wherein it is shown that the acts complained of have been or are about to be committed, shall have jurisdiction of any action brought under this section, and this provision shall be superior to any provision fixing the jurisdiction or venue with regard to suits for injunction. No bond for injunction shall be required of the

Commissioner or Attorney General in any such proceeding.

B. The Attorney General may, in an action under Subsection A of this section or in a separate action in District Court, seek restitution for a victim of fraudulent practices. The court may order the defendant to deliver to the person defrauded the amount of money or the property that the defendant obtained from the person by the fraudulent practices.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 32. Amended by Acts 1983, 68th Leg., p. 2688, ch. 465, § 1, eff. Sept. 1, 1983.]

Art. 581-33. Civil Liabilities

A. Liability of Sellers.

(1) Registration and Related Violations. A person who offers or sells a security in violation of Section 7, 9 (or a requirement of the Commissioner thereunder), 12, 23B, or an order under 23A of this Act is liable to the person buying the security from him, who may sue either at law or in equity for rescission or for damages if the buyer no longer owns the security.

(2) Untruth or Omission. A person who offers or sells a security (whether or not the security or transaction is exempt under Section 5 or 6 of this Act) by means of an untrue statement of a material fact or an omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, is liable to the person buying the security from him, who may sue either at law or in equity for rescission, or for damages if the buyer no longer owns the security. However, a person is not liable if he sustains the burden of proof that either (a) the buyer knew of the untruth or omission or (b) he (the offeror or seller) did not know, and in the exercise of reasonable care could not have known, of the untruth or omission. The issuer of the security (other than a government issuer identified in Section 5M) is not entitled to the defense in clause (b) with respect to an untruth or omission (i) in a prospectus required in connection with a registration statement under Section 7A, 7B, or 7C, or (ii) in a writing prepared and delivered by the issuer in the sale of a security.

B. Liability of Buyers. A person who offers to buy or buys a security (whether or not the security or transaction is exempt under Section 5 or 6 of this Act) by means of an untrue statement of a material fact or an omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, is liable to the person selling the security to him, who may sue either at law or in equity for rescission or for damages if the buyer no longer owns the security. However, a person is not liable if he sustains the burden of proof that either (a) the seller knew of the untruth or omission, or (b) he (the offeror or buyer) did not know, and in the

exercise of reasonable care could not have known, of the untruth or omission.

C. Liability of Nonselling Issuers Which Register.

(1) This Section 33C applies only to an issuer which registers under Section 7A, 7B, or 7C of this Act, or under Section 6 of the U.S. Securities Act of 1933,¹ its outstanding securities for offer and sale by or for the owner of the securities.

(2) If the prospectus required in connection with the registration contains, as of its effective date, an untrue statement of a material fact or an omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, the issuer is liable to a person buying the registered security, who may sue either at law or in equity for rescission or for damages if the buyer no longer owns the securities. However, an issuer is not liable if it sustains the burden of proof that the buyer knew of the untruth or omission.

D. Rescission and Damages. For this Section 33:

(1) On rescission, a buyer shall recover (a) the consideration he paid for the security plus interest thereon at the legal rate from the date of payment by him, less (b) the amount of any income he received on the security, upon tender of the security (or a security of the same class and series).

(2) On rescission, a seller shall recover the security (or a security of the same class and series) upon tender of (a) the consideration he received for the security plus interest thereon at the legal rate from the date of receipt by him, less (b) the amount of any income the buyer received on the security.

(3) In damages, a buyer shall recover (a) the consideration he paid for the security plus interest thereon at the legal rate from the date of payment by him, less (b) the value of the security at the time he disposed of it plus the amount of any income he received on the security.

(4) In damages, a seller shall recover (a) the value of the security at the time of sale plus the amount of any income the buyer received on the security, less (b) the consideration paid the seller for the security plus interest thereon at the legal rate from the date of payment to the seller.

(5) For a buyer suing under Section 33C, the consideration he paid shall be deemed the lesser of (a) the price he paid and (b) the price at which the security was offered to the public.

(6) On rescission or as a part of damages, a buyer or a seller shall also recover costs.

(7) On rescission or as a part of damages, a buyer or a seller may also recover reasonable attorney's fees if the court finds that the recovery would be equitable in the circumstances.

E. Time of Tender. Any tender specified in Section 33D may be made at any time before entry of judgment.

F. Liability of Control Persons and Aiders.

(1) A person who directly or indirectly controls a seller, buyer, or issuer of a security is liable under Section 33A, 33B, or 33C jointly and severally with the seller, buyer, or issuer, and to the same extent as if he were the seller, buyer, or issuer, unless the controlling person sustains the burden of proof that he did not know, and in the exercise of reasonable care could not have known, of the existence of the facts by reason of which the liability is alleged to exist.

(2) A person who directly or indirectly with intent to deceive or defraud or with reckless disregard for the truth or the law materially aids a seller, buyer, or issuer of a security is liable under Section 33A, 33B, or 33C jointly and severally with the seller, buyer, or issuer, and to the same extent as if he were the seller, buyer, or issuer.

(3) There is contribution as in cases of contract among the several persons so liable.

G. Survivability of Actions. Every cause of action under this Act survives the death of any person who might have been a plaintiff or defendant.

H. Statute of Limitations.

(1) No person may sue under Section 33A(1) or 33F so far as it relates to Section 33A(1):

(a) more than three years after the sale; or

(b) if he received a rescission offer (meeting the requirements of Section 33I) before suit unless he (i) rejected the offer in writing within 30 days of its receipt and (ii) expressly reserved in the rejection his right to sue; or

(c) more than one year after he so rejected a rescission offer meeting the requirements of Section 33I.

(2) No person may sue under Section 33A(2), 33C, or 33F so far as it relates to 33A(2) or 33C:

(a) more than three years after discovery of the untruth or omission, or after discovery should have been made by the exercise of reasonable diligence; or

(b) more than five years after the sale; or

(c) if he received a rescission offer (meeting the requirements of Section 33I) before suit, unless he (i) rejected the offer in writing within 30 days of its receipt, and (ii) expressly reserved in the rejection his right to sue; or

(d) more than one year after he so rejected a rescission offer meeting the requirements of Section 33I.

(3) No person may sue under Section 33B or 33F so far as it relates to Section 33B:

(a) more than three years after discovery of the untruth or omission, or after discovery should have been made by the exercise of reasonable diligence; or

(b) more than five years after the purchase; or

(c) if he received a rescission offer (meeting the requirements of Section 33J) before suit unless he (i) rejected the offer in writing within 30 days of its receipt, and (ii) expressly reserved in the rejection his right to sue; or

(d) more than one year after he so rejected a rescission offer meeting the requirements of Section 33J.

I. Requirements of a Rescission Offer to Buyers. A rescission offer under Section 33H(1) or (2) shall meet the following requirements:

(1) The offer shall include financial and other information material to the offeree's decision whether to accept the offer, and shall not contain an untrue statement of a material fact or an omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading.

(2) The offeror shall deposit funds in escrow in a state or national bank doing business in Texas (or in another bank approved by the commissioner) or receive an unqualified commitment from such a bank to furnish funds sufficient to pay the amount offered.

(3) The amount of the offer to a buyer who still owns the security shall be the amount (excluding costs and attorney's fees) he would recover on rescission under Section 33D(1).

(4) The amount of the offer to a buyer who no longer owns the security shall be the amount (excluding costs and attorney's fees) he would recover in damages under Section 33D(3).

(5) The offer shall state:

(a) the amount of the offer, as determined pursuant to Paragraph (3) or (4) above, which shall be given (i) so far as practicable in terms of a specified number of dollars and a specified rate of interest for a period starting at a specified date, and (ii) so far as necessary, in terms of specified elements (such as the value of the security when it was disposed of by the offeree) known to the offeree but not to the offeror, which are subject to the furnishing of reasonable evidence by the offeree.

(b) the name and address of the bank where the amount of the offer will be paid.

(c) that the offeree will receive the amount of the offer within a specified number of days (not more than 30) after receipt by the bank, in form reasonably acceptable to the offeror, and in compliance with the instructions in the offer, of:

(i) the security, if the offeree still owns it, or evidence of the fact and date of disposition if he no longer owns it; and

(ii) evidence, if necessary, of elements referred to in Paragraph (a)(ii) above.

(d) conspicuously that the offeree may not sue on his purchase under Section 33 unless:

(i) he accepts the offer but does not receive the amount of the offer, in which case he may sue within the time allowed by Section 33H(1)(a) or 33H(2)(a) or (b), as applicable; or

(ii) he rejects the offer in writing within 30 days of its receipt and expressly reserves in the rejection his right to sue, in which case he may sue within one year after he so rejects.

(e) in reasonable detail, the nature of the violation of this Act that occurred or may have occurred.

(f) any other information the offeror wants to include.

J. Requirements of a Rescission Offer to Sellers. A rescission offer under Section 33H(3) shall meet the following requirements:

(1) The offer shall include financial and other information material to the offeree's decision whether to accept the offer; and shall not contain an untrue statement of a material fact or an omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading.

(2) The offeror shall deposit the securities in escrow in a state or national bank doing business in Texas (or in another bank approved by the commissioner).

(3) The terms of the offer shall be the same (excluding costs and attorney's fees) as the seller would recover on rescission under Section 33D(2).

(4) The offer shall state:

(a) the terms of the offer, as determined pursuant to Paragraph (3) above, which shall be given (i) so far as practicable in terms of a specified number and kind of securities and a specified rate of interest for a period starting at a specified date, and (ii) so far as necessary, in terms of specified elements known to the offeree but not the offeror, which are subject to the furnishing of reasonable evidence by the offeree.

(b) the name and address of the bank where the terms of the offer will be carried out.

(c) that the offeree will receive the securities within a specified number of days (not more than 30) after receipt by the bank, in form reasonably acceptable to the offeror, and in compliance with the instructions in the offer, of:

(i) the amount required by the terms of the offer; and

(ii) evidence, if necessary, of elements referred to in Paragraph (a)(ii) above.

(d) conspicuously that the offeree may not sue on his sale under Section 33 unless:

(i) he accepts the offer but does not receive the securities, in which case he may sue within the time allowed by Section 33H(3)(a) or (b), as applicable; or

(ii) he rejects the offer in writing within 30 days of its receipt and expressly reserves in the rejection his right to sue, in which case he may sue within one year after he so rejects.

(e) in reasonable detail, the nature of the violation of this Act that occurred or may have occurred.

(f) any other information the offeror wants to include.

K. Unenforceability of Illegal Contracts. No person who has made or engaged in the performance of any contract in violation of any provision of this Act or any rule or order or requirement hereunder, or who has acquired any purported right under any such contract with knowledge of the facts by reason of which its making or performance was in violation, may base any suit on the contract.

L. Waivers Void. A condition, stipulation, or provision binding a buyer or seller of a security to waive compliance with a provision of this Act or a rule or order or requirement hereunder is void.

M. Saving of Existing Remedies. The rights and remedies provided by this Act are in addition to any other rights (including exemplary or punitive damages) or remedies that may exist at law or in equity.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 33. Amended by Acts 1963, 58th Leg., p. 473, ch. 170, § 12; Acts 1977, 65th Leg., p. 344, ch. 170, § 1, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 361, ch. 160, § 8, eff. May 15, 1979.]

1 15 U.S.C.A. § 77f.

Section 2 of the 1977 amendatory act provided:

"Prior law exclusively governs all suits which are pending or may be initiated on the basis of facts or circumstances occurring before the effective date of this Act, except that no suit may be maintained to enforce any liability under prior law unless brought within any period of limitation which applied when the cause of action accrued, and in any event within five years after the purchase or sale."

For effect of the 1979 amendatory act on arts. 852a, § 11.01, and 342-411a, see note under art. 581-4.

Art. 581-34. Actions for Commission; Allegations and Proof of Compliance

No person or company shall bring or maintain any action in the courts of this state for collection of a commission or compensation for services rendered in the sale or purchase of securities, as that term is herein defined, without alleging and proving that such person or company was duly licensed under the provisions hereof and the securities so sold were duly registered under the provisions hereof at the time the alleged cause of action arose; provided, however, that this section or provision of this Act shall not apply (1) to any transaction exempted by Section 5 of this Act, nor (2) to the sale or purchase of any security exempted by Section 6 of this Act.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 34. Amended by Acts 1975, 64th Leg., p. 199, ch. 78, § 3, eff. Sept. 1, 1975.]

Art. 581-35. Fees

The Commissioner or Board shall charge and collect the following fees and shall daily pay all fees received into the State Treasury:

A. For the filing of any original application of a dealer, Seventy Dollars (\$70.00), and for the filing of any renewal application of a dealer, Thirty-five Dollars (\$35.00) plus Fifteen Dollars (\$15.00) for each person listed as an officer in the application;

B. For the filing of any original application for each salesman, Thirty Dollars (\$30.00), and for the filing of any renewal application for each salesman, Fifteen Dollars (\$15.00);

C. For any filing to amend the registration certificate of a dealer or evidence of registration of a salesman, or issue a duplicate certificate or evidence of registration, Five Dollars (\$5.00);

D. For the filing of any original, amended or renewal application to sell or dispose of securities, Ten Dollars (\$10.00);

E. For the examination of any original or amended application filed under Subsection A, B, or C of Section 7 of this Act, regardless of whether the application is denied, abandoned, withdrawn, or approved, a fee of one-tenth ($\frac{1}{10}$) of one percent (1%) of the aggregate amount of securities described and proposed to be sold to persons located within this state based upon the price at which such securities are to be offered to the public;

F. For certified copies of any papers filed in the office of the Commissioner, the Commissioner shall charge such fees as are reasonably related to costs; however, in no event shall such fees be more than those which the Secretary of State is authorized to charge in similar cases; and

G. For the filing of any application for approval of a stock exchange so that securities fully listed thereon will be exempt, a fee of Two Hundred and Fifty Dollars (\$250.00).

[Acts 1957, 55th Leg., p. 575, ch. 269, § 35. Amended by Acts 1959, 56th Leg., p. 982, ch. 457, § 1; Acts 1977, 65th Leg., p. 875, ch. 327, § 7, eff. Aug. 29, 1977; Acts 1983, 68th Leg., p. 2688, ch. 465, § 1, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 5220, ch. 953, § 3, eff. Sept. 1, 1983.]

Acts 1983, 68th Leg., p. 2717, ch. 465, § 7(c) and (d), provides:

"(c) The amendments made by this Act to Section 35, The Securities Act, as amended (Article 581-1 et seq., Vernon's Texas Civil Statutes), apply only to fees that are due on or after September 1, 1983."

"(d) A proceeding in which the petition for review is filed before September 1, 1983, an offense committed before September 1, 1983, or the amount of the fees due before September 1, 1983, is governed by the law in effect at the time of the filing or offense, and that law is continued in effect for that purpose."

Acts 1983, 68th Leg., p. 5221, ch. 953, § 4, provides:

"Section 3 of this Act applies only to fees that become due on or after September 1, 1983. The amount of the fees that become due before September 1, 1983, is governed by the law in effect when the fees become due, and that law is continued in effect for that purpose."

Art. 581-35-1. Sale of Securities in Excess of Amount Registered; Fees

An offeror who sells securities in this State in excess of the aggregate amount of securities registered may, while such registration is still effective, apply to register the excess securities by paying three times the difference between the initial fee paid and the fee required under Subsection E of Section 35 for the securities sold to persons within this State, plus the amendment fee prescribed by Subsection D of Section 35. Registration of the excess securities, if granted, shall be effective retroactively to the date of the existing registration.

[Acts 1979, 66th Leg., p. 361, ch. 160, § 9, eff. May 15, 1979.]

For effect of the 1979 Act on arts. 852a, § 11.01, and 342-411a, see note under art. 581-4.

Art. 581-36. Deposit to General Revenue Fund

Upon and after the effective date of this Act all moneys received from fees, assessments, or charges under this Act shall be paid by the Commissioner or Board into the General Revenue Fund. If the Commissioner or Board determines that all or part of a registration fee should be refunded, the Commissioner may make the refund by warrant on the State Treasury from funds appropriated from the General Revenue Fund for that purpose.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 36. Amended by Acts 1983, 68th Leg., p. 2688, ch. 465, § 1, eff. Sept. 1, 1983.]

Art. 581-37. Pleading Exemptions

It shall not be necessary to negative any of the exemptions in this Act in any complaint, information or indictment, or any writ or proceeding laid or brought under this Act; and the burden of proof of any such exemption shall be upon the party claiming the same.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 37.]

Art. 581-38. Partial Invalidity; Severability

The provisions of this Act are severable, and in the event that any provision thereof should be declared void or unconstitutional, it is hereby declared that the remaining provisions would have been enacted notwithstanding such judicial determination of the invalidity of any particular provision or provisions in any respect, and said sections shall remain in full force and effect.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 38.]

Art. 581-39. Repeal of Securities Act and Insurance Securities Act Now in Effect; Saving Clause as to Pending Proceedings

The Acts now in effect being currently known as the Securities Act of Texas and the Insurance Securities Act of Texas, as embraced in Senate Bill No. 149, Chapter 67,¹ and House Bill No. 39, Chapter 384,² Acts of the 54th Legislature, 1955, and codi-

fied as Articles 579 and 580 of Vernon's Civil Statutes of Texas, be and the same are hereby repealed; provided, however, that all permits, orders, and licenses issued by the Secretary of State or Board of Insurance Commissioners pursuant to said laws prior to the effective date of this Act shall be valid during the period for which they were issued unless sooner revoked by the Commissioner for any cause for which the Commissioner is authorized by this Act to revoke hereunder; provided further, that all prosecutions and legal or other proceedings begun, and any violation of law whether prosecution or administrative action is commenced or not, and any cause of action of civil or criminal nature existing under the provisions of that law now in effect, shall continue in effect and remain in full force and effect

until terminated as under the terms of the law now in force, notwithstanding the passage of this Act. [Acts 1957, 55th Leg., p. 575, ch. 269, § 39.]

¹ Articles 579-1 to 579-42.

² Articles 580-1 to 580-39.

Art. 582. Repealed by Acts 1935, 44th Leg., p. 255, ch. 100, § 38

Art. 582-1. Repealed by Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, § 4, eff. Sept. 1, 1967

Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code, repealed art. 582-1 effective September 1, 1967.

See, now, Business and Commerce Code, § 33.01 et seq.

Arts. 583 to 600. Repealed by Acts 1935, 44th Leg., p. 255, ch. 100, § 38

TITLE 19A

THE SECURITIES ACT

Art. 600a. Repealed by Acts 1955, 54th Leg., p. 322, ch. 67, § 41

See, now, art. 581-1 et seq.

TITLE 20

PURCHASING AND GENERAL SERVICES COMMISSION

Chapter	Article
1. General Provisions	601
2. Division of Public Printing	607
3. Purchasing Division	631
4. Public Buildings and Grounds Division	665
4A. State Building Commission	678m
5. Division of Design and Construction	679
6. Division of Estimates and Appropriations	688
7. Division of Eleemosynary Institutions	690
7A. Child Welfare	695a

CHAPTER ONE. GENERAL PROVISIONS

Art.

- 601, 601a. Repealed.
- 601b. State Purchasing and General Services Act.
- 601c. Public Building Authority Act.
- 602 to 606a. Repealed.

Arts. 601, 601a. Repealed by Acts 1979, 66th Leg., p. 1960, ch. 773, § 99.05, eff. Sept. 1, 1979

For subject matter of former art. 601, see, now, art. 601b, §§ 2.01 to 2.03 and 2.06.

For subject matter of former art. 601a, see, now, art. 601b, § 2.07.

Art. 601b. State Purchasing and General Services Act

ARTICLE 1. GENERAL PROVISIONS

Short Title

Sec. 1.01. This Act may be cited as the State Purchasing and General Services Act.

Definitions

- Sec. 1.02. In this Act:
- (1) "Commission" means the State Purchasing and General Services Commission.
 - (2) "State agency" means:

(A) "any department, commission, board, office, or other agency in the executive branch of state government created by the constitution or a statute of this state;

(B) the Supreme Court of Texas, the Court of Criminal Appeals of Texas, a court of civil appeals, or the Texas Civil Judicial Council; or

(C) a university system or an institution of higher education as defined in Section 61.003, Texas Education Code, as amended, other than a public junior college.

ARTICLE 2. ADMINISTRATIVE PROVISIONS

Commission

Sec. 2.01. The State Purchasing and General Services Commission is established.

Membership

Sec. 2.02. The commission is composed of three members appointed by the governor with the advice and consent of the senate.

Terms

Sec. 2.03. Members of the commission hold office for staggered terms of six years, with a member's term expiring on January 31 of each odd-numbered year.

Officers; Meetings; Quorum

Sec. 2.04. (a) The governor annually shall appoint a chairman from among the commission members.

(b) The commission shall meet at least once each month. The commission may meet at other times at the call of the chairman or as provided by the commission's rules.

(c) Two members of the commission constitute a quorum.

Expenses

Sec. 2.05. A member of the commission is not entitled to compensation but is entitled to reimbursement for actual and necessary expenses incurred in performing functions as a member of the commission.

Executive Director; Staff

Sec. 2.06. (a) The commission shall employ an executive director who shall serve at the pleasure of the commission. He shall execute a bond payable to the state in such sum as the commission may deem necessary, to be approved by the commission and conditioned upon the faithful performance of his duties. Premiums for said bond also shall be payable from such appropriations for the commission as are authorized by the legislature. The executive director must have demonstrated executive and organizational ability.

(b) The executive director shall manage the affairs of the commission subject to and under the direction of the commission. All direction of the commission to the executive director shall be made at an open meeting of the commission and made a part of the minutes of the commission. A member of the commission may not grant any authority to the executive director or any other employee by power of attorney.

(c) The executive director may employ a staff necessary to administer the functions of the commission.

Application of Sunset Act

Sec. 2.07. The commission is subject to the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes). Unless continued in existence as provided by that Act, the commission is abolished and this Act expires effective September 1, 1991.

ARTICLE 3. PURCHASING**Establishment of Purchasing System**

Sec. 3.01. (a) The commission shall purchase, lease, rent, or otherwise acquire all supplies, materials, services, and equipment for all state agencies, except for serial and journal subscriptions for libraries operated as a part of university systems or institutions of higher education, and shall institute and maintain an effective and economical system for purchasing all such supplies, materials, services, and equipment.

(b) "Services," as used in this article, means the furnishing of skilled or unskilled labor or professional work but does not include:

(1) professional services covered by the Professional Services Procurement Act (Article 664-4, Vernon's Texas Civil Statutes);

(2) services of an employee of a state agency;

(3) consulting services or services of a private consultant as defined by Chapter 454, Acts of the

65th Legislature, Regular Session, 1977 (Article 6252-11c, Vernon's Texas Civil Statutes); or

(4) services of public utilities.

Limits of Authority

Sec. 3.02. The commission's authority does not extend to purchases of supplies, materials, services, or equipment:

(1) for resale;

(2) for auxiliary enterprises;

(3) for organized activities relating to instructional departments of institutions of higher learning and similar activities of other state agencies; or

(4) from gifts or grants other than federal grants.

Purchases or Lease of Computers

Sec. 3.021. If a state agency requests the commission to purchase or lease automated information systems, the computers on which they are automated, or a service related to the automation of information systems or the computers on which they are automated and if the purchase or lease is of a type that requires the Automated Information Systems Advisory Council to prepare a report, the commission may not make an award for the purchase or lease of the software, hardware, or services until the report has been filed as required by law or until 60 days after receipt of the proposal and any supporting information by the council as prescribed by law, whichever is earlier, or the completion of an agreed extension period.

Purchase of Motor Vehicles for School Districts

Sec. 3.03. The commission shall purchase all motor vehicles used for transporting school children, including buses, bus chassis, and bus bodies, tires, and tubes, for school districts participating in the Foundation School Program as provided by Subchapter F, Chapter 21, Texas Education Code.¹

¹ Education Code, § 21.161 et seq.

**Mental Health and Mental Retardation
Community Centers**

Sec. 3.04. Community centers for mental health and mental retardation services that are receiving state grants-in-aid under the provisions of Article 4 of the Texas Mental Health and Mental Retardation Act¹ may purchase drugs and medicines through the commission.

¹ Article 5547-201 et seq.

Purchases by the Legislature

Sec. 3.05. Either house of the legislature, or any agency, council, or committee of the legislature, including the Legislative Budget Board, the Texas Legislative Council, the State Auditor's Office, and the Legislative Reference Library, may utilize the purchasing services of the commission for purchasing supplies, materials, services, equipment, and

those items covered by Article XVI, Section 21, of the Texas Constitution.

Delegation of Authority to State Agencies

Sec. 3.06. The commission may delegate purchasing functions to a state agency.

Emergency Purchases

Sec. 3.07. The commission shall provide for emergency purchases by a state agency and may set a monetary limit on the amount of each emergency purchase.

Purchases Less than a Specified Monetary Amount

Sec. 3.08. (a) State agencies are delegated the authority to purchase supplies, materials, and equipment if the purchase does not exceed \$500. The commission by rule shall prescribe procedures for these purchases, and by rule may delegate to state agencies the authority to purchase supplies, materials, or equipment if the purchase exceeds \$500. Competitive bidding, whether formal or informal, is not required for a purchase by a state agency if the purchase does not exceed \$100, or a greater amount prescribed by rule of the commission.

(b) Supplies or materials purchased under this section may not include:

(1) items for which contracts have been awarded under the contract purchase procedure, unless the quantity purchased is less than the minimum quantity specified in the contract;

(2) any item required by statute to be purchased from a particular source; or

(3) scheduled items that have been designated for purchase by the commission.

(c) Large purchases may not be divided into small lot purchases in order to meet the specified dollar limits.

(d) Agencies making purchases under this section must attempt to obtain at least three competitive bids from sources which normally offer for sale the merchandise being purchased.

Review of Specifications

Sec. 3.09. (a) The commission shall review the specifications and conditions of purchase of any supplies, materials, equipment, or services desired to be purchased.

(b) If the commission finds that specifications and conditions of a purchase request have been drawn to describe a product which is proprietary to one vendor and does not include language which permits an equivalent product to be supplied, it shall require written justification of the requested specifications or conditions, signed by the agency head or the chairman of the governing body. For an institution of higher education, the written justification may be signed by the person designated by the president or governing body as purchasing officer for the insti-

tution. The written justification shall contain the following:

(1) explanation of the need for the specifications;

(2) the reason competing products are not satisfactory; and

(3) other information requested by the commission.

(c) If a resubmission with written justification is to be required by the commission, it shall notify the requesting state agency of that fact within 10 days after the date of receipt of the purchase request.

(d) If the commission, after considering all factors, takes exception to the justifications, it shall purchase the supplies, materials, services, or equipment as requested and report the reasons for its exceptions to the agency head or the chairman of the governing body, the state auditor, the Legislative Budget Board, and the governor.

(e) The commission shall issue an invitation to bid to vendors within 20 days after the date of receipt of the written justification required.

(f) The commission shall not delay processing a purchase requisition by submitting the specifications and conditions to the systems/administrative services division of the state auditor's office for comment or recommendation prior to issuing the invitation to bid to vendors.

Purchase Methods

Sec. 3.10. In purchasing supplies, materials, services, and equipment the commission may use, but is not limited to, the contract purchase procedure, the multiple award contract procedure, and the open market purchase procedure. The commission shall have the authority to combine orders in a system of schedule purchasing, and it shall at all times try to benefit from purchasing in bulk. All purchases of and contracts for supplies, materials, services, and equipment shall, except as provided herein, be based whenever possible on competitive bids.

Contract Purchase Procedure

Sec. 3.11. (a) Notice. Notice inviting bids shall be published at least once in at least one newspaper of general circulation in the state and at least seven days preceding the last day set for the receipt of bids. The newspaper notice shall include a general description of the articles to be purchased, and shall state where bid blanks and specifications may be secured, and the time and place for opening bids.

(b) Bidders List. The commission shall maintain a bidders list and shall add or delete names from the list by the application and utilization of applicable standards set forth in Subsection (e) of this section. Bid invitations shall be sent only to those who have expressed a desire to bid on the particular types of items which are the subject of the bid invitation. Use of the bidders list shall not be confined to contract purchases but it may be used by the com-

mission as it may find desirable in making any purchase.

(c) Bid Deposits. When deemed necessary bid deposits in amounts to be set by the commission shall be prescribed in the public notices and the invitation to bid. The commission shall establish and maintain records of bid deposits and their disposition with the cooperation of the state auditor, and upon the award of bids or rejection of all bids, bid deposits shall be returned to unsuccessful bidders making bid deposits. The commission may accept a bid deposit in the form of a blanket bond from any bidder.

(d) Bid Opening Procedure. Bids shall be submitted to the commission, sealed, and identified as bids on the envelope. Bids shall be opened at the time and place stated in the public notices and the invitation to bid. The state auditor or a member of his staff may be present at any bid opening. A tabulation of all bids received shall be available for public inspection under regulations to be established by the commission.

(e) Award of Contract. The commission shall award contracts to the bidder submitting the lowest and best bid conforming to the specifications required. Complying with the specified time limit for submission of written data, samples, or models on or before bid opening time is essential to the materiality of a bid, provided, however, that the commission shall have the authority to waive this provision if the failure to comply is beyond control of the bidder. In determining who is the lowest and best bidder, in addition to price, the commission shall consider:

- (1) the quality, availability, and adaptability of the supplies, materials, equipment, or contractual services, to the particular use required;
- (2) the number and scope of conditions attached to the bid;
- (3) the ability, capacity, and skill of the bidder to perform the contract or provide the service required;
- (4) whether the bidder can perform the contract or provide the service promptly, or within the time required, without delay or interference;
- (5) the character, responsibility, integrity, reputation, and experience of the bidder;
- (6) the quality of performance of previous contracts or services;
- (7) the previous and existing compliance by the bidder with laws relating to the contract or service;
- (8) any previous or existing noncompliance by the bidder with specification requirements relating to time of submission of specified data such as samples, models, drawings, certificates, or other information;

(9) the sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service; and

(10) the ability of the bidder to provide future maintenance, repair parts, and service for the use of the subject of the contract.

(f) Rejection of Bids. If a bid is submitted in which there is a material failure to comply with the specification requirements, such bid shall be rejected and the contract awarded to the bidder submitting the lowest and best bid conforming to the specifications, provided, however, the commission shall in any event have the authority to reject all bids or parts of bids when the interest of the state will be served thereby.

(g) Bid Record. When an award is made, a statement of the basis for placing the order with the successful bidder and the factors considered in determining the lowest and best bid shall be prepared by the purchasing division and filed with other papers relating to the transaction.

(h) Tie Bids. In case of tie bids, quality and service being equal, the contract shall be awarded under rules and regulations to be adopted by the commission.

(i) Performance Bonds. The commission may require a performance bond before entering a contract in such amount as it finds reasonable and necessary to protect the interests of the state. Any bond required under this subsection shall be conditioned that the bidder will faithfully execute the terms of the contract into which he has entered. Any bond required shall be filed with the commission and recoveries may be had thereon until it is exhausted.

Open Market Purchase Procedure

Sec. 3.12. (a) When the commission determines that any purchases of supplies, materials, equipment, or services may be made most effectively in the open market, such purchases may be made without newspaper advertising.

(b) Minimum Number of Bids. All open market purchases shall, whenever possible, be based on at least three competitive bids, and shall be awarded to the lowest and best bidder in accordance with the standards set forth under this article.

(c) Notice Inviting Bids. The commission shall solicit bids by:

- (1) direct mail request to prospective vendors; or
- (2) telephone or telegraph.

(d) Recording. The commission shall keep a record of all open market orders and bids submitted thereon, and a tabulation of the bids shall, under rules and regulations to be established by the commission, be open to public inspection; provided, they shall always be open to inspection by the state auditor or his representatives.

(e) Agency Review. If a state agency requests that it be allowed to review the bids on a purchase request, the commission shall forward copies of the bids received or make the same available to the requesting agency along with the commission's recommended award. If, after review of the bids and evaluation of the quality of products offered in the bids, the state agency determines that the bid selected by the commission is not in its opinion the lowest and best bid, it may file with the commission a written recommendation, complete with justification, that the award be made to the bidder determined to be the lowest and best bid. The commission shall give consideration to, but is not bound by, the agency recommendation in making the award.

(f) Statement of Award. A statement of the basis for placing the order with the successful bidder and the factors considered in determining the lowest and best bid shall be prepared by the purchasing division and filed with other papers relating to the transaction.

Compliance with Antitrust Laws

Sec. 3.13. A bidder offering to sell supplies, materials, services, or equipment to the state shall certify on each bid submitted that neither the bidder nor the firm, corporation, partnership, or institution represented by the bidder, or anyone acting for such firm, corporation, or institution has violated the antitrust laws of this state codified in Section 15.01, et seq., Business & Commerce Code, or the federal antitrust laws, nor communicated directly or indirectly the bid made to any competitor or any other person engaged in such line of business. The attorney general shall prepare the certification statement which is to be made a part of the bid form.

Invoice

Sec. 3.14. The contractor or seller of supplies and/or services contracted for by the commission shall render an invoice to the ordering agency at the address shown on the purchase order. The invoice shall be prepared and submitted under such rules and regulations as the commission shall provide.

Invoice; Check of Goods or Services

Sec. 3.15. (a) As soon as supplies, materials, or equipment are received by a state agency they shall be inspected by the agency to see if they correspond in every particular with those covered by the contract under which they were purchased, and if the invoice is correct, the agency shall certify that such is true and transmit to the commission the original invoice and appropriate purchase voucher forms. As soon as an invoice is received for services rendered to any state agency, the agency shall determine if such services correspond in every particular with those services contracted for and that the invoice is correct, and shall certify that such is true and transmit to the commission the original invoice and appropriate purchase voucher forms. The state

agency shall complete the procedures for transmittal of the invoice and purchase voucher to the commission promptly after receipt of the supplies, materials, or equipment or performance of the services or receipt of the invoice for the supplies, materials, equipment, or services, whichever is later.

(b) If the commission finds such invoice and purchase voucher forms correct, it shall approve and transmit same to the state comptroller. The commission shall complete the procedures for transmittal of the invoice and purchase voucher to the state comptroller within eight days after receipt of the invoice and purchase voucher. The commission is not required to process vouchers in payment of telephone service within eight days but shall process them as expeditiously as possible.

Invoice; Payment

Sec. 3.16. When an invoice and purchase voucher have been approved by the agency and the commission, and have been approved by the comptroller, the comptroller shall draw a warrant upon the state treasury for the amount due on the invoice or for so much thereof as has been allowed, and it shall be charged against the state agency. The comptroller shall complete the procedures for drawing the warrant within eight days after receipt of the invoice and purchase voucher.

Specifications and Standards Program; Test and Inspection Program

Sec. 3.17. The commission shall have the authority to establish and maintain a specifications and standards program to coordinate the establishment and maintenance of uniform standards and specifications for materials, supplies, and equipment purchased by the commission. The commission shall enlist the cooperation of other state agencies in the establishment, maintenance, and revision of uniform standards and specifications and shall encourage and foster the use of standard specifications in order that the most efficient purchase of materials, supplies, and equipment may be continuously accomplished. The commission may also establish and maintain a program of testing and inspecting to ensure that materials, supplies, services, and equipment meet specifications, and may make contracts for testing. If any state agency determines that any supplies, materials, services, or equipment received do not meet specifications, it shall promptly notify the commission in writing detailing the reasons why the supplies, materials, services, or equipment do not meet the specifications of the contract. The commission shall immediately determine whether or not the reported supplies, materials, services, or equipment meet specifications. The sole power to determine whether materials, supplies, services, and equipment meet specifications shall rest with the commission. When the commission finds that contract specifications or conditions have not been complied with, it shall take action, with the assist-

ance of the attorney general, if necessary, against the defaulting contractor.

Usage Figures

Sec. 3.18. The commission shall maintain usage figures on the consumption and use of supplies, materials, services, and equipment purchased for state agencies, institutions, boards, and commissions, and shall furnish using agencies upon request usage and consumption figures maintained. The commission is directed to cooperate with the state budget offices and the state auditor in the preparation of usage and consumption figures of supplies, materials, services, and equipment.

Conflict of Interest

Sec. 3.19. No member of the commission or any employee or appointee of the commission shall be interested in, or in any manner connected with, any contract or bid for furnishing supplies, materials, services, and equipment of any kind to any agency of the State of Texas. Neither shall any member or employee or appointee, under penalty of dismissal, accept or receive from any person, firm, or corporation to whom any contract may be awarded, directly or indirectly, by rebate, gift, or otherwise, any money or other thing of value whatever, nor shall he receive any promise, obligation, or contract for future reward or compensation from any such party.

Preference for Products of Retarded or Handicapped Persons

Sec. 3.20. The products of workshops, organizations, or corporations whose primary purpose is training and employing mentally retarded or physically handicapped persons shall be given preference if they meet state specifications as to quantity, quality, and price.

Purchase and Use of Paper Containing Recycled Fibers

Sec. 3.21. The commission shall contract for paper containing the highest percent of recycled fibers for all purposes for which paper with recycled fibers may be used and to the extent that such paper is available at a reasonable price through normal commercial channels to supply the needs of the state. All agencies which purchase through the commission are directed to place orders for papers containing recycled fibers to the highest extent of their needs and to the extent that such paper is available through purchasing procedures of the commission.

Exemption of Goods or Services of Blind Persons

Sec. 3.22. The provisions of this article with respect to competitive bids are not applicable to state purchases of blind-made goods or services offered for sale to state agencies as a result of efforts made by the Texas Committee on Purchases of Blind-Made Goods and Services acting in accordance with

legislation applicable to the committee if the goods or services meet state specifications as to quantity and quality and the cost is not in excess of the fair market price of like items.

Contracts with Department of Corrections

Sec. 3.23. The commission is hereby authorized to make contracts with the Texas Department of Corrections for the purchase of supplies, equipment, services, and materials for use by other state agencies.

Advance Payments to State or Federal Agencies

Sec. 3.24. All state agencies are authorized to make advance payments to federal and other state agencies for merchandise purchased from such agencies when advance payments will expedite the delivery of the merchandise.

Contracts for Printing Laws

Sec. 3.25. (a) The commission shall, at the opening of each regular session of the Texas legislature, award a special contract for printing the general and special laws and resolutions to be passed by each regular or special session of the current legislature, the contract to be separate and apart from all other contracts for public printing. The general and special laws shall be printed in separate volumes upon order of the commission. The contracts for the printing shall be prepared by the commission and shall provide such penalties as will assure the delivery of the laws within the contract time limit. The printer shall be required to begin delivery of completed books within a reasonable time after the printing is completed and binding commenced, which limit shall be set out in the call for bids made by the commission. An appropriation shall be made by the legislature to pay the cost of compiling, indexing, and printing all such laws and resolutions.

(b) There shall also be placed in the contract a stipulation requiring the printer to have the proof read and corrected before submitting such proof to the state. The comptroller shall not issue a warrant to the printer in payment for the printing of such laws and resolutions unless and until the printer, if an individual, or if a corporation, partnership, or association, the vice-president, secretary, or manager of same has made a sworn affidavit that he has complied with this section.

(c) Such laws and resolutions shall be compiled and printed under the direction of the secretary of state, who shall within 26 days, excluding Sundays, after adjournment of the legislature furnish the printer all copy therefor, the delivery of the first copy to the printer to begin as the bills are signed by the governor; provided that copy for the index shall be given to the printer within five days after the printer has furnished all page proofs of the laws to the secretary of state.

(d) The secretary of state shall distribute the printed laws of each session of the legislature as

follows: (1) one copy to the governor, (2) one copy to the lieutenant governor, (3) three copies to each of the heads of all departments, (4) one copy to each of the judges of the several courts throughout the state, (5) one copy to each district and county attorney in the state, and (6) one copy to each member of the legislature.

Prohibition of Reproduction or Disposition of Matter Printed Under Public Contract

Sec. 3.26. (a) Except under contract or agreement with the state as hereinafter provided authorizing them so to do, it shall be unlawful for any person, firm, corporation, or association of persons doing any printing, under contract, for the State of Texas, to reproduce, print, or prepare or to sell or furnish any such printing or printed matter or any reprint, reproduction, or copy of same, or plate, type, mat, cut, or engraving from which such printing contract was executed, except the amount and number of copies contracted to be printed and furnished to the State of Texas under such contract.

(b) Any printing done under contract for any department, the legislature, or either branch thereof, any board, commission, court, officer or agent of the State of Texas, as well as any such work done directly for the state, shall for the purposes of this article be deemed to have been done for the State of Texas.

(c) With the consent of the commission and the governor, any person, firm, corporation, or association may print extra copies and sell them at a price fixed by the commission, whenever in the opinion of the commission and the governor the printed matter should be distributed in such manner for the benefit of the public. Any such contract for the printing and sale of such extra copies shall be approved by the attorney general.

(d) Any person, firm, corporation, or association of persons violating any provision of this section shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$100 nor more than \$1,000, and in the event the violation is by a natural person or the agent or employee of a person, corporation, firm, or association, the punishment may be by jail sentence not to exceed 30 days in addition to such fine. The conviction of an agent or employee shall not bar conviction of the principal also.

Surplus War Materials

Sec. 3.27. The commission is authorized and directed to purchase for any county or any other political subdivision of this state such surplus war materials or surplus goods, merchandise, equipment, or other wares from the federal government or its agencies as may be offered for sale by them, provided the county or other political subdivision shall request the commission to make such purchase, and provided it shall deposit with the commission sufficient funds to cover payment therefor.

Preference to Texas and United States Products

Sec. 3.28. (a) The commission and all state agencies making purchases of supplies, materials, or equipment shall give preference to those produced in Texas or offered by Texas bidders, the cost to the state and quality being equal.

(b) If supplies, materials, or equipment produced in Texas or offered by Texas bidders are not equal in cost and quality, then supplies, materials, or equipment produced in other states of the United States of America shall be given preference over foreign-made products, the cost to the state and quality being equal.

Purchase of Passenger Vehicles

Sec. 3.29. A state agency may not purchase or lease a vehicle designed or used primarily for the transportation of persons, including a station wagon, that has a wheel base longer than 113 inches or that has more than 145 SAE horsepower. This provision does not apply to the purchase or lease of a vehicle to be used primarily for criminal law enforcement or a bus, motorcycle, pickup, van, truck, three-wheel vehicle, tractor, or ambulance.

Authority to Pay Charges

Sec. 3.30. The commission or a state agency may pay a restocking charge, cancellation fee, or other similar charge if the commission determines that the charge is justifiable.

ARTICLE 4. PUBLIC BUILDINGS AND GROUNDS

Custodianship of State Property

Sec. 4.01. (a) The commission shall have charge and control of all public buildings, grounds and property of the state, and is the custodian of all public personal property, and is responsible for the proper care and protection of such property from damage, intrusion, or improper usage. The commission is expressly directed to take any steps necessary to protect public buildings against any existing or threatened fire hazards. The commission is authorized to provide for the allocation of space in any of the public buildings to the departments of the state government for the uses authorized by law, and is authorized to make any repairs to any such buildings or parts thereof necessary to the serviceable accommodation of the uses to which such buildings or space therein may be allotted.

(b) The allocation of any space affecting the quarters of either house of the legislature must have the approval of the speaker of the house of representatives or the lieutenant governor, the approval being for the quarters allocated to the particular house affected.

(c) The provisions of Subsection (a) of this section pertaining to charge and control of public buildings and grounds do not apply to buildings and grounds of:

(1) institutions of higher education, as defined by Section 61.003, Texas Education Code, as amended;

(2) state agencies to which control has been specifically committed by law; and

(3) state agencies that have demonstrated ability and competence to maintain and control their buildings and grounds and to which the commission delegates that authority.

Lease of Public Grounds

Sec. 4.02. (a) All public grounds belonging to the State of Texas under the charge and control of the commission may be leased for agricultural or commercial purposes. Lease proposals shall be advertised once a week for four consecutive weeks in at least two newspapers, one of which shall be published in the city where the property is located, or the nearest daily paper thereto, and the other in some paper with state-wide circulation. Each lease shall be subject to the approval of the attorney general of Texas, both as to substance and as to form. The money derived from the lease of such property, less the expense for advertising and leasing, shall be deposited in the state treasury to the credit of the General Revenue Fund except that if land leased belongs to any eleemosynary institution, that money must be deposited to the credit of said institution in the same manner that the special fund is now deposited or may hereafter be ordered deposited by the legislature.

(b) The commission shall adopt proper forms and regulations, rules, and contracts, as will, in its best judgment, protect the interest of the state. The commission may reject any and all bids.

(c) This section does not apply to space in a building that the commission may lease to a private tenant under Section 4.15 of this Act.

Sec. 4.03. Repealed by Acts 1983, 68th Leg., p. 2773, ch. 476, § 14, eff. Sept. 1, 1983.

Use of Rooms in Capitol for Private Purposes

Sec. 4.04. No room, apartment, or office in the state capitol building shall be used at any time by any person as a bedroom or for any private purposes whatever. This section shall not apply to the offices and living quarters occupied by the lieutenant governor and the speaker of the house of representatives.

Inspection of State Property

Sec. 4.05. The commission shall frequently inspect all the public buildings and property of the state at such regular intervals as may be necessary to keep constantly informed of the condition of the same, except that the commission may inspect the buildings, property in the buildings, and other property under the control of the State Preservation Board only at the board's request. The commission shall report to the board the results of any inspection. Restoration and repairs may be made only at

the direction of the board and only by a contractor or agency chosen by the board.

Repair and Improvement of State Buildings

Sec. 4.06. When needed improvements or repairs of buildings and offices are called to the attention of the commission by the heads of departments or offices, the commission shall provide for such repairs or improvements, and they shall be made under its direction.

Maintenance of Sewers and Utility Conduits

Sec. 4.07. The commission shall give special attention to the effective maintenance of sewers and utility conduits.

Plans of Public Buildings

Sec. 4.08. The commission shall prepare and keep in its offices a copy of the plans of all public buildings and improvements thereto under its charge showing the exact location of all water, gas, and sewerage pipes and electrical wiring.

Report about Improvements and Repairs

Sec. 4.09. The commission shall biennially on December 1st make a report to the governor showing all improvements and repairs that have been made with an itemized account of receipts and expenditures, and showing the condition of all property under its control with an estimate of needed improvements and repairs.

State Cemetery

Sec. 4.10. (a) The commission shall control, superintend, and beautify the grounds of the State Cemetery and shall preserve the grounds and everything pertaining thereto and protect the property from depreciation and injury. The commission shall procure and erect, at the head of each grave which has no permanent monument, an obelisk of marble upon which shall be engraved the name of the dead therein buried.

(b) The persons eligible for burial in the State Cemetery are as follows:

(1) present and former members of the Texas Legislature;

(2) present and former elective state officials;

(3) present and former state officials who have been appointed by the governor and confirmed by the senate;

(4) persons specified by a governor's proclamation; and

(5) persons specified in a concurrent resolution adopted by the legislature.

(c) Grave spaces shall be allotted for a person eligible for burial and for his or her spouse, together with his or her unmarried child or children, which child or children shall be buried alongside his, her, or their parent or parents, provided that such child

on the effective date of this Act or at the time of his or her death is a resident in any state eleemosynary institution. Children other than those hereinabove made eligible for burial may not be included. The size of a grave plot may not be longer than eight feet nor wider than five feet times the number of persons of one family authorized hereunder to be buried alongside one another.

(d) No monument or statue may be erected that is taller than any existing monument or statue in the State Cemetery on the effective date of this Act.

(e) No trees, shrubs, or flowers may be planted in the State Cemetery without written permission from the commission.

(f) Burial of persons on state property may take place only in the State Cemetery or in a cemetery maintained by a state eleemosynary institution, and no other state property, including the capitol grounds, may be used as an interment site.

(g) Allotment and location of the necessary number of grave plots authorized shall be made by the commission upon application of the person primarily eligible hereunder or by his or her spouse, or by the executor or administrator of his or her estate.

French Embassy

Sec. 4.11. The property known as the French Embassy is set aside for the uses and purposes of the Daughters of the Republic of Texas and they are authorized to take full charge of said building and use it as they may see proper. The French Embassy shall be the property of the state, and the title of said property shall remain in custody of the commission.

Protection of State Buildings and Grounds; Regulation of Parking

Sec. 4.12. (a) It shall be unlawful for any person to trespass upon the grass plots or flowerbeds, or to damage or deface any of the buildings, or cut down, deface, mutilate, or otherwise injure any of the statues, monuments, memorials, trees, shrubs, grasses, or flowers on the grounds or commit any other trespass upon any property of the state, real or personal, located on the grounds of the state capitol, the governor's mansion, or other property owned by the State of Texas known as the capitol complex, in the area bounded on the south by Tenth Street, on the north by Martin Luther King Boulevard, on the west by Lavaca Street, and on the east by Trinity Street in the City of Austin; or on any other state-owned property under the charge and control of the commission whether or not located in the City of Austin.

(b) It is an offense to park a vehicle in a place other than a space marked and designated for parking by the commission or to block or impede traffic on the driveways of property owned or leased by the state in the area described in Subsection (a) of this section. The commission may regulate the flow and direction of traffic in the capitol complex and

may erect the structures necessary to implement this authority.

(c)(1) When the legislature is in session, the commission shall assign and mark, for unrestricted use by members and administrative staff of the legislature, the reserved parking spaces in the capitol complex requested by the respective houses of the legislature. A request for parking spaces reserved pursuant to this subsection shall be limited to spaces in the capitol driveways and the additional spaces in state parking lots proximately located to the capitol.

(2) When the legislature is not in session, the commission shall, at the request of the respective legislative bodies, assign and mark the spaces requested for use by members and administrative staff of the legislature, in the areas described in Subsection (c)(1) of this section.

(3) The commission shall assign and mark reserved parking spaces on the capitol driveways for the governor, lieutenant governor, speaker of the house, and secretary of state for their unrestricted use.

(4) The commission may assign parking spaces to elected state officials and appointed heads of state agencies who occupy space in state buildings located within the bounds set forth in Subsection (a) of this section.

(5) If spaces are available, the commission shall assign parking spaces to handicapped state employees. All remaining parking facilities under charge and control of the commission in the area described in Subsection (a) of this section may be made available by the commission for use by the state employees working for agencies housed within that area as pursuant to Subsection (c)(7) of this section.

(6) The commission may designate and mark parking spaces for state-owned vehicles and visitor and business parking within the bounds set forth in Subsection (a) of this section.

(7) The legislature may establish in the General Appropriations Act a charge for parking, or may also establish in said Act that no charge be made for parking, or both, in any part or all of a state-owned or state-leased area located within the bounds set forth in Subsection (a) of this section. In each biennium such a charge is established, the commission shall collect the charge. The legislature may also establish in said Act that parking in any part or all of such area be made available by the commission on either an open lot parking basis or an individual space assignment basis, or both. However, to the extent the legislature does not make provision in each biennium for any part or all of the area within the bounds set forth in Subsection (a) of this section either as to parking charges or the prohibition thereof, or as to the basis upon which parking facilities are to be utilized, the commission may establish and collect a reasonable monthly parking charge for parking within the

bounds set forth in Subsection (a) of this section, except those parking spaces assigned to the respective houses of the legislature on the capitol drive-ways, and may make available parking facilities in said area on either an open lot parking basis or an individual space assignment basis, or both.

(8) A person who parks an unauthorized vehicle in a space assigned under the provisions of this section commits an offense.

(9) The provisions of this subsection do not apply to the property or the parking facility under the management and control of the Texas Employment Commission and located within the bounds set forth in Subsection (a) of this section.

(d) The commission is hereby authorized to request the State Department of Highways and Public Transportation to assist it in the marking and designation of such parking spaces as the commission shall deem necessary and to maintain the painting of lines and curb markings and furnish such directional or informational signs as the commission shall deem necessary in the area described in Subsection (a) of this section. The Department of Public Safety shall provide advice and assistance to the commission when requested and shall at all times have at least one commissioned officer assigned to duty in the capitol area.

(e) It shall be unlawful to operate a motor vehicle upon any property owned by the State of Texas within the bounds set forth in Subsection (a) of this section at a speed in excess of 15 miles per hour. All laws regulating traffic upon highways and streets shall apply to the operation of motor vehicles within the prescribed areas, except as modified hereby.

(f) All of the general and criminal laws of the state are declared to be in full force and effect within the areas regulated by this section.

(g) The commission is authorized to employ security officers for the purpose of carrying out the provisions of this section and may commission such security officers as it deems necessary as peace officers. When so commissioned, said officers are hereby vested with all the powers, privileges, and immunities of peace officers; provided, that each security officer shall take and file the oath required of peace officers and shall execute and file with the commission a good and sufficient bond in the sum of \$1,000 payable to the governor of this state and his successors in office with two or more good and sufficient sureties conditioned that he will fairly and faithfully perform all of the duties as may be required of him by law, and that he will fairly and impartially enforce the law of this state and that he will pay over any and all money, or turn over any and all property, to the proper person legally entitled to the same, that may come into his possession by virtue of such office. Said bond shall not be void for the first recovery but may be sued on from time to time in the name of any person injured until the whole amount thereof is recovered. It shall be

unlawful and constitute a misdemeanor punishable as provided in this section for any person or persons to impersonate any of said officers.

(h) The powers and duties conferred on the commission by this section may, at the request of a state agency, be exercised on any property owned or leased by the state. The cost of any service performed by the commission under this subsection, for a requesting agency, when performed outside the areas described in Subsection (a) of this section, shall be reimbursed to the commission by that agency pursuant to a contract executed in accordance with The Interagency Cooperation Act (Article 4413(32), Vernon's Texas Civil Statutes).

(i) Any person who violates any of the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$200. The penalties for violation of any of the other criminal laws of the state shall be as now provided by law.

(j) In connection with traffic and parking violations only, the officers authorized to enforce the provisions of this section shall have the authority to issue and use traffic tickets and summons of the type now used by the city of Austin and/or the Texas Highway Patrol with such changes as are necessitated thereby to be prepared and furnished by the commission. Upon the issuance of any such traffic ticket or summons the same procedures shall be followed as now prevail in connection with the use of parking and traffic violation tickets by the city of Austin and the Texas Highway Patrol. Nothing herein shall restrict the application and use of regular arrest warrants.

(k) The primary responsibility for enforcing the provisions of this section shall be with the commission, which shall have authority to promulgate rules and regulations not inconsistent with this section or other provisions of law as it may deem necessary to carry out the provisions of this section. Whenever the commission shall have promulgated such a rule or regulation and has posted signs in any of the regulated areas giving notice thereof, it shall be unlawful for any person to violate any of the provisions of such signs and shall constitute a misdemeanor punishable as provided in this section.

(l) The judge of the municipal court and/or any justice of the peace in Austin are each hereby separately vested with all jurisdiction necessary to hear, try, and determine criminal cases involving violations hereof where punishment does not exceed a fine of \$200.

(m) Nothing herein contained shall be construed to abridge the authority of the commission to grant permission to use the capitol grounds and any grounds adjacent to any state building for such use as may be provided by preexisting law.

Pass Keys to Rooms in the Capitol

Sec. 4.13. Any person who shall make or have made or keep in his possession a pass or master key to the rooms and apartments in the state capitol, unless authorized to do so, shall be fined not exceeding \$100.

Consent of Legislature Required for Construction

Sec. 4.14. (a) It shall be unlawful, without the prior express consent of the legislature, for any officer of this state or any employee thereof or any other person to construct, build, erect, or maintain any building, structure, memorial, monument, statue, concession, or any other structure including creation of parking areas or the laying of additional paving on any of the grounds that surrounded the state capitol on January 1, 1955, and which grounds were then bounded by Eleventh, Brazos, Thirteenth and Colorado Streets, in the city of Austin, Texas, whether such land lay inside or outside the fence enclosing part of the grounds; provided, however, that paved access and underground utility installations may be constructed and maintained.

(b) Any officer or employee of this state, or other person violating Subsection (a) of this section, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$100 nor more than \$1,000, or imprisoned in the county jail of Travis County for a period of time not to exceed one year, or by both such fine and imprisonment.

(c) Any officer of this state who is subject to removal from office by means of impeachment shall be subject to such removal for violation of Subsection (a) of this section and any other officer or any employee of the state who shall violate Subsection (a) of this section shall be dismissed immediately from any employment by the state.

Lease of Space to Private Tenants

Sec. 4.15. (a) The purpose of this section is to encourage the most efficient use of valuable space in state office buildings and parking garages, to serve the needs of the employees and visitors in the buildings, and to enhance the social, cultural, and economic environment in and near the buildings.

(b) In a state-owned building that is under the commission's control and that is used primarily for office space or vehicle parking for the state government, the commission may lease at fair market value an amount of space to private tenants for commercial, cultural, educational, or recreational activities. However, the commission may not lease any space to a private tenant for use as private office space unless the private office space is related and incidental to another commercial, cultural, educational, or recreational activity of the tenant in the building.

(c) The commission shall determine the amount of space in a building to be allocated to private tenants and the types of activities in which the tenants may

engage based on the market for certain activities among employees and visitors in the building and in the vicinity of the building. The amount of space allocated to private tenants may not exceed 15 percent of the total space in the building.

(d) If the commission allocates space in a building to a private tenant, it shall do so in a manner that encourages the tenant to use space with street frontage or in other areas of heavy pedestrian activity.

(e) The commission may furnish utilities and custodial services to a private tenant at cost.

(f) The commission may lease space in a building after the lease is negotiated with the tenant or after the tenant is selected through a competitive bidding process. In either case, the commission shall follow procedures that promote competition and protect the interests of the state.

(g) The commission may permit a private tenant to sublease part or all of the space the tenant leases. However, the commission must approve all subleases.

(h) The commission may refuse to lease space to a person or to permit an activity in the space if the commission considers the refusal to be in the best interests of the state.

(i) The commission shall deposit lease revenue in the State Treasury to the credit of the General Revenue Fund. The revenue may be used only for building and property services performed by the commission.

(j) The commission shall request the State Commission for the Blind to determine under Section 94.003, Human Resources Code, if it is feasible to install a vending facility in the building in which the commission intends to lease space to a private tenant. If the installation of the facility is feasible, the commission shall permit the installation in accordance with Chapter 94, Human Resources Code. If a vending facility is installed, the commission may not lease any space in the building to a tenant that the commission, after consultation with the State Commission for the Blind, determines would be in direct competition with the vending facility. If the State Commission for the Blind determines that the installation of a vending facility is not feasible, the commission shall lease space to at least one private tenant whose activity in the building will be managed by a blind person or by a handicapped person who is not blind.

(k) The space leased to a private tenant is subject to ad valorem taxation in accordance with Subsection (d), Section 11.11, Tax Code, as amended. However, if the private tenant would be entitled to an exemption from taxation of the space if the tenant owned the space instead of leasing it, the space is not subject to taxation.

ARTICLE 5. BUILDING CONSTRUCTION
ADMINISTRATION

Acquisition, Construction, Etc.; Authorization

Sec. 5.01. Under such terms and conditions as may be provided by law, the commission may acquire necessary real and personal property, modernize, remodel, build, and equip buildings for state purposes, and make contracts necessary to carry out and effectuate the purposes herein mentioned in keeping with appropriations authorized by the legislature. The commission shall not sell or dispose of any real property of the state except by specific authority from the legislature.

Acquisition, Construction, Etc.; First Consideration
to Historic Structures

Sec. 5.01A. (a) In acquiring real property, each using agency of the state, other than those specifically excluded by Sections 5.13 and 5.14 of this article, shall give first consideration to a building that is a historic structure under Section 8, Chapter 500, Acts of the 55th Legislature, Regular Session, 1957 as amended (Article 6145, Vernon's Texas Civil Statutes), or to a building that has been designated a landmark by the local governing authority, if the building meets requirements and specifications and the cost is not substantially higher than other available structures that meet requirements and specifications.

(b) Upon consideration of the construction of a new state building, the using agency shall notify the Texas Historical Commission and shall request a list of historic structures in the proposed construction area that are suitable and available for state acquisition.

(c) If the using agency decides to proceed with new construction, the using agency shall forward to the commission for inclusion in the project analysis for the new construction:

- (1) the date it notified the Texas Historical Commission of the proposed construction;
- (2) the date of the Texas Historical Commission's response;
- (3) a copy of the list of historic structures furnished by the Texas Historical Commission; and
- (4) a statement of the reasons for the rejection of each of the historic structures on the list.

(d) If the using agency rejects the acquisition of a historic structure because of the cost of the structure, the using agency shall forward to the commission for inclusion in the project analysis for the new construction a comparison of the cost of the new construction with the cost of the purchase and rehabilitation of the historic structure.

(e) In determining the feasibility of the acquisition of a historic structure, the using agency shall evaluate the possibility of providing the space needed by the using agency by combining new construction with the acquisition of the historic structure.

(f) Upon request of the using agency, the commission shall assist the using agency in evaluating the feasibility of acquiring a historic structure and in preparing the information required by Subsections (c) and (d) of this section.

(g) The commission shall fulfill the requirements of Subsections (a) through (e) of this section for all projects for which it is the using agency and for any multiagency state office building for which the commission serves as the coordinating authority.

Contracts; Analyses

Sec. 5.02. (a) The commission is authorized to take any action and enter into any contracts to obtain sites which it deems necessary in order to provide for the orderly future development of the state building program insofar as appropriations permit.

(b) The commission may call upon the State Department of Highways and Public Transportation to make appropriate tests and analyses of the natural materials at the site of each building constructed under the terms of this article to insure that foundations of said buildings will be adequate for the life of the buildings.

Eminent Domain

Sec. 5.03. The commission shall have and may exercise the power of eminent domain under the general laws to obtain sites for buildings.

Title, Initial Occupants

Sec. 5.04. The commission shall obtain title for the state and retain control of the real property acquired for sites and of the buildings located thereon. The initial occupants of buildings shall be those state agencies determined by the commission or the legislature. This section shall apply to all new state buildings constructed heretofore or that may be constructed hereafter in Austin by the commission.

Assistance from Agencies

Sec. 5.05. The commission shall have the authority to call on any department of state government to assist it in carrying out the provisions of this article.

Monuments, Memorials

Sec. 5.06. Monuments or memorials for the Texas heroes of the Confederate States of America and the Texas War for Independence, or to commemorate any other event or person of historical significance to Texans and the State of Texas may be erected on land owned or acquired by the state or, if suitable contracts can be made for permanent preservation of such monuments or memorials, on private property or on land owned by the federal government or by other states. The locating and marking of graves of such Texans is hereby authorized. The commission is further authorized to maintain and shall be responsible for the continuing maintenance of the monuments and memorials

erected by the State of Texas to commemorate the Centenary of Texas Independence. Before erection of any new monument or memorial the commission shall obtain the approval of the Texas Historical Commission as to the form, dimensions, substance of, and inscriptions or illustrations upon such monuments or memorials.

Contracts with Historical Commission

Sec. 5.07. The commission is authorized to negotiate and contract with the Texas Historical Commission for the purpose of assisting and advising the commission with regard to the proper memorials and monuments to be erected, repaired, and removed to new locations, the selection of sites therefor, and the locating and marking of graves.

Acquisition of Historic Buildings, Etc.

Sec. 5.08. The commission is authorized to acquire by gift, devise, purchase, or by its general power of eminent domain, any lands on which are situated historic buildings, sites, or landmarks of statewide historical significance associated with historic events or personalities, or prehistoric ruins, burial grounds, archaeological or vertebrate paleontological sites, sites including fossilized footprints, inscriptions made by human agency, or any other archaeological, paleontological, or historical feature, within the limits of the State of Texas. The right of eminent domain conferred above as relating to historical sites, buildings, and structures shall not be exercised except upon a proper showing that it is necessary to prevent destruction or deterioration of the historical site, building, or structure. The commission is authorized to request from the Texas Historical Commission a certification or authentication of the worthiness of preservation of the features listed above.

Archives

Sec. 5.09. The commission may, in its discretion, provide for the storage and display of the archives of Texas.

Construction in Other Cities

Sec. 5.10. (a) The commission is authorized and empowered to select and purchase sites in any of the cities of Texas on which to construct state office buildings and adjoining parking lots where such are deemed necessary to house state departments and agencies in said cities, and is further authorized and empowered to plan, construct, and initially equip state office buildings together with adjoining parking space on each such site selected and purchased.

(b) The commission is further authorized and empowered to enter into lease agreements with departments, commissions, boards, agencies, and other instrumentalities of the State of Texas, political subdivisions of the State of Texas, and the federal government or its instrumentalities concerning the space in the office building which is the subject of this article. Except as provided by Section 4.15 of

this Act or by another law, the commission is specifically denied the power to lease space in said building to individuals, private corporations or associations, partnerships, or any other private interests.

Grant of Easements and Rights-of-Way

Sec. 5.11. The commission is authorized and empowered to grant such permanent and temporary easements and rights-of-way over and on lands of any state agency on any project administered by the commission as shall be necessary to insure the efficient and expeditious construction, improvement, renovation, use, and operation of such state agency project building or facility.

Definitions

Sec. 5.12. The following terms whenever used or referred to in this article shall have the following meanings, except in those instances where the context clearly indicates otherwise:

(1) "Using agency" means any instrumentality of the state which shall occupy and make use of a state-owned or state-leased building, and for the purpose of this article the commission shall be considered as the using agency for the state capitol, the governor's mansion and for all other state-owned buildings maintained by the commission.

(2) "Commission" means the State Purchasing and General Services Commission.

(3) "Project" means any building construction project, other than those specifically excluded by Sections 5.13 and 5.14 of this article, which shall be financed in whole or in part by specific appropriation, bond issue or federal funds. The term "project" shall include the construction of any building or any structure or any facility or utility appurtenant thereto, including original equipment and original furnishings thereof, and of any addition to, alteration, rehabilitation, or repair of any existing building or any structure, or any facility or utility appurtenant thereto.

(4) "Project analysis" refers to work done prior to legislative appropriation for a project for the purpose of developing a reliable estimate of the cost of a project to be requested of the legislature.

(5) "Cost of a project" includes, but shall not be limited to, the cost of all real estate, properties, rights and easements acquired, utility services, site development, the cost of construction and the initial furnishing and equipment thereof, all architectural and engineering and legal expenses, the cost of surveys and plans and specifications, and such other expenses, including those incurred by the commission, as are necessary or incident to determining the feasibility or practicability of any project.

(6) "Construction" means and includes acquisition, construction, and reconstruction.

(7) "Rehabilitation" means and includes renewal, restoration, extension, enlargement, and improvement.

(8) "Equipment" and "furnishings" mean and include any equipment and furnishings whatsoever as may be necessary and required for the use of a project.

(9) "Architect/engineer" means a person registered as an architect pursuant to Chapter 478, Acts of the 45th Legislature, Regular Session, 1937, as amended (compiled as Article 249a of Vernon's Texas Civil Statutes), and/or a person registered as a professional engineer pursuant to Chapter 404, Acts of the 45th Legislature, Regular Session, 1937, as amended (compiled as Article 3271a of Vernon's Texas Civil Statutes), employed to provide professional architectural or engineering services and having overall responsibility for the design of a project. The term "architect/engineer" standing by itself may, unless the context clearly indicates otherwise, mean either an architect/engineer employed by the commission on a salary basis or an architect/engineer in private practice retained for a specific project under a contractual agreement with the commission. The term "private architect/engineer" shall specifically and exclusively refer to a registered architect or a registered engineer in private practice retained for a specific project under a contractual agreement with the commission.

(10) "Stage construction" means the construction of a project in phases, each phase resulting in one or more buildings or structures which individually or together shall be capable of use regardless of whether subsequent phases of the project are authorized or not.

Application of Article

Sec. 5.13. (a) Except as otherwise provided by this article, this article shall apply to all building construction projects as herein defined which may be undertaken by the state, with the following exceptions:

(1) all projects constructed by and for the State Department of Highways and Public Transportation;

(2) all projects constructed by and for state institutions of higher education;

(3) all projects constructed by and for the Texas Department of Corrections;

(4) pens, sheds, and ancillary buildings constructed by and for the Texas Department of Agriculture for the processing of livestock prior to export;

(5) all projects of repair and rehabilitation, except major renovations, of buildings and grounds on the commission inventory;

(6) all projects constructed by the Parks and Wildlife Department; and

(7) repair and rehabilitation projects of any other using agency, provided all labor for such projects is provided by the regular maintenance forces of the using agency under specific legislative authorization, and provided further, that such projects do not

require the advance preparation of working plans and/or drawings.

(b) Nothing in this section shall be construed as prohibiting the commission from undertaking a project excluded by this section under an interagency agreement originated by the appropriate using agency, and provided further, that nothing in this section shall be construed as exempting any agency or institution from the requirements of Section 5.31 of this article.

(c) In addition to the exclusions enumerated in this section, the commission may, by regulation, exclude repair and rehabilitation projects involving the use of contract labor, provided such projects do not require the advance preparation of working plans and drawings.

Additional Exclusions

Sec. 5.14. In addition to the projects excluded by Section 5.13 of this article, it is specifically provided that nothing in this article shall apply to:

(1) projects constructed by or under the supervision of any public authorities created by the laws of this state; or

(2) state-aided local government projects of any character whatsoever.

Administration

Sec. 5.15. (a) The commission is designated as the administering agency and shall exercise the powers and duties conferred upon it by this article. The commission shall be the coordinating authority for the construction of any multiagency state office buildings which the legislature may authorize.

(b) In accord with the provisions of Section 2.06 of this article, the executive director shall appoint a Director of Facilities Planning and Construction who shall be either a registered architect or a registered professional engineer and shall have proven administrative ability and experience in the fields of building design and construction.

(c) The commission may assign a qualified professional employee to any using agency where the volume of construction projects is such that the commission and the using agency agree that full-time coordination between the commission and the using agency is desirable. The commission and the using agency shall mutually agree upon the qualifications and duties of such assigned employees and the salary and related expenses of such assigned employees shall be charged against the projects of the using agency to which they are assigned. Such assignments shall be terminated whenever in the opinion of the commission they are no longer required.

(d) The commission may promulgate rules and regulations necessary to implement the powers, duties, and responsibilities imposed upon it by this article. The rules and regulations shall be binding on all state agencies upon being filed with the

secretary of state. The commission shall prepare and publish a manual to assist using agencies in complying with the provisions of this article and the rules and regulations of the commission. Copies of the manual shall be distributed to all using agencies and shall be available to architects, engineers, contractors, and others who may need and request a copy of it.

(e) Legal representation of the commission shall be performed by the Attorney General of Texas. This provision shall not restrict the attorney general from employing special assistants to assist in the performance of duties arising by virtue of the provisions of this article in those instances where the attorney general deems such employment necessary.

(f) Venue of all suits for any breach of contract entered into pursuant to the provisions of this article shall be in Travis County, Texas.

(g) The commission may waive, suspend, or modify any provision of this article which shall be in conflict with any federal statute or any rule, regulation, or administrative procedure of any federal agency where such waiver, suspension, or modification shall be essential to the receipt of federal funds for any project. In the case of any project wholly financed from federal funds, any standards required by the enabling federal statute or required by the rules and regulations of the administering federal agency shall be controlling.

Project Analysis

Sec. 5.16. (a) Each using agency of the state which shall desire any project, other than those specifically excluded by Sections 5.13 and 5.14 of this article, shall prepare and submit to the commission a general description of the project. The commission shall cause all such projects to be studied and shall initiate the preparation of a project analysis for all new construction projects and for all other projects where, in the opinion of the commission, the cost of preparing a project analysis is justified.

(b) A project analysis may be prepared by a private architect/engineer employed by the commission or, at its discretion, by the commission's staff. A private architect/engineer employed for the purpose of preparing a project analysis shall be selected by the method set forth in Section 5.22 of this article and shall be paid from the State Building Construction Planning Fund established by Section 5.24 of this article. The contract to prepare a project analysis shall specify that the analysis shall become the property of the commission.

Text of (c) as amended by Acts 1983, 68th Leg., p. 1991, ch. 362, § 4

(c) A project analysis shall consist of (1) a complete description of the facility or project together with a justification of such facility or project prepared by the using agency, (2) a detailed estimate of

the amount of space needed to meet the needs of the using agency and to allow for realistic future growth, (3) a description of the proposed facility prepared by an architect/engineer and including schematic plans and outline specifications describing the type of construction and probable materials to be used, sufficient to establish the general scope and quality of construction, (4) an estimate of the probable cost of construction, (5) a description of the proposed site of the project and an estimate of the cost of site preparation, (6) an overall estimate of the cost of the project, (7) the information about historic structures considered instead of new construction that was prepared as required by Section 5.01A of this article, and (8) other information as required by the commission. A project analysis may include two or more alternative proposals for meeting the space needs of the using agency by (1) new construction, (2) acquisition and rehabilitation of an existing or historic structure, or (3) a combination of the above. All estimates involved in the preparation of a project analysis shall be carefully and fully documented and incorporated into the project analysis.

Text of (c) as amended by Act 1983, 68th Leg., p. 3414, ch. 571, § 4

(c) A project analysis shall consist of (1) a complete description of the facility or project together with a justification of such facility or project prepared by the using agency, (2) a detailed estimate of the amount of space needed to meet the needs of the using agency and to allow for realistic future growth, (3) a description of the proposed facility prepared by an architect/engineer and including schematic plans and outline specifications describing the type of construction and probable materials to be used, sufficient to establish the general scope and quality of construction, (4) an estimate of the probable cost of construction, (5) a description of the proposed site of the project and an estimate of the cost of site preparation, and (6) an overall estimate of the cost of the project. If any part of the project involves the construction or rehabilitation of a building that is to be used primarily as a parking garage or for office space for the state government, the project analysis also shall include a description of the amount and location of space in the building that can be made available for lease, under Section 4.15 of this Act, to private tenants or shall include a statement of the reason that the lease of space in the building to private tenants is not feasible. All estimates involved in the preparation of a project analysis shall be carefully and fully documented and incorporated into the project analysis.

Throughout the preparation of the project analysis, the commission and any private architect/engineer employed by the commission shall work closely and cooperatively with the using agency to the end that the project analysis shall fully reflect the needs of the using agency.

The using agency shall use the cost of the project as determined by such project analysis as the basis of its request to the budget offices of this state.

(d) In the case of projects where, in the opinion of the commission, the cost of a project analysis is not justified or required, the commission shall, in cooperation with the using agency, develop a realistic estimate of the cost of the project. When necessary, the commission shall arrange for an on-site inspection and analysis of the proposed project by a member of its staff. The using agency shall be informed of the cost estimate so developed and shall use such estimate as the basis of its request to the budget offices of this state.

(e) On or before a date to be specified by the budget agencies of this state in each year immediately preceding a regular session of the legislature, the commission shall submit to the budget agencies a report listing all projects requested pursuant to this section. The list shall contain (1) a brief and specific justification of each project as prepared by the using agency, (2) a summary of the project analysis where one was made or a statement briefly describing the cost-estimating method used for projects for which a project analysis was not made, (3) a project cost estimate developed in accordance with the provisions of this section, with sufficient detail given to afford the budget agencies, the governor, and the legislature the widest possible latitude in developing policy in regard to each such project request, (4) an estimate, prepared by the commission with the cooperation of the using agency and with the cooperation of the private architect/engineer employed, of the annual cost of maintaining the completed project including the estimated cost of utility services, and (5) an estimate, prepared by the using agency, of the annual cost of staffing and operating the completed project exclusive of maintenance cost. Where appropriate, the commission, with the approval of the using agency, may indicate the feasibility of stage construction of a requested project and may indicate the degree to which funds would be required in the next biennium if the project were undertaken in stages.

(f) Whenever any using agency shall request three or more projects, it shall designate its priority rating for each project. The budget agencies shall, with the cooperation of the commission, develop detailed instructions to implement this priority system and the commission's report shall show the designated priority of each project to which a priority rating has been assigned.

Legislative Authorizations and Appropriations

Sec. 5.17. (a) The legislature shall authorize and appropriate for such projects as it may approve. Project appropriations shall be made directly to the using agency except in those instances where the project is to be constructed by the commission in which case the appropriation shall be made to the commission.

(b) The appropriation of funds by the legislature for the construction of a project shall be construed by the commission and the using agency as an expression of legislative intent that the project be completed within the limits of the funds actually appropriated. In the event that the funds appropriated are less than the amount originally requested or if, for any reason, the funds appropriated are less than the amount required for the project as originally submitted to the budget agencies, the commission and the using agency shall jointly confer on ways and means whereby the project cost can be brought within the bounds of the funds appropriated and shall, in such conferences, make every effort to comply with legislative intent with regard to modification of the project from the original request. In the event that it is impossible to modify the project to bring the cost within the amount appropriated, the commission shall notify the using agency that it considers such project as cancelled.

When authorized by the act appropriating funds for a project, the using agency may appeal the decision of the commission to the governor by submitting a request that the project be undertaken as stage construction or that the funds available for such project be supplemented by the transfer of funds appropriated to the same using agency for other projects of equal or lower priority or from the unused contingency reserves of any project of the same using agency. The governor shall, after obtaining the advice of the Legislative Budget Board, rule on such request and if the ruling shall favor the agency, the commission shall proceed with the project.

(c) The legislature may, by specific provision, provide for stage construction of a project and in such event the commission shall proceed with the project through the specifically authorized stage.

Fine Arts Projects

Sec. 5.18. (a) Any using agency which requests a project analysis by the commission, if the cost of the project is estimated to exceed \$250,000, may stipulate that a percentage of the original project cost estimate not to exceed one percent shall be used for fine arts projects at or near the site of the building construction project, such as murals, fountains, mosaics, and other aesthetic improvements.

(b) If the expenditures for fine arts are authorized and appropriated by the legislature, the commission shall consult and cooperate with the Texas Commission on the Arts and Humanities for advice in determining how to utilize the portion of the appropriation to be used for fine arts projects.

(c) It is the intent of the legislature that emphasis be placed on works by living Texas artists whenever feasible. Consideration shall be given to artists of all ethnic origins.

(d) Nothing in this section is intended to limit, restrict, or otherwise prohibit the commission from

including expenditures for fine arts in its original project cost estimate.

Fine Arts Projects Exempt Agencies

Sec. 5.19. (a) Any using agency exempt under Section 5.13 of this article and any county, city, or other political subdivision of this state undertaking a public construction project estimated to cost in excess of \$250,000 may designate that a percentage not to exceed one percent of the cost of a public construction project shall be used for fine arts projects at or near the site of the construction project.

(b) The agency or the governing body of a political subdivision may consult and cooperate with the Texas Commission on the Arts and Humanities for advice in determining how to utilize the portion of the cost set aside for fine arts purposes.

(c) The Texas Commission on the Arts and Humanities shall place emphasis on works by living Texas artists whenever feasible, and when consulting with the governing body of a political subdivision, shall place emphasis on works by artists who reside in or near the political subdivision. Consideration shall be given to artists of all ethnic origins.

Preliminary Plans, Working Plans; Specifications

Sec. 5.20. (a) Preliminary plans and outline specifications and working plans and specifications for all projects shall be prepared either by a private architect/engineer selected and appointed by the commission in accordance with Section 5.22 of this article, or by the professional staff of the commission, provided, however, that a private architect/engineer shall be appointed for any new construction project estimated to cost in excess of \$100,000 and for any new construction project for which the using agency requests that a private architect/engineer be selected and appointed. In either case, plans and specifications shall be approved by the commission, and shall not be accepted or used by the using agency without such approval. The commission shall see that plans and specifications (1) are clear and complete; (2) permit execution of the project with appropriate economy and efficiency; and (3) conform with the requirements set forth in the project analysis previously prepared.

(b) The commission shall appoint a design advisory panel to advise the commission and the using agency on the design concept and aesthetic merits of plans submitted by an architect/engineer, provided, however, that the final decision on such matters shall rest with the commission. The design advisory panel shall consist of five persons, two of whom shall be selected from a list of nominees submitted by the Texas Society of Architects, two of whom (one a structural engineer and the other a mechanical-electrical engineer) shall be selected from a list of nominees submitted by the Texas Society of Professional Engineers, and one of whom shall be neither an architect nor an engineer and who shall

serve as chairman of the panel. Members of the panel shall serve for two years and shall be eligible for reappointment and the commission shall promulgate regulations to provide for an orderly rotation of membership which may specify a shorter term of office for the original appointees. The members of the panel shall serve without compensation, but may be reimbursed for their necessary and actual expenses out of the appropriations to the commission. No member of the panel shall, during the period of his service, advise on any project in which he is employed, retained, or in any manner financially interested. The panel shall have no responsibility for reviewing the plans and specifications other than to the extent set forth in this subsection.

(c) Following final approval of the working plans and specifications and their acceptance by the using agency, the commission shall cause to be advertised in not less than two newspapers of general circulation for bids or proposals for performance of the construction and related work on the project. Subject to the applicable provisions of other law respecting the award of state contracts, the contract or contracts shall be awarded to the qualified bidder making the lowest and best bid; but no contract shall be awarded for a sum in excess of the amount which the comptroller shall certify to be available for such project. The commission shall have the right to reject any and all bids.

(d) Before a contract is awarded for the major repair or renovation of a state structure which has been designated by the Texas Historical Commission as a Recorded Texas Historic Landmark, the commission shall forward to the Texas Historical Commission a copy of the bids received and an evaluation of the qualifications of the bidders. The Texas Historical Commission shall review the bids and qualifications of the bidders and recommend to the commission the bidder to which the award should be made. Based on the recommendation of the Texas Historical Commission, the commission may award the contract to a bidder other than the lowest bidder.

(e) Upon notice and on itemized statements by the commission:

(1) the comptroller shall transfer from each project appropriation to the State Building Construction Planning Fund created by Section 5.24 of this article an amount certified by the commission as sufficient to reimburse the planning fund for prior expenditures on behalf of the project; and

(2) the comptroller shall reserve from each project appropriation an amount estimated by the commission to be sufficient to cover contingencies over and above all amounts obligated by contract or otherwise, for planning, engineering, and architectural work, site acquisition and development, and construction, equipment, and furnishings contracts. The amount so reserved shall be used only upon the following conditions:

(A) that the architect/engineer or the contractor recommend and justify the proposed contingency expenditures by submitting a change order request;

(B) that the proposed change order request be approved by the architect/engineer;

(C) that the proposed change order request be approved by the using agency which shall make formal request for the allocation of funds from the contingency reserve; and

(D) that the director of planning and construction shall investigate the nature of the change order and concur in the necessity of the proposed expenditure or refuse same within 15 days after receiving the request.

In the event the director shall refuse to concur in a proposed contingency expenditure, the using agency may appeal to the commission and the findings of the commission shall be final. The commission shall promulgate regulations setting forth the procedures for such appeals.

If an approved change order shall result in a reduction of construction cost, the contingency reserve shall be increased by the amount of such reduction.

(f) The comptroller of public accounts shall issue warrants in payment of progress payments as well as final payments on construction under this article upon the written approval of the commission.

(g) Any equipment and furnishings not constructed or installed under the construction contract or contracts shall be acquired through regular purchasing channels of the state.

Project Construction Inspection

Sec. 5.21. The commission shall be responsible for protecting the interests of the state during the actual construction of each project covered by the provisions of this article. Construction inspection shall fall into three categories: detailed inspection, general inspection, and professional inspection, as defined and provided for in this section.

(1) Detailed inspection shall mean the close, technical, on-site examination of the materials, structure, and equipment, and surveillance of the workmanship and methods used to insure reasonably that the project is accomplished in compliance with information given by the contract documents and good construction practices by one or more full-time personnel at the project site. The commission shall be the sole judge of when detailed inspection is required and shall base its decision on the size and complexity of the project.

The full cost of detailed inspection shall be a charge against the project.

Detailed inspection shall be exercised by a project construction inspector who shall be appointed by the architect/engineer with the approval of the commission.

The project construction inspector shall:

(A) become thoroughly conversant with the drawings, specifications, details, and general conditions for executing the work;

(B) keep such records of the work as the architect/engineer and the commission may specify and require and make such reports to the architect/engineer with copies to the commission and the using agency as the architect/engineer and the commission may specify and require and maintain copies of these records and reports at the site of construction together with the plans, specifications, shop drawings, change orders, and correspondence dealing with the project;

(C) endeavor to see that the requirements of the contract documents are being carried out by the contractor;

(D) endeavor to see that all authorized changes are properly incorporated in the work and that no changes are made unless properly authorized;

(E) notify the architect/engineer if conditions encountered at the project are at variance with the contract documents and comply with the directives of the architect/engineer in endeavoring to correct these conditions;

(F) review shop drawings in relation to their adaptability to job conditions and advise the architect/engineer in respect thereto;

(G) endeavor to see that materials and equipment furnished are in accordance with the specifications;

(H) see that records are kept, on construction plans, of the principal elements of mechanical and electrical systems;

(I) see that accurate records are kept of all underground utility installations (including existing installations uncovered in the process of construction) at the project site so that the information may be recorded on site plans or drawings which may be established and maintained by the commission and/or the using agency;

(J) keep a daily written log of all significant happenings on the job, the log to include the number of workers that worked that particular day and weather conditions that existed during the day;

(K) observe and give prompt written notice to the construction contractor's representative and the architect/engineer of any noncompliance on the part of the contractor's representative with any contract documents and notify the architect/engineer and the commission of any failure to take corrective measures promptly;

(L) initiate, attend, and participate in progress meetings and inspections with the contractor;

(M) review every contractor's invoice against the value of partially completed or completed work and the materials stored at the project site prior to its being forwarded to the architect/engineer and promptly notify the architect/engineer of any dis-

crepancy between his review of the work and the invoice; and

(N) be responsible to the architect/engineer for the proper administration of the duties enumerated herein and comply with other instructions and assignments of the architect/engineer.

(2) General inspection shall mean the examination and inspection of the project at periodic intervals by employees of the commission. On projects where a project construction inspector is employed by an architect/engineer, the general inspector shall work with and through the project construction inspector and the architect/engineer. On all other projects, the general inspector shall work with and through the architect/engineer and shall exercise such detailed inspection functions as the commission may require. The cost of general inspection shall be a charge against the project.

(3) Professional inspection shall mean the periodic examination of all elements of the project to reasonably insure that these meet the performance and design features and the technical and functional requirements of the contract documents. Professional inspection shall be exercised by the architect/engineer or his authorized representative who shall:

(A) assist the commission in obtaining proposals from contractors and in awarding and preparing construction contracts, be responsible for the interpretation of the contract documents and any changes made thereto, and provide such interpretation of the plans and specifications as may be required during the construction phase;

(B) check and approve samples, schedules, shop drawings, and other submissions only for conformance with the design concept of the project and for compliance with the information given by contract documents;

(C) approve or disapprove all change order requests and, subject to the provisions of Section 5.20 of this article, prepare all change orders;

(D) assemble all written guarantees required of the contractors;

(E) make periodic visits to the site of the project to become generally familiar with the progress and quality of the work and to determine in general if the work is proceeding in accordance with the contract documents, the amount of time that such on-site inspections shall entail to be determined by dividing the total compensation for professional services, exclusive of payments for detailed inspection, by 100 with the result being expressed as the number of hours to be devoted to on-site inspections, project conferences with the contractor and others, and travel to and from such inspections and conferences;

(F) make a written inspection report after each visit to the project and send a copy of such report to the contractor and to the commission;

(G) keep the commission informed of the progress of the work and endeavor to guard against defects and deficiencies in the work of contractors;

(H) determine periodically the amount owing to the contractors and recommend payment of such amounts to the commission, the recommendation to constitute a representation to the commission that, based upon observations and other pertinent data, the work has progressed to the point indicated and also to constitute a representation to the commission on the part of the architect/engineer that, to the best of his knowledge, information and belief, the quality of the work is in accordance with the plans, specifications, and contract documents; and

(I) conduct inspections to determine the dates of substantial and final completion and notify the commission and the using agency of findings in this respect.

(4) In the event that the commission requires full-time detailed inspection of the construction of a project, the architect/engineer shall select, subject to the commission's approval, the project construction inspector and shall be responsible for the proper administration of the duties enumerated under Subdivision (1) of this section. He shall pay the salary of the project construction inspector and shall be reimbursed for all such salary costs plus expenses of overhead directly applicable to such salary.

(5) Nothing in Subdivision (3) shall be construed as requiring the architect/engineer to assume responsibility for or to guarantee the complete adherence of the contractor to the plans and specifications and contract documents nor shall anything in Subdivision (3) be construed as requiring that the architect/engineer shall be liable for defects in construction.

(6) It is the responsibility of the architect/engineer to furnish the professional inspection of a project and when a private architect/engineer is employed, the fee paid such architect/engineer shall be deemed to cover professional inspection, provided, however, that such fee shall not be deemed to cover the additional cost of detailed inspection over and above the administrative duties specifically encompassed by Subdivision (4) of this section. In projects where the commission's staff serves as architect/engineer, the commission shall be responsible for professional supervision and the cost of such supervision shall be a charge against the project.

Selection of Architects/Engineers

Sec. 5.22. (a) The commission shall establish and maintain a file of all qualified private architects/engineers who express an interest in state building construction projects. The file shall contain such information as the commission shall deem essential and desirable together with brochures and exhibits submitted by each private architect/engineer. Each private architect/engineer may submit

additional brochures, exhibits, and information as he may deem necessary and that may be in accordance with his ethical practice in order that his file shall be current at all times. The files shall be open to the inspection of any using agency.

(b) Responsibility for the selection of a private architect/engineer employed for any project covered by the provisions of this article shall be vested in the commission. In recognition of the close working relationship which must exist between the architect/engineer and the using agency, the commission shall request the using agency to make recommendations regarding private architects/engineers and shall consider any such recommendation in making its selection of a private architect/engineer to be employed for a particular project. The commission shall make its selection in accordance with the generally accepted standards for such selection and in conformity with the ethical standards of the professional societies of such architects/engineers.

Compensation of Architects/Engineers

Sec. 5.23. Private architects/engineers employed by the commission shall be compensated in accordance with the following provisions:

(1) the compensation for new projects and rehabilitation projects shall be established by the commission on the basis of studies of the compensation paid within the state by private clients for projects of comparable size and complexity, provided that such compensation shall not exceed the minimum recommended for similar projects by the Texas Society of Architects in instances where the private architect/engineer is an architect or the minimum recommended by the Texas Society of Professional Engineers in instances where the private architect/engineer is an engineer. The compensation established by the commission shall be deemed to cover all professional services to be rendered by the private architect/engineer including professional inspection as that term is defined in Section 5.21 of this article. On any project where the commission requires detailed inspection, as defined by Section 5.21 of this article, the compensation shall be increased by the actual cost of providing such detailed inspection;

(2) the compensation for preparation of a project analysis as required by Section 5.16 of this article shall not exceed one percent of the estimated cost of construction. In the event the project is approved by the legislature in substantially the form originally requested and the same private architect/engineer is employed for the subsequent phases of design, the compensation paid under this subdivision shall be deducted from the compensation paid under the provisions of Subdivision (1) of this section; and

(3) the state shall furnish detailed information on space requirements and relationships and the justification for, use of, and general requirements to be met by the project. The state shall furnish a complete site survey and soil analysis.

Planning Fund

Sec. 5.24. There is hereby created in the state treasury a special fund to be known as the State Building Construction Planning Fund which shall be used to make payments for engineering, architectural, and other planning expenses necessary to make a project analysis in accordance with the provisions of Section 5.16 of this article. The commission shall authorize all payments made from the planning fund. The payments shall be a first charge against the project for which they were drawn and the amount so paid shall be credited to and transferred to the planning fund at such time as the legislature may approve the project and appropriate funds for its construction.

Final Inspection

Sec. 5.25. (a) The commission shall be responsible for directing final payment for work done on each project. If upon final inspection of any project it shall be found that the plans, specifications, contract, or change orders for the project shall not have been fully complied with, the commission shall, until such compliance shall have been effected or adjustments satisfactory to it shall have been made, refuse to direct such payment.

(b) The final inspection shall consist of an on-site inspection by the architect/engineer, a representative of the commission, a representative of the using agency, and a representative or representatives of the contractor or contractors. The final inspection shall be scheduled by the commission upon notification by the architect/engineer within 10 days after the architect/engineer has notified the commission that the contract has been performed according to the plans and specifications.

(c) Upon completion of the project the commission shall release the same to the using agency. The commission shall be responsible for making an inspection of the project prior to the expiration of the guarantee period to observe any defects which may appear within one year after completion of the contract. The commission shall give prompt written notice to the contractor of defects which are due to faulty materials and workmanship. Nothing in this subsection shall be construed as requiring the contractor to assume responsibility for or guarantee any defects other than those due to faulty materials or workmanship or failure on his part to adhere to the contract documents.

Uniform General Conditions

Sec. 5.26. (a) The commission shall adopt and maintain a uniform set of general conditions to be incorporated into all building construction contracts executed by the State of Texas, including those pertaining to projects otherwise excluded from the provisions of this article by Section 5.13 but not including those excluded by Section 5.14 of this article.

(b) The commission shall cause the uniform general conditions of state building construction contracts to be reviewed whenever in its opinion such review is desirable, but in no event less frequently than once every five years. The review shall be made by a committee appointed by the commission consisting of the director of planning and construction who shall serve ex officio as chairman of the committee and who shall vote only in the event of a tie; two persons appointed by the commission from a list of nominees submitted to it by the President of the Texas Society of Architects; two persons appointed by the commission from a list of nominees submitted to it by the President of the Texas Society of Professional Engineers; and two persons appointed by the commission from a list of nominees submitted to it by the Chairman of the Executive Council of the Texas Associated General Contractors Chapters; and two persons appointed by the commission from the list of nominees submitted to it by the Executive Secretary of the Mechanical Contractors Associations of Texas, Incorporated. Members of any review committee appointed pursuant to this subsection shall serve without compensation but may be reimbursed for their necessary and actual expenses.

Energy Conservation Standards

Sec. 5.27. (a) In addition to the uniform set of general conditions provided for in Section 5.26 of this article, the commission shall adopt and publish energy conservation design standards that all new state buildings, including buildings of state-supported institutions of higher education, are required to meet. These standards shall include both performance and procedural standards for maximum energy conservation allowed by the latest and most effective technology consistent with the requirements of public health and safety regulations and economic considerations.

(b) The standards shall be promulgated in terms of energy consumption allotments and shall take into consideration the various classes of building uses. Performance standards shall allow for design flexibility since only the total allotment of energy is prescribed.

(c) Procedural standards shall be directed toward specific design and building practices that produce good thermal resistance and low air leakage and toward requiring practices in the design of mechanical and electrical systems which conserve energy. The procedural standards shall address, when applicable, the following items:

- (1) insulation;
- (2) lighting, according to the lighting necessary for the tasks for which each area is intended to be used;
- (3) ventilation;

(4) the potential use of new systems for saving energy in ventilation, climate control, and other areas; and

(5) any other item which the commission deems appropriate.

Energy Conservation Standards by Other Entities

Sec. 5.28. (a) The boards of regents and boards or governing bodies of state agencies, commissions, and institutions exempted by Section 5.13 of this article shall adopt and publish energy conservation design standards as provided in Section 5.27 of this article for all new buildings under their authority. The standards shall be consistent with those promulgated by the commission for other state buildings and be prepared in cooperation and consultation with the commission and the Governor's Energy Advisory Council.

(b) The commission shall assist the boards and governing bodies of state agencies, commissions, and institutions subject to the provisions of Subsection (a) of this section with the preparation of energy conservation standards by providing technical assistance and advice.

Model Energy Conservation Codes

Sec. 5.29. The commission, after consultation with the Governor's Energy Advisory Council and the Texas Department of Community Affairs, shall prepare model energy conservation building codes and make them available for use by cities in enacting or amending their ordinances.

Energy Conservation Manual

Sec. 5.30. (a) The commission shall produce and publish an energy conservation manual for potential use by designers, builders, and contractors of residential and nonresidential buildings. The manual shall be furnished on request at a reasonable price sufficient to cover the costs of printing and help defray research costs in establishing design standards. The manual shall contain the following:

- (1) guidelines for energy conservation established by the commission;
- (2) forms, charts, tables, and other data to assist designers and builders in meeting the guidelines;
- (3) design suggestions for meeting or exceeding the guidelines; and
- (4) any other information which the commission finds will assist persons to become familiar with the latest technologies that they might use in meeting the guidelines.

(b) The manual shall be updated periodically as significant new energy conservation information becomes available.

Compilation of Construction and Maintenance Information

Sec. 5.31. (a) For the purpose of providing the governor, the legislature, and the budget offices of

the state with current information on the status of state-owned buildings, and for the purpose of obtaining up-to-date information on construction costs, the commission shall biennially obtain from all using agencies a list of all state-owned buildings showing the year of completion, the general type of construction, size, usage, and general condition of each. In addition the commission shall, for all buildings completed from and after the effective date of this Act, obtain from all using agencies data showing the total cost of the project and the cost of construction together with such data as may be necessary to enable a meaningful comparison to be made on the cost of buildings of like nature.

(b) For the purpose of obtaining up-to-date information on maintenance data, the commission shall obtain biennially from all using agencies information on the cost of heating, cooling, and maintaining all buildings owned by the state.

(c) The commission shall summarize its findings in a report to be made available to the governor, the legislature, and the budget offices of this state. All state agencies, departments, and institutions shall cooperate with the commission in providing the information necessary for said report.

Solar Energy Use

Sec. 5.32. (a) Any construction of a new state building included in the exceptions prescribed by Section 5.13 of this article is not exempt from this section.

(b) In this section:

(1) "Solar energy" means radiant energy from the sun that may be collected and converted into useful thermal, mechanical, or electrical energy. The term includes biomass energy that is created in living plants through photosynthesis.

(2) "Solar energy device" means a solar collector or solar storage mechanism that collects, stores, or distributes solar energy.

(3) "Solar collector" means an assembly, structure, or design, including passive elements, used to absorb, concentrate, convert, reflect, or otherwise capture or redirect solar energy for subsequent use as thermal, mechanical, or electrical energy.

(4) "Solar storage mechanism" means equipment, components, or elements designed and used to store, for subsequent use, solar energy captured by a solar collector, in the form in which the energy will eventually be used or in an intermediate form. The term includes thermal, electro-chemical, chemical, electrical, and mechanical storage mechanisms.

(c) During the planning phase of the proposed construction of a new state building, the commission or, if the construction is included in the exceptions prescribed by Section 5.13 of this article, the governing body of the appropriate agency or institution shall determine the economic feasibility of incorporating solar energy devices for space heating, cooling, water heating, and interior lighting into the

building's design and proposed energy system. Economic feasibility for each function shall be determined by comparing the estimated cost of energy procurement using conventional design practices and energy systems with the estimated cost of using solar energy devices during the economic life of the proposed new building.

(d) If the use of solar energy devices for a particular function is determined to be economically feasible under Subsection (c) of this section, the commission or governing body shall include the use of solar energy devices for that function in the construction plans.

ARTICLE 6. LEASE OF SPACE FOR STATE AGENCIES

Definitions

Sec. 6.01. In this article:

(1) "Commission" means the State Purchasing and General Services Commission.

(2) "State agency" means a board, a commission, a department, an office, or other agency of the state government.

Determinations and Standards

Sec. 6.02. (a) When a state agency needs space to carry on its functions, the head of the agency or his or her designee shall submit a written request for the space to the commission.

(b) After consulting the state agency regarding the amount and type of space requested, the commission shall determine whether a need for the space exists and, if so, the specifications to be used in obtaining the space.

(c) The commission shall adopt standards regarding the uses of and the needs for space by state agencies and the types of space needed by state agencies.

Sharing Space

Sec. 6.03. The commission may consolidate the requests for space of two or more state agencies with similar needs and obtain space and allocate space so that it can be shared by the agencies.

Preference for State-owned Space

Sec. 6.04. In filling a request for space, the commission shall give a preference to available state-owned space.

Leasing Space from Other Sources

Sec. 6.05. (a) When state-owned space is not available and a state agency has verified that it has sufficient funds available to cover a lease of space, the commission may lease space for the agency from another source according to the provisions of this section and the specifications submitted by the state agency.

(b) The space may be leased from another state agency through an interagency contract or from the federal government or a political subdivision, including a county, a municipality, a school district, a water or irrigation district, a hospital district, a council of government, or a regional planning council, through a negotiated contract.

(c) The space may be leased from a private source through competitive bidding whenever possible, but the commission, with the approval of the state agency, may negotiate for the space when competition is not available.

(d) When competitive bidding is used, the commission shall take into consideration moving costs, the cost of time lost in moving, and other factors in determining the lowest and best bid.

The commission shall forward copies of all bids received to the leasing agency along with the commission's recommended award. If, after review of the bids and evaluation of all factors involved, the leasing agency determines that the bid selected by the commission is not in its opinion the lowest and best bid, it may file with the commission a written recommendation, complete with justification and full explanation of all factors considered in arriving at the recommendation, that the award be made to a bidder other than the commission's recommended bidder.

The commission shall give full consideration to the agency recommendation and if it does not agree with the agency recommendation, it shall notify the agency in writing. The agency and the commission shall attempt to reach an agreement on the award.

If agreement is not reached within 30 days, all bids and pertinent documents shall be transmitted to the governor who shall designate the bidder to which the award shall be made.

(e) In any contract entered into by the commission for the lease of space under this article, the State of Texas, acting through the commission, is the lessee.

(f) The provisions of the lease contract shall reflect the provisions contained in the invitation for bids, the successful bid, and the award of the contract.

(g) The lease contract may provide for an original term not to exceed 10 years and may include options to renew for as many terms, not to exceed 10 years each, that the commission considers to be in the state's best interest, and when the contract contains no option to renew, the lease may be renewed once according to the same provisions that were in the original contract for a term not to exceed one year, on agreement of the parties.

(h) A lease contract is contingent on the availability of funds appropriated by the legislature to cover the provisions of the lease.

(i) The obligation of the lessor to provide lease space and of the commission to accept the space becomes binding on the award of the contract.

(j) In leasing space for the use of state agencies, the commission shall give first consideration to a building that is a historic structure under Section 8, Chapter 500, Acts of the 55th Legislature, Regular Session, 1957, as amended (Article 6145, Vernon's Texas Civil Statutes), or to a building that has been designated a landmark by the local governing authority, if the building meets requirements and specifications and the cost is not substantially higher than other available structures that meet requirements and specifications. Upon consideration of the leasing of space for the use of a state agency, the commission shall notify all individuals and organizations that are within the county where the leasing is under consideration and that are on a list furnished to the commission by the Texas Historical Commission as required by Section 8C of Chapter 500, Acts of the 55th Legislature, Regular Session, 1957 (Article 6145, Vernon's Texas Civil Statutes). At the end of a biennium, the commission shall report to the legislature the commission's reasons for rejecting during the biennium the lease of any historic structure whose owner bid to lease space to the state.

Elimination of Barriers to Handicapped Persons in State Buildings

Sec. 6.06. The commission may not enter a lease contract under this article unless it complies with the provisions of Article 7 of this Act.

Remedial Action Against Lessor

Sec. 6.07. When a state agency occupies lease space and is aware of circumstances concerning the space which require remedial action against the lessor, the agency shall notify the commission, and the commission may investigate the circumstances and the lessor's performance under the contract. When the commission requests the assistance of the attorney general in protecting the state's interest under a lease contract, the attorney general shall assist the commission.

Certification of Funds

Sec. 6.08. At least 60 days before the beginning of each fiscal biennium during the term of a lease contract entered into under this article, the state agency occupying the leased space shall certify to the commission that funds are available to cover the lease.

Option to Purchase

Sec. 6.09. When the commission considers it advisable, the commission may lease space for a state agency by a contract which contains an option for the commission to purchase the space subject to the legislature's appropriation of funds for the purchase. A lease contract containing the option shall show the amount that will be accumulated by the commission and credited toward the purchase at

various periods during the term of the lease and the purchase price of the property at the beginning of each fiscal biennium during the term of the lease.

Records

Sec. 6.10. In order to efficiently maintain a space management system, the commission shall maintain records of the amount and cost of space under lease by the commission and may collect other information that it considers necessary. All state agencies shall cooperate with the commission in securing this information.

Exemptions

Sec. 6.11. The provisions of this article do not apply to the acquisition of district office space for members of either house of the legislature or space to be used by the Texas Employment Commission.

Rules

Sec. 6.12. The commission shall promulgate rules necessary to administer its functions under this article.

ARTICLE 7. ARCHITECTURAL BARRIERS

Policy

Sec. 7.01. The provisions of this article are to further the policy of the State of Texas to encourage and promote the rehabilitation of handicapped or disabled citizens and to eliminate, insofar as possible, unnecessary barriers encountered by aged, handicapped, or disabled persons, whose ability to engage in gainful occupations or to achieve maximum personal independence is needlessly restricted when such persons cannot readily use public buildings.

Application

Sec. 7.02. (a) The standards and specifications adopted under this article shall apply to all buildings and facilities used by the public which are constructed in whole or in part by the use of state, county, or municipal funds, or the funds of any political subdivision of the state. To such extent as is not contraindicated by federal law or beyond the state's power of regulation, these standards shall also apply to buildings and facilities constructed in this state through partial or total use of federal funds. All buildings and facilities constructed in this state, or substantially renovated, modified, or altered, after the effective date of this article from any one of these funds or any combination thereof shall conform to each of the standards and specifications adopted under this article except where the governmental department, agency, or unit concerned shall determine, after taking all circumstances into consideration, that full compliance with any particular standard or specification is impracticable. Where it is determined that full compliance with any particular standard or specification is impractical, the reasons for such determination shall be set forth in written form by those making the determi-

nation and forwarded to the commission. If it is determined that full compliance is not practicable, there shall be substantial compliance with the standard or specification to the maximum extent practical, and the written record of the determination that it is impractical to comply fully with a particular standard or specification shall also set forth the extent to which an attempt will be made to comply substantially with the standard or specification.

(b) These standards and specifications shall be adhered to in those buildings and facilities under construction on the effective date of this article, unless the authority responsible for the construction shall determine that the construction has reached a state where compliance is impractical. This article shall apply to temporary or emergency construction as well as permanent buildings.

(c) These standards and specifications shall be adhered to in all buildings leased or rented in whole or in part for use by the state under any lease or rental agreement entered into on or after January 1, 1972. To such extent as is not contraindicated by federal law or beyond the power of the state's regulation, these standards shall also apply to buildings or facilities leased or rented for use by the state through partial or total use of federal funds. Facilities which are the subject of lease or rental agreements on January 1, 1972, will not be required to meet standards and specifications for the term of the existing lease or rental agreement but must be brought into compliance before a lease or rental agreement is renewed. Where it is determined by the governmental department, agency, or unit concerned that full compliance with any particular standard is impractical, the reasons for such determination shall be set forth in written form by those making the determination and forwarded to the commission. If it is determined that full compliance is not practical, there shall be substantial compliance with the standard or specification to the maximum extent practical, and the written record of the determination that it is impractical to comply fully with a particular standard or specification shall also set forth the extent to which an attempt will be made to comply substantially with the standard or specification.

(d) Except as otherwise provided in Subsection (e) of this section, these standards and specifications shall be adhered to in certain privately financed buildings, building elements, and improved areas which are open to public use for education, employment, transportation, or acquisition of goods and services, and which are constructed on or after January 1, 1978, in counties with a population of 45,000 or more. Such facilities include the following:

(1) shopping centers which contain in excess of five separate mercantile establishments; compliance with accessibility standards and specifications relative to toilet rooms shall not apply unless the shopping center elects to have public toilet rooms;

- (2) passenger transportation terminals;
- (3) theaters and auditoriums having a seating capacity for 200 or more patrons;
- (4) hospitals and related medical facilities which provide direct medical service to patients;
- (5) nursing homes and convalescent centers;
- (6) buildings containing an aggregate total of 20,000 or more square feet of recognizable office floor space;
- (7) funeral homes; and
- (8) commercial business and trade schools.

(e) The commission shall have the authority to waive or modify accessibility standards and specifications when application of such standards and specifications is considered by the commission to be irrelevant to the nature, use, or function of a building or facility covered by this article. The commission shall not waive or modify any standard or specification when such action would result in a significant impairment of the acquisition of goods and services by handicapped persons or substantially reduce the potential for employment of handicapped persons. All evidence supporting waiver or modification determinations made by the commission shall be made a matter of record and become part of the file system maintained by the commission.

Scope

Sec. 7.03. (a) This article is concerned with nonambulatory disabilities, semiambulatory disabilities, sight disabilities, hearing disabilities, disabilities of coordination, and aging.

(b) It is intended to make all buildings and facilities covered by this article accessible to, and functional for, the physically handicapped to, through, and within their doors, without loss of function, space, or facilities where the general public is concerned.

Definitions

Sec. 7.04. For the purpose of this article the following terms have the meanings as herein set forth:

- (1) "Nonambulatory disabilities" means impairments that, regardless of cause or manifestation, for all practical purposes, confine individuals to wheelchairs.
- (2) "Semiambulatory disabilities" means impairments that cause individuals to walk with difficulty or insecurity. Individuals using braces or crutches, amputees, arthritics, spastics, and those with pulmonary and cardiac ills may be semiambulatory. The listing here made is illustrative and shall not be construed as being exhaustive.
- (3) "Sight disabilities" means total blindness or impairments affecting sight to the extent that the

individual functioning in public areas is insecure or exposed to danger.

(4) "Hearing disabilities" means deafness or hearing handicaps that might make an individual insecure in a public area because he is unable to communicate or hear warning signals.

(5) "Disabilities of coordination" means faulty coordination or palsy from brain, spinal, or peripheral nerve injury.

(6) "Aging" means those manifestations of the aging processes that significantly reduce mobility, flexibility, coordination, and perceptiveness but are not accounted for in the aforementioned categories.

Responsibilities for Enforcement

Sec. 7.05. (a) The responsibility for administration and enforcement of this article shall reside primarily in the commission, but the commission shall have the assistance of appropriate state rehabilitation agencies in carrying out its responsibilities under this article. State agencies involved in extending direct services to disabled or handicapped persons are authorized to enter into interagency contracts with the commission to provide such additional funding as might be required to insure that service objectives and responsibilities of such agencies are achieved through the administration of this article. In enforcing this article the commission shall also receive the assistance of all appropriate elective or appointive state officials. The commission shall from time to time inform professional organizations and others of this law and its application.

(b) The commission shall have all necessary powers to require compliance with its rules and regulations and modifications thereof and substitutions therefor, including powers to institute and prosecute proceedings in the district court to compel such compliance, and shall not be required to pay any entry or filing fee in connection with the institution of such proceedings. The commission or a handicapped person who seeks injunctive relief to obtain compliance with the rules and regulations shall first notify a person responsible for the building and allow that person 90 days to bring the building into compliance. The commission shall have the authority to extend the 90-day period when circumstances justify such extension.

(c) The commission is authorized to promulgate such rules and regulations as might reasonably be required to implement and enforce this article. The standards and specifications to be adopted by the commission under this article shall be consistent in effect to those adopted by the American National Standards Institute, Inc. (or its federally recognized successor in function), and the commission shall publish the standards and specifications in a readily accessible form for the use of interested parties.

(d) All plans and specifications for construction of buildings subject to the provisions of this article

shall be submitted to the commission for review and approval prior to bidding and award of contract in accordance with rules and regulations adopted by the commission. Likewise, any substantial modification of approved plans shall be resubmitted to the commission for review and approval.

(e) The commission may review plans and specifications, make inspections, and issue certifications that structures not otherwise covered by this article are free of architectural barriers and in compliance with the provisions of this article. The commission is authorized to charge a fee, not to exceed \$100, for review of plans and specifications, inspection, and certification of each privately owned building or facility.

(f) With respect to buildings and facilities that are under the jurisdiction and control of The University of Texas Board of Regents, the responsibility for administration and enforcement of this article shall reside in such governing board, and in the discharge of such responsibility the governing board shall have the same responsibilities, duties, powers, and authority that are herein imposed on and delegated to the commission with respect to all other buildings and facilities covered by this article.

ARTICLE 8. PROPERTY ACCOUNTING

Property Accounting System

Sec. 8.01. (a) All real and personal property belonging to the state shall be accounted for by the head of the agency which has possession of the property.

(b) The commission shall administer the property accounting system. The state auditor shall administer the property responsibility system. The commission shall issue rules and regulations and a manual of instruction and prescribe such records, reports, and forms necessary to accomplish the objects of this article subject to the approval of the state auditor. The state auditor is directed to cooperate with the commission in the exercise of the commission's rulemaking powers herein granted by giving technical assistance and advice.

(c) The commission shall maintain a complete and accurate set of centralized records of state property. Where the commission finds that an agency has demonstrated its ability and competence to maintain complete and accurate detailed records of the property it possesses without the detailed supervision by the commission, it may direct that the detailed records be kept at the principal office of such agency. Where the commission issues such order, it shall keep only summary records of the property of such agency and the agency shall keep such detailed records as the commission directs and furnish the commission with such reports at such times as directed by the commission.

(d) Each agency head shall cause each item of state property possessed by his agency to be marked so as to identify it. The agency head shall follow

the instructions issued by the commission in marking state property.

Responsibility for Property Accounting

Sec. 8.02. (a) All state agencies shall comply with the provisions of this article and keep the property records required.

(b) All real property owned by the state shall be accounted for by the agency which possesses the property. Except as herein provided, each agency shall maintain a record of each item of real property it possesses that shall include the following information, to be furnished upon request to the commission as part of the agency's annual inventory under Section 8.03(f) of this Act:

(1) a description of each item of property by reference to a volume number, and page or image number or numbers of the official public records of real property in a particular county, or where not applicable, by a legal description;

(2) the date of purchase of the property, where applicable;

(3) the purchase price of the property, where applicable;

(4) the name of the agency holding title to the property for the state; and

(5) a description of the uses of the property.

However, where the description of real property required by this subsection would be excessively voluminous, as in the case of highway right-of-way or park land, the commission may direct the agency in possession of that real property to furnish such description only in summary form, as agreed to by the commission and the agency involved. In addition, the real property administered by the General Land Office shall be accounted for by that office and not by the system prescribed herein, and the real property administered by the permanent funds established by the legislature and people shall be accounted for by the agency now charged with its administration and not by the system prescribed herein. Neither the General Land Office nor the agency charged with administration of the permanent funds may be required to furnish the commission with the records described in this subsection.

(c) All personal property owned by the state shall be accounted for by the agency that possesses the property. The commission shall by regulation define what is meant by personal property for the purposes of this article, but such definition shall not include nonconsumable personal property having a value of \$250 or less per unit. In promulgating such regulations, the commission shall take into account the value of the property, its expected useful life, and if the cost of record keeping bears a reasonable relationship to the cost of the property on which records are kept. The commission shall consult with the state auditor in making such regulations and the auditor shall cooperate with the

commission in the exercise of this rulemaking power by giving technical assistance and advice.

(d) All equipment and supplies which are purchased through a program, contract, or grant with the Texas Department of Health by or for qualified entities, including but not limited to individuals, corporations, local units of government and other state agencies and which are used to promote and maintain public health are exempt from the property accounting system prescribed by this article. The qualified entities shall maintain complete equipment and supply records. The Texas Department of Health may request the return of any usable equipment or supplies purchased with funds provided by the department upon the termination of the program, contract, or grant.

(e) As part of the state agency's annual inventory under Subsection (f) of Section 8.03 of this Act, each agency shall furnish to the commission information listing the identification and age of buildings that were acquired by the agency since the preceding annual inventory that are at least 45 years old on the date of the inventory or that are possessed by the agency and have become 45 years old since the preceding annual inventory and shall furnish a photograph of each of those buildings. The commission shall give this information and the photographs to the Antiquities Committee.

Property Manager; Property Inventory

Sec. 8.03. (a) Each agency head is responsible for the proper custody, care, maintenance, and safekeeping of the state property possessed by his agency.

(b) Each agency head shall designate either himself or one of his employees as property manager. The commission shall be informed in writing by the agency head of the name of the property manager and shall be informed of any changes. Where the commission finds that convenience and efficiency will be served, it may permit more than one property manager to be appointed by the agency head.

(c) The property manager shall maintain the required records on all property possessed by the agency and shall be the custodian of all such property.

(d) No person shall entrust state property to any state official or employee or to anyone else to be used for other than state purposes.

(e) When an agency's property is entrusted to some person other than the property manager, the property manager shall require a written receipt for such property executed by the person receiving custody of the property. When the possession of property of one agency is entrusted to another agency on loan, such transfer shall be done only when authorized in writing by the agency head who is lending such property and the written receipt shall be executed by the agency head who is borrowing such property. The property manager is

relieved of the responsibility for property which is the subject of such a receipt.

(f) Each agency shall make a complete physical inventory of all property in its possession once a year. The inventory shall be taken on the date prescribed for the agency by the commission.

(g) The agency head shall forward a signed statement describing the method by which the inventory was verified, along with a copy of such inventory, within 45 days after the inventory date for the agency.

(h) The commission shall supervise the property records of each agency so that the records accurately reflect the property currently possessed by the agency. The commission shall prescribe the methods whereby items of property are deleted from the property records of the agency. Property that has become surplus or obsolete and no longer serviceable and has been turned over to the commission for disposal under the laws relating thereto shall be deleted from the records of that agency upon the authorization of the commission. Property that is missing from the agency or property that is disposed of directly by the agency in a legal manner shall be deleted from the commission's records upon the authorization of the state auditor.

Change of Property Managers

Sec. 8.04. When there is a change in agency heads or property managers, the incoming agency head or property manager shall execute a receipt for all agency property accounted for to the outgoing agency head or property manager. A copy of such receipt shall be delivered to the commission, the state auditor, and the outgoing agency head or property manager. No further warrants in favor of the outgoing agency head or property manager shall be drawn or paid until the state auditor has certified that the agency property has been properly accounted for. The state auditor may make this certification without requiring that a physical inventory be taken.

Liability for Property Loss

Sec. 8.05. Where agency property disappears, whether through theft or other cause, as a result of the failure of the agency head, property manager, or agency employee entrusted with the property in writing to exercise reasonable care for its safekeeping, such person shall be pecuniarily liable to the state for the loss thus sustained by the state. Where agency property deteriorates as a result of the failure of the agency head, property manager, or agency employee entrusted with the property in writing to exercise reasonable care to maintain and service the property, such person shall be pecuniarily liable to the state for the loss thus sustained by the state. Where agency property is damaged or destroyed as a result of an intentional wrongful act or of a negligent act of any state official or employee, such person shall be pecuniarily liable to the

state for the loss thus sustained by the state. The liability prescribed by this section may be found to attach to more than one person in a particular instance; in such cases, the liability shall be joint and several.

Reporting to State Auditor

Sec. 8.06. When any state property has been lost, destroyed, or damaged through the negligence or fault of any state official or employee, the agency head responsible for such property shall immediately report such loss, destruction, or damage to the state auditor. Upon learning in any manner of such property loss, destruction, or damage, the state auditor shall investigate the matter. If the investigation discloses that an injury has been sustained by the state through the fault of a state official or employee, the state auditor shall make written demand upon such state official or employee for reimbursement to the state for the loss so sustained.

Legal Action to Recover Monetary Loss of Property

Sec. 8.07. In case the demand made by the state auditor for reimbursement for property loss, destruction, or damage is refused or disregarded by the state official or employee upon whom such demand is made, the state auditor shall report the facts to the attorney general. If, after an investigation of the facts, the attorney general finds that legal liability may be adjudged against the state official or employee, he shall take such legal action to recover the monetary loss of the state property occasioned by the loss, damage, or destruction as in his opinion may be deemed necessary. Venue for all such suits instituted against a state official or employee shall lie in the courts of appropriate jurisdiction of Travis County.

Failure to Keep Records

Sec. 8.08. When any agency fails to keep the records required under the provisions of this article or fails to take the annual physical inventory, the commission shall so inform the comptroller and the comptroller may refuse to draw any warrants on behalf of such agency.

Transfer of Personal Property

Sec. 8.09. (a) Any state agency is authorized to transfer any personal property of the state under its control or jurisdiction to any other state agency with or without reimbursement between the agencies; provided, however, that the provisions of this article shall not apply to any real property.

(b) When any personal property under the control or jurisdiction of one state agency is transferred to the control or jurisdiction of any other state agency, such transfers shall be immediately and simultaneously reported to the commission by the transferor and the transferee on forms prescribed by the commission, and it shall adjust the inventory records of the agencies involved in making the transfer. Whenever any transfer is made with re-

imbursement from funds deposited in the state treasury, the transferee shall issue a voucher payable to the transferor, and the comptroller of public accounts shall issue warrants for reimbursement.

Distribution of This Article

Sec. 8.10. Each agency head shall distribute a copy of this article to each official and employee of his agency and shall give a copy to each new employee of the agency.

ARTICLE 9. SURPLUS AND SALVAGE PROPERTY

Definitions

Sec. 9.01. As used in this article:

(1) "Comptroller" means the comptroller of public accounts.

(2) "Auditor" means the state auditor.

(3) "Property" means personal property, and does not mean real property, or any interest in real property. Personal property affixed to real property may be sold under this law if its removal and disposition is to carry out a lawful objective under this law or any other law.

(4) "Surplus property" means any personal property which is in excess of the needs of any state agency and which is not required for its foreseeable needs. Surplus property may be used or new but possesses some usefulness for the purpose for which it was intended or for some other purpose.

(5) "Salvage property" means any personal property which through use, time, or accident is so depleted, worn out, damaged, used, or consumed that it has no value for the purpose for which it was originally intended.

(6) "Political subdivision" means a county, municipality, school district, or junior college district.

Establishment of Procedures

Sec. 9.02. The commission shall establish and maintain procedures for the transfer, sale, or disposal of surplus and salvage property no longer needed by state agencies.

Mailing Lists of Political Subdivisions

Sec. 9.03. The commission shall maintain a mailing list, renewable annually, of political subdivision purchasing agents or other officers performing similar functions who have asked for information on surplus or salvage equipment or material the state may have available.

Disposition of Surplus or Salvage Property

Sec. 9.04. (a) All state agencies that determine they have surplus or salvage property shall inform the commission of the kind, number, location, condition, original cost or value, and date of acquisition of the property.

(b) When a state agency reports to the commission that it has surplus or salvage equipment or material, the commission shall inform other state agencies and political subdivisions of the existence, kind, number, location, and condition of the equipment or material.

(c) When notified of surplus or salvage property, a state agency may negotiate directly with the reporting state agency for an interagency transfer of the property at a mutually agreed upon value. If a transfer is made, the participating agencies shall report the transaction to the comptroller and the commission. The comptroller shall debit and credit the proper appropriations and the commission shall adjust the state inventory records if inventoried property is transferred.

(d) A political subdivision shall notify the commission within 30 days from the date of the notice if it desires to negotiate for surplus or salvage equipment or material.

(e) If no state agency negotiates an interagency transfer of the equipment or material within 30 days from the date of the notice, and if the commission determines that the equipment or material will not satisfy a state need, the commission may authorize the sale or transfer of surplus or salvaged equipment or material to any political subdivision which has expressed a desire to negotiate.

(f) The commission shall adopt rules and regulations to govern occasions when more than one political subdivision expresses a desire to negotiate for the same surplus or salvage equipment or material. The commission may adopt other necessary rules and regulations to govern the sale or transfer of surplus or salvage equipment and material to political subdivisions.

(g) If no state agency negotiates an interagency transfer of the equipment or material within 30 days from the date of the notice and no political subdivision has expressed a desire to negotiate, or if one or more political subdivisions has expressed a desire to negotiate but is unable to negotiate a sale or transfer of the equipment or material within 40 days from the date of the notice, the commission may offer the equipment or material to the organization known as the Texas Partners of the Alliance, a registered agency with the Advisory Committee on Voluntary Foreign Aid with the approval of the Partners of the Alliance office of the Agency for International Development. The equipment or material shall be offered at its fair market value as determined by mutual agreement between the commission and the Texas Partners of the Alliance.

(h) If the Texas Partners of the Alliance do not accept the offer within 60 days, or if the commission and the Texas Partners of the Alliance cannot agree on the fair market value of the equipment or material, the commission shall sell or dispose of the equipment or material as otherwise provided by this article.

Alternative Disposition of Surplus or Salvage Property

Sec. 9.05. (a) If surplus or salvage property is not disposed of under the provisions of Section 9.04 of this article, the commission shall sell the property by competitive bid or auction or delegate to the state agency having possession of the property the authority to sell the property on a competitive bid basis.

(b) If the value of any property or lot of property to be sold is estimated to be over \$1,000, the sale shall be advertised at least one time in at least one newspaper of general circulation in the vicinity where the property is located by the commission or the state agency delegated authority to sell the property.

(c) When the commission sells any surplus or salvage property it shall report the item sold and the sale price to the agency that declared such property as surplus or salvage.

(d) All agencies for whom surplus or salvage property is sold or who sell surplus or salvage property under authorization of the commission shall report the sale together with the prices realized to the comptroller; and if the property is on the state inventory the commission shall remove it from the inventory.

(e) The proceeds from the sale of any surplus or salvage property less the cost of advertising the sale shall be deposited to the credit of the item of appropriation to the agency for whom the sale was made. A portion of the proceeds from the sale of any surplus or salvage property equal to the cost of advertising the sale shall be deposited in the state treasury to the credit of the item of appropriation to the commission from which such cost was expended.

Destruction of Surplus or Salvage Property

Sec. 9.06. If the commission cannot sell or dispose of any property reported to it as surplus or salvage it may order the property destroyed as worthless salvage and report the destruction to the declaring agency. The destruction of salvage shall authorize the commission to remove reported property from the state inventory if on the state inventory. Authorization by the commission to delete salvage items not its own from the state inventory shall not be required. It is not the intention of this section to alter, enlarge, or amend the law providing for the deletion from inventory upon the authorization of the auditor of property that is missing from any agency.

Maximum Return from Disposition of Surplus or Salvage Property

Sec. 9.07. The commission shall at all times try to realize the maximum return to the state in the sale and disposal of surplus and salvage property. It shall maintain a list of prospective buyers of surplus and salvage property and it may in all cases reject any or all offers if it finds rejection to be in the best interests of the state. It shall cooperate

with all state agencies in a continuing program of surplus and salvage property evaluation to minimize losses from accumulations and it shall cooperate at all times with the auditor in surplus and salvage property analysis.

Obtaining Good Title to Surplus or Salvage Property

Sec. 9.08. Any purchaser of surplus or salvage property at a sale made by the commission or by any agency under authorization of the commission shall obtain good title to any property purchased if the purchaser has in good faith complied with the conditions of the sale and the applicable rules and regulations of the commission.

Rules, Reports, Forms

Sec. 9.09. The commission is authorized to promulgate rules and regulations and prescribe reports and forms necessary to accomplish the purposes of this article subject to the approval of the state auditor.

Disposition of Property by Legislature

Sec. 9.10. The provisions of this article do not apply to the disposition of surplus property by either house of the legislature pursuant to a system of disposition provided for in the rules and regulations of the administration committee of each house. If surplus property of either house is sold, proceeds of the sale shall be deposited in the state treasury to the credit of the expense fund of that house.

Purchase of Legislative Chairs

Sec. 9.11. A legislator may purchase the executive chair used by the legislator on the floor of the legislature if:

- (1) the legislator has not been reelected; and
- (2) the legislator pays into the state treasury the commission's estimate of the fair market value of replacement equipment.

This section does not limit a legislator's right to purchase state-owned equipment in any other manner.

Property Used as Trade-in

Sec. 9.12. A state agency may offer surplus or salvage property as a trade-in on new property of the same general type when such exchange is in the best interests of the state.

Exemption

Sec. 9.13. For purposes of this article the terms "surplus" and "salvage" shall not apply to products and by-products of research, forestry, agricultural, livestock, and industrial enterprises in excess of that quantity required for consumption by the producing agency when such agencies have a continuing and adequate system of marketing research and sales, the efficiency of which shall be certified to the commission by the state auditor. A qualifying agency shall furnish the commission with a copy of

the rules and regulations and latest revisions thereof promulgated by the policy-making body of each agency or institution for the guidance and administration of the programs enumerated herein. When requested by such agency or institution to do so, the commission shall dispose of the property as provided for in this article.

Authorization of Agencies to Dispose of Property

Sec. 9.14. The commission may authorize an agency to dispose of surplus or salvage property where the agency demonstrates to the commission its ability to make such disposition under the rules and regulations set up by the commission, as provided for herein. State eleemosynary institutions and institutions and agencies of higher learning shall be excepted from the terms of this article.

Disposition of Wastepaper

Sec. 9.15. The commission shall establish and maintain in each public building under its control facilities for collecting separately from all other wastes all the wastepaper disposed of in that building. The commission shall sell the wastepaper for recycling purposes to the highest bidder.

ARTICLE 10. TELECOMMUNICATIONS SERVICES

Definitions

Sec. 10.01. In this article:

(1) "Telecommunications services" means intercity communications facilities or services, provided that any dedicated circuits included as part of the consolidated system are considered to begin and end at the main connecting frame. "Telecommunications services" does not include single agency point-to-point radio systems or facilities or services of criminal justice information communication systems.

(2) "Consolidated telecommunications systems" means the network of telecommunications services serving the government of the State of Texas.

(3) Repealed by Acts 1983, 68th Leg., p. 4366, ch. 700, art. IV, § 4, eff. Aug. 29, 1983.

System of Telecommunications Services

Sec. 10.02. (a) The commission shall plan, establish, and manage the operation of a system of telecommunications services for all state agencies. Each agency shall identify its particular telecommunications services requirements and the site at which the service shall be provided.

(b) The commission shall fulfill the telecommunications requirements of each state agency to the extent possible and to the extent that funds are appropriated or available for this purpose.

(c) The commission may negotiate rates and execute contracts with telecommunications service utilities for services, lease transmission facilities on a competitive bid basis if possible, and develop, establish, and maintain carrier systems necessary to the

operation of the telecommunications system. The commission may own or lease any facilities or equipment necessary to provide telecommunications services.

(d) All contracts with telecommunications carriers shall contain the provision that the commission or any participating agency may obtain any data relating to the costs to the state of parallel tolls.

Policies and Guidelines

Sec. 10.03. (a) In order to insure efficient utilization of telecommunications systems at minimum cost to the state, the commission shall promulgate and disseminate to all agencies appropriate policies, guidelines, operating procedures, and telephone directories.

(b) Each agency shall comply with the policies, guidelines, and operating procedures promulgated. The commission, with the advice of the state auditor, shall maintain records relating to the consolidated telecommunications system as necessary to enable the commission to analyze the cost effectiveness of the system to the state agencies, and shall advise the legislature at each session as to the cost effectiveness of the system.

Balancing Technological Advancements and Existing Facilities

Sec. 10.04. In the planning, design, implementation, and operation of the telecommunications systems and facilities, the commission shall maintain an appropriate balance between the adoption of technological advancements and the efficient utilization of existing facilities and services in order to avoid misapplication of state funds and degradation or loss of the integrity of existing systems and facilities.

Sharing of Services or Facilities

Sec. 10.05. Telecommunications facilities and services, to the extent feasible and desirable, shall be provided on an integrated or shared basis, or both, to avoid waste of state funds and manpower.

Payment for Services

Sec. 10.06. (a) The commission shall develop a system of billings and charges for services provided in operating and administering the consolidated telecommunications system, which allocates the total state cost to each entity serviced based on proportionate usage.

(b) The comptroller of public accounts shall establish in the state treasury a revolving account for the administration of this article. The account shall be used as a depository for funds received from entities served and as a source of funds to purchase, lease, or otherwise acquire services, supplies, and equipment, and to pay salaries, wages, and other costs directly attributable to the provisions and operations of the system.

(c) In order to provide an adequate cash flow as may be necessary for purposes of this article, using state agencies and other entities, upon proper notification, shall make monthly payments into the telecommunications revolving fund account from appropriated or other available funds. The legislature may appropriate funds for the operation of the system directly to the commission. In that case the revolving fund shall be used to receive funds due from local government entities and other agencies to the extent that their funds are not subject to legislative appropriation.

Contract with Entities Other than State Agencies

Sec. 10.07. The commission may contract with each house of the legislature, legislative agencies, counties, cities, districts, and other political subdivisions and agencies not within the definition of "state agency," for utilization of the state telecommunications system.

Designated Agent

Sec. 10.08. The commission is designated as the agency of this state responsible for obtaining telecommunications services.

Centralized Capitol Complex Telephone System

Sec. 10.09. (a) The commission shall provide centralized telephone service for state agencies, each house of the legislature, and legislative agencies in the capitol complex and other state agencies which elect to subscribe to such service.

(b) Each using entity shall make monthly payments to the commission when assessed by the commission.

(c) Each using entity shall arrange for its terminal telephone equipment. The commission shall make terminal equipment available for using entities that choose to use that terminal equipment.

(d) The commission shall prepare and issue a revised centralized telephone service directory in February of each year.

Engineering and Technical Assistance

Sec. 10.10. (a) The commission may provide engineering and technical assistance to state agencies on telephone and other telecommunications matters, including customer premises equipment. If this requirement exceeds in-house capabilities, the commission may contract for the services.

(b) If the governing officer or body of an agency consents in writing to the imposition of a surcharge to pay the cost of the commission's engineering and technical assistance to the agency, the commission may impose the surcharge.

Rate Intervention

Sec. 10.11. If the commission determines that there is sufficient economic impact on state government, the commission may intervene on behalf of

state agencies in telecommunications rate cases and may hire special counsel and expert witnesses to prepare and present testimony. The attorney general shall represent the commission before the courts in all appeals from rate cases in which the commission intervenes.

ARTICLE 11. MISCELLANEOUS PROVISIONS

Transfer of Powers and Duties; References

Sec. 11.01. (a) All powers, duties, and functions granted or assigned to the State Board of Control by laws not repealed by this Act, other than powers, duties, and functions previously transferred to other agencies, are transferred to the commission.

(b) Any reference in the statutes to the State Board of Control means the State Purchasing and General Services Commission.

(c) Any reference in the statutes to The State Purchasing Act of 1957 means Article 3 of this Act.

Messenger Service

Sec. 11.02. (a) The commission shall operate a messenger service for handling unstamped written communications between state agencies, including the legislature and legislative agencies, located in Austin. All such agencies in the capitol complex shall utilize the service, and other state agencies shall utilize the service to the maximum extent feasible.

(b) State warrants may be delivered upon agreement between the state comptroller, the commission, and the agency concerned.

(c) United States mail may be delivered to and from the post office located in the capitol complex on agreement of the commission and the agency concerned.

Business Machine Repair

Sec. 11.03. (a) The commission shall maintain a facility for the repair of office machines and shall offer the service to state agencies, including the legislature and legislative agencies, located in Austin.

(b) Using agencies shall make payment to the commission for repair services by vouchers prepared and submitted to the using agency by the commission.

(c) No privately-owned machines shall be serviced by the commission.

Central Supply Store

Sec. 11.04. (a) The commission shall operate a central supply store where state agencies, including the legislature and legislative agencies, can secure small supply items.

(b) The commission shall submit a purchase voucher to each using agency after the close of each month covering supply items purchased.

(c) Purchases from the central supply store may be made only by state agencies.

ARTICLE 98. AMENDMENTS

Secs. 98.01 to 98.04. [Amends art. 6252-11c]

ARTICLE 99. FINAL PROVISIONS

Board Abolished

Sec. 99.01. The State Board of Control is abolished.

Transfer of Personnel, Property, Etc.

Sec. 99.02. All personnel, records, and property of the State Board of Control are transferred to the State Purchasing and General Services Commission.

Initial Appointments to Commission

Sec. 99.03. In making the initial appointments to the commission, the governor shall designate one member for a term expiring January 31, 1981, one for a term expiring January 31, 1983, and one for a term expiring January 31, 1985.

Application

Sec. 99.04. Chapter 454, Acts of the 65th Legislature, Regular Session, 1977 (Article 6252-11c, Vernon's Texas Civil Statutes), as amended by this Act, does not apply to any contract that a state agency entered or renewed before the effective date of this Act. A contract entered or renewed before the effective date of this Act is governed by Chapter 454, Acts of the 65th Legislature, Regular Session, 1977, as it existed when the contract was entered or renewed, and that law is continued in effect for this purpose as if this Act were not in force.

Repealer

Sec. 99.05. The following articles and acts, as compiled in Vernon's Texas Civil Statutes, are repealed: 601, 601a, 602, 606, 606a, 630, 630a, 630b, 630c, 634½, 634a-1, 635, 655, 657, 658, 658a, 664-1, 664-2, 664-3, 665, 665a, 665b, 666, 666a, 666a-2, 666b, 667, 668, 669, 673, 674, 675, 676, 678, 678b, 678c, 678e, 678e-1, 678e-2, 678f, 678f-1, 678g, 678h, 678i, 678m, 678m.1, 678m-1, 678m-2, 678m-3, 678m-4, 678m-5, 688, 688a, 689, 689a, 690-695, 6252-6, and 6252-6a.

[Acts 1979, 66th Leg., p. 1908, ch. 773, §§ 1.01 to 99.05, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 499, ch. 207, §§ 1, 2, eff. May 23, 1981; Acts 1981, 67th Leg., p. 2265, ch. 546, §§ 1 to 3, eff. June 12, 1981; Acts 1981, 67th Leg., p. 2278, ch. 555, §§ 1, 2, eff. Sept. 1, 1981; Acts 1981, 67th Leg., p. 2705, ch. 737, § 16, eff. Sept. 1, 1981; Acts 1981, 67th Leg., p. 3060, ch. 805, §§ 1 to 4, eff. Aug. 31, 1981; Acts 1983, 68th Leg., p. 606, ch. 128, § 1, eff. Aug. 29, 1983; Acts 1983, 68th Leg., p. 1073, ch. 241, § 2, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 1989, ch. 362, §§ 3 to 5, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 2010, ch. 364, § 11, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 2772, ch. 476, § 13, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 3411, ch. 571, §§ 1 to 4, eff. Jan. 1, 1984; Acts 1983, 68th Leg., p. 4364, ch. 700, art. IV, §§ 1 to 3, eff. Aug. 29, 1983; Acts 1983, 68th Leg., p. 4399, ch. 707, §§ 1, 2, eff. June 19, 1983.]

Acts 1981, 67th Leg., p. 2266, ch. 546, § 4, provides:

"Section 3 of this Act applies only to a charge based on failure to complete performance of a contract made on or after the effective date of this Act."

Acts 1981, 67th Leg., p. 2279, ch. 555, § 3 provides:

"This Act does not apply to the construction of a new building if the final written plans were completed before the effective date of this Act."

Section 4 of Acts 1983, 68th Leg., p. 1074, ch. 241, provides:

"Section 2 of this Act shall apply to all equipment or supplies which have previously been purchased by or for a qualified entity with funds provided through a contract or agreement with or a grant from the Texas Department of Health and which are on the effective date of this Act in the possession of or under the control of such qualified entity."

Section 6 of Acts 1983, 68th Leg., p. 1993, ch. 362, provides:

"The State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), as amended by this Act, affects only state building construction for which a project analysis is prepared after August 31, 1983."

Section 12 of Acts 1983, 68th Leg., p. 2010, ch. 364, provides:

"In each state agency's first annual inventory under Subsection (f), Section 8.03, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), made on or after the effective date of this Act, the agency shall furnish to the State Purchasing and General Services Commission information listing the identification and age of each building it possesses that is at least 45 years old on the date of that inventory and shall furnish a photograph of each of those buildings. The commission shall give that information and the photographs to the Antiquities Committee."

Art. 601c. Public Building Authority Act

ARTICLE I

Short Title

Sec. 1. This article may be cited as the Texas Public Building Authority Act.

Purpose

Sec. 2. The purpose of this article is to provide a method of financing for the acquisition or construction or the repair, renovation, or other improvement of buildings for the use of state agencies and institutions in Travis County, Texas.

Public Building Authority

Sec. 3. The Texas Public Building Authority is established as a public authority and body politic and corporate.

Composition of Governing Board

Sec. 4. The governing board of the authority is composed of three members appointed by the governor with the advice and consent of the senate.

Terms

Sec. 5. Members of the board are appointed for staggered terms of six years with one member's term expiring on February 1 of each odd-numbered year.

Officers; Quorum; Meetings

Sec. 6. (a) The board biennially shall elect a chairman and vice-chairman from its members.

(b) A majority of the full membership of the board constitutes a quorum.

(c) The board shall meet at least once in each quarter of the calendar year and shall meet at other times at the call of the chairman or as prescribed by a rule of the board.

Compensation and Expenses

Sec. 7. A member of the board is entitled to a per diem of \$50, unless otherwise specified in the General Appropriations Act, for each day the member performs functions as a member of the board and to reimbursement for the actual and necessary expenses the member incurs in performing the functions.

Staff

Sec. 8. The board shall employ persons and contract with consultants necessary for the board to perform its functions. Employees of the board are considered to be state employees.

Issuance of Bonds

Sec. 9. The board may issue and sell bonds in the name of the authority to finance the acquisition or construction or the repair, renovation, or other improvement of buildings for the use of state agencies and institutions in Travis County, Texas.

Legislative Approval Required

Sec. 10. Before the board may issue and sell bonds, the legislature by law must have authorized the specific project for which the bonds are to be issued and sold and must have authorized the maximum amount of bonded indebtedness that may be incurred by the issuance and sale of bonds for the project.

Scope of Power

Sec. 11. (a) The board's authority under Section 9 of this article is limited to the financing of a project and does not affect the authority of the State Purchasing and General Services Commission or any other state agency to carry out its statutory authority, including its authority to construct buildings, relating to the project.

(b) The State Purchasing and General Services Commission shall carry out its statutory authority regarding a project financed under this article as if the project were financed by legislative appropriation.

(c) The board and the State Purchasing and General Services Commission shall adopt a memorandum of understanding to carry out the intent of this section that defines the division of authority between the board and the commission.

Manner of Repayment of Bonds

Sec. 12. (a) The board may provide for the payment of the principal of and interest on the bonds

issued under Section 9 of this article relating to a building:

(1) by pledging all or any part of the designated rents, issues, and profits from the building to the State Purchasing and General Services Commission or occupying state agency; or

(2) from any other source of funds lawfully available to the board.

(b) From funds appropriated for the purpose of paying rental charges on improvements acquired, constructed, renovated, or repaired under this article, the State Purchasing and General Services Commission or occupying or using state agency shall pay to the board an amount determined by the board to be sufficient to pay the principal of and interest on the bonds and to maintain any reserve funds required for servicing the debt.

(c) The commission shall set the amounts of the rents in amounts sufficient to provide the revenue required by the board.

(d) All lease contracts entered into under this Act shall be subject to the appropriation by the legislature of funds necessary to cover the provisions of the lease.

(e) The board may lease space in projects constructed under this Act if the space cannot be leased to the State Purchasing and General Services Commission or other state agency.

Additional Security for Bonds; Conveyance of Title to Board

Sec. 13. (a) The bonds may be additionally secured by a deed of trust, mortgage lien, or security interest on part or all of the project financed under this article or on part or all of the real property conveyed under Subsection (d) of this section. The bonds may vest in the trustee power to sell the project or real property for payment of the indebtedness, power to operate the project or real property, and all other powers necessary for the further security of the bonds; provided, however, that no property of the state other than the project financed or the real property conveyed under Subsection (d) of this section may serve as security for the bonds unless the legislature so provides.

(b) The trust indenture, regardless of the existence of the deed of trust or mortgage lien on the project or real property, may contain provisions prescribed by the board for the security of the bonds and the preservation of the trust estate and may make provisions for amendment or modification and may make provisions for investment of revenue from the project or real property.

(c) A purchaser under a sale under the deed of trust or mortgage lien becomes absolute owner of the project, real property, and rights purchased and may maintain and operate the project or real property.

(d) In return for the board's financing of a project under this article, the state shall convey to the board title to any of the state's real property of which the project will be made a part.

State Debt Not Created

Sec. 14. (a) Bonds issued under this article are not debts of the state or any agency, political corporation, or political subdivision of the state and are not a pledge of the faith and credit of any of them. The bonds are payable solely from revenue as provided by this article.

(b) The bonds shall contain on their face a statement to the effect that:

(1) neither the state nor an agency, political corporation, or political subdivision of the state is obligated to pay the principal of or the interest on the bonds except as provided by this article; and

(2) either the faith and credit nor the taxing power of the state or any agency, political corporation, or political subdivision of the state is pledged to the payment of the principal of or the interest on the bonds.

Form of Bonds

Sec. 15. (a) The board may issue bonds in various series or issues.

(b) Bonds may mature serially or otherwise not more than 40 years from their date and shall bear interest at any rate permitted by the constitution and laws of the state.

(c) The bonds and interest coupons, if any, are investment securities under the terms of Chapter 8 of the Business & Commerce Code and may be issued registrable as to principal or as to both principal and interest and may be made redeemable before maturity, at the option of the board, or may contain a mandatory redemption provision.

(d) The bonds may be issued in the form, denominations, and manner and under the terms, conditions, and details and shall be signed and executed, as provided by the board in the resolution or order authorizing their issuance.

Provisions of Bonds

Sec. 16. (a) In the orders or resolutions authorizing the issuance of bonds, including refunding bonds, the board may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund, the reserve fund, and other funds and may make additional covenants with respect to the bonds, the pledged revenues, and the operation and maintenance of the project financed under this article or the real property conveyed under Subsection (d) of Section 13 of this article.

(b) The orders or resolutions of the board authorizing the issuance of bonds may also prohibit the further issuance of bonds or other obligations payable from the pledged revenue or may reserve the right to issue additional bonds to be secured by a

pledge of and payable from the revenue on a parity with or subordinate to the lien and pledge in support of the bonds being issued.

(c) The orders or resolutions of the board issuing bonds may contain other provisions and covenants as the board may determine.

(d) The board may adopt and have executed any other proceedings or instruments necessary and convenient in the issuance of bonds.

Approval by Attorney General; Registration by Comptroller

Sec. 17. (a) The bonds issued by the board must be submitted to the attorney general for examination.

(b) If the attorney general finds that the bonds have been authorized in accordance with law, he shall approve them, and they shall be registered by the comptroller of public accounts.

(c) After the approval and registration of bonds, the bonds are incontestable in any court or other forum, for any reason, and are valid and binding obligations in accordance with their terms for all purposes.

Refunding Bonds

Sec. 18. (a) The board may issue bonds to refund all or any part of its outstanding bonds issued under this article, including matured but unpaid interest coupons.

(b) The board may refund bonds, notes, or other obligations as provided by the general laws of the state for revenue bonds.

Bonds as Investments

Sec. 19. The bonds are legal and authorized investments for:

- (1) banks;
- (2) savings banks;
- (3) trust companies;
- (4) savings and loan associations;
- (5) insurance companies;
- (6) fiduciaries;
- (7) trustees;
- (8) guardians; and
- (9) sinking funds of cities, counties, school districts, and other political subdivisions of the state and other public funds of the state and its agencies, including the permanent school fund.

Bonds as Security for Deposits

Sec. 20. The bonds are eligible to secure deposits of public funds of the state and cities, counties, school districts, and other political subdivisions of the state. The bonds are lawful and sufficient security for deposits to the extent of their face

value when accompanied by all unmatured coupons, if any.

Tax Status of Bonds

Sec. 21. The bonds issued by the board, any transaction relating to the bonds, and profits made in the sale of the bonds are free from taxation by the state or by any city, county, special district, or other political subdivision of the state.

Other Powers

Sec. 22. The board may:

- (1) exercise, to the extent practicable, all powers given to a corporation under the general laws of the state;
- (2) have perpetual succession by its corporate name;
- (3) sue and be sued in its corporate name;
- (4) adopt a seal and use it as the board considers appropriate;
- (5) accept gifts and donations; and
- (6) adopt rules and perform all functions reasonably necessary for the board to administer its functions prescribed by this article.

Conveyance of Property

Sec. 23. (a) When the principal of and interest on bonds relating to a project financed under this article are paid in full and the building involved in the project is free of all liens, the board shall certify to the State Purchasing and General Services Commission or occupying or using state agency that rentals are no longer required to service the bond debt.

(b) On making the determination called for in Subsection (a) of this section, the board shall, for the sum of \$1, convey title of the completed project, of other real property involved in the project, and of the real property previously conveyed to the board under Subsection (d) of Section 13 of this article to the State Purchasing and General Services Commission or designated occupying or using state agency.

Preference in Leasing

Sec. 24. For the purposes of Section 6.04, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), property owned by the board shall be considered state-owned space.

Eminent Domain

Sec. 25. The authority has the power of eminent domain and may exercise the same for the purposes set forth in this article in connection with projects approved under Section 10 of this article.

Application of Sunset Act

Sec. 26. The board is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes). Unless continued in existence as

provided by that Act, the board is abolished and this article expires September 1, 1995.

Initial Appointments and Organizational Meeting

Sec. 27. (a) In making his initial appointments to the board, the governor shall designate one member for a term expiring February 1, 1985, one for a term expiring February 1, 1987, and one for a term expiring February 1, 1989.

(b) The governor shall designate a time and place at which the board shall convene for an organizational meeting. At this meeting the board shall elect its initial chairman and vice-chairman.

ARTICLE II

Authorization of Projects

Sec. 1. (a) The governing board of the Texas Public Building Authority may issue and sell bonds in accordance with the Texas Public Building Authority Act to finance the projects listed by Section 3 of this article.

(b) The maximum amount of bonded indebtedness that the board may incur in financing the projects is \$50 million.

Appropriations

Sec. 2. (a) From funds appropriated by H.B. 656, Acts of the 67th Legislature, Regular Session, 1981,¹ from Fund 117 to the State Purchasing and General Services Commission:

(1) the sum of \$1 million is appropriated for the biennium beginning September 1, 1983, to the authority for its operating expenses in carrying out the provisions of this article; and

(2) the sum of \$7 million is appropriated for the biennium beginning September 1, 1983, to the State Purchasing and General Services Commission to the account of a special fund in the State Treasury to be known as the state lease fund to pay to the authority amounts for debt service that may be due in the biennium for any of the projects authorized.

(b) On issuance of bonds necessary to finance the projects authorized by this article, the board shall certify to the State Purchasing and General Services Commission and to the comptroller of public accounts that the funds are available and shall deposit the bond proceeds in the State Treasury to the account of the State Purchasing and General Services Commission for the specific projects. Once the funds are deposited and the comptroller of public accounts has certified that the funds are available, the State Purchasing and General Services Commission shall begin the projects and the funds so deposited are appropriated to the State Purchasing and General Services Commission for these purposes. Notwithstanding the provisions of Article 2543d, Revised Statutes, depository interest earned on the funds shall be credited to and accounted for in the state lease fund created by this article.

¹ Acts 1981, 67th Leg., p. 3333, ch. 875.

Specific Projects

Sec. 3. The following projects are approved for financing under the Texas Public Building Authority Act:

Project	Estimated Cost of Project
(1) Construction related to the Texas Youth Council, Texas Rehabilitation Commission State Office Building	\$10,500,000
(2) Purchase and renovation of the Texas Employment Commission Property	26,750,000

Rent and Fees

Sec. 4. The State Purchasing and General Services Commission shall establish schedules necessary to properly charge state agencies occupying or using projects authorized by this article for the expenses incurred in financing the project. Using state agencies shall pay to the State Purchasing and General Services Commission from all funds appropriated to the agency, in their proper proportion, for these purposes, the amount determined by the State Purchasing and General Services Commission as the necessary payment for the period or periods the commission has determined the payments are due. Payments received by the commission under this section shall be deposited to the credit of the state lease fund. The legislature may, in the alternative, provide for direct appropriation of the necessary funds for using agencies to the state lease fund.

State Lease Fund

Sec. 5. The state lease fund created by this article may be used to finance appropriations to the State Purchasing and General Services Commission for payment of rents and fees to the authority. In addition, the legislature may transfer funds on deposit in the state lease fund to the General Revenue Fund for such other purposes as the legislature may determine.

ARTICLE III

Purchase and Renovation of the Texas Employment Commission Property

Sec. 1. (a) The Texas Employment Commission shall sell to the State Purchasing and General Services Commission office buildings and parking facilities in its possession in or near the Capitol Complex. The sale shall be under an agreement between the Texas Employment Commission and the State Purchasing and General Services Commission on a price sufficient to provide the Texas Employment Commission adequate, alternative office and parking space outside the Capitol Complex and with the

necessary concurrence that may be required by the United States government.

(b) The State Purchasing and General Services Commission shall, under an agreement with the Texas Employment Commission and subject to the availability of funds authorized by Article II of this Act, purchase office buildings and parking facilities of the Texas Employment Commission located in or near the Capitol Complex. If the offices are acquired, the State Purchasing and General Services Commission may, from funds made available by the authority, renovate these facilities as necessary for occupancy by other state agencies. In negotiating the price for the Texas Employment Commission's facilities, the State Purchasing and General Services Commission shall consider the cost to the Texas Employment Commission of alternative space. The State Purchasing and General Services Commission shall also consider the price in the context of the reasonable rates that might otherwise be paid by prospective occupying state agencies for rent in comparable space. In any event, the State Purchasing and General Services Commission may not agree to a price greater than one and one-half times the estimated amount in Section 3, Article II, of this Act.

ARTICLE IV

Sec. 1. [Amends art. 601b by amending § 10.09 and adding §§ 10.10, 10.11].

Sec. 2. [Amends art. 601b, § 10.02(c)].

Sec. 3. [Amends art. 601b, § 10.03(b)].

Sec. 4. [Repeals art. 601b, § 10.01(3)].

Replacement of Centrex System

Sec. 5. If the State Purchasing and General Services Commission decides to replace the current centrex system, the commission shall make the new service operational for the legislature and legislative agencies not later than September 1, 1984.

Advisory Committee

Text of section effective until August 31, 1985

Sec. 6. (a) The State Telephone Service Advisory Committee is established.

(b) The committee is composed of:

(1) three representatives of state agencies appointed by the governor;

(2) three persons appointed by the lieutenant governor; and

(3) three persons appointed by the speaker of the house of representatives.

(c) Appointments of the lieutenant governor and speaker of the house of representatives may include members of the legislature or representatives of state agencies.

(d) A member of the committee is appointed for a term expiring on the date the committee is abolished under this Act.

(e) The committee shall elect a chairman and vice-chairman from its members.

(f) The governor shall designate a time and place at which the committee shall convene for an organizational meeting. The committee shall meet at other times and places at the call of the chairman or as provided by a rule of the committee.

(g) A member of the committee may not receive compensation for service on the committee. A member is entitled to reimbursement for actual and necessary expenses incurred in performing functions as a member of the committee.

(h) A vacancy on the committee shall be filled for the unexpired part of the term in the same manner in which the original appointment was made.

(i) The committee shall:

(1) advise the State Purchasing and General Services Commission about the specifications for the centralized telephone service;

(2) review bids received by the commission relating to the provision of the centralized telephone service; and

(3) advise and assist the commission in the determination as to which bidder or bidders should be awarded a contract.

(j) The committee is abolished and this section expires August 31, 1985.

Temporary Provision

Text of section effective until September 1, 1985

Sec. 7. (a) Those provisions of S.B. 179, Acts of the 68th Legislature, Regular Session, 1983 (the General Appropriations Act for the fiscal biennium beginning September 1, 1983),¹ that are contingent on enactment of S.B. 1401, Acts of the 68th Legislature, Regular Session, apply notwithstanding the failure of S.B. 1401 to become law.

(b) Section 80, Article V of S.B. 179, may not be construed as prohibiting the State Purchasing and General Services Commission from implementing this article by establishing a telephone system that uses leased equipment in whole or in part.

(c) This section expires September 1, 1985.

¹ Acts 1983, 68th Leg., p. 5729, ch. 1095.

[Acts 1983, 68th Leg., p. 4360, ch. 700, art. I, §§ 1 to 27, art. II, §§ 1 to 5, art. III, § 1, art. IV, §§ 5 to 7, eff. Aug. 29, 1983.]

Art. 602. Repealed by Acts 1979, 66th Leg., p. 1960, ch. 773, § 99.05, eff. Sept. 1, 1979

See, now, art. 601b, §§ 2.04 and 2.05.

Arts. 603 to 605. Repealed by Acts 1957, 55th Leg., p. 739, ch. 304, § 18

Arts. 606, 606a. Repealed by Acts 1979, 66th Leg., p. 1960, ch. 773, § 99.05, eff. Sept. 1, 1979

For subject matter of former art. 606a, see, now, art. 601b, § 10.01 et seq.

CHAPTER TWO. DIVISION OF PUBLIC PRINTING

Art.
607 to 630c. Repealed.

Arts. 607 to 629. Repealed by Acts 1962, 57th Leg., 3rd C.S., p. 146, ch. 47, § 2

Arts. 630 to 630c. Repealed by Acts 1979, 66th Leg., p. 1960, ch. 773, § 99.05, eff. Sept. 1, 1979

For subject matter of former art. 630, see, now, art. 601b, § 3.25.
For subject matter of former art. 630c, see, now, art. 601b, § 3.26.

CHAPTER THREE. PURCHASING DIVISION

Art.
631 to 664-3. Repealed.
664-4. Professional Services Procurement Act.
664-5, 664-6. Repealed.
664-7. Purchasing Program for Local Governments.

Art. 634½. Repealed by Acts 1979, 66th Leg., p. 1960, ch. 773, § 99.05, eff. Sept. 1, 1979

See, now, art. 601b, § 3.23.

Arts. 631 to 634¼. Repealed by Acts 1957, 55th Leg., p. 739, ch. 304, § 18

Art. 634a. Repealed by Acts 1957, 55th Leg., p. 739, ch. 304, § 18

Art. 634a-1. Repealed by Acts 1979, 66th Leg., p. 1960, ch. 773, § 99.05, eff. Sept. 1, 1979

See, now, art. 601b, § 3.03.

Arts. 634(B), 634(C). Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts Titles 1 and 2 of the Education Code.

Art. 635. Repealed by Acts 1979, 66th Leg., p. 1960, ch. 773, § 99.05, eff. Sept. 1, 1979

See, now, art. 601b, § 3.13.

Arts. 636 to 654. Repealed by Acts 1957, 55th Leg., p. 739, ch. 304, § 18

Art. 655. Repealed by Acts 1979, 66th Leg., p. 1960, ch. 773, § 99.05, eff. Sept. 1, 1979

See, now, art. 601b, § 3.14.

Art. 656. Repealed by Acts 1957, 55th Leg., p. 739, ch. 304, § 18

Arts. 657 to 658a. Repealed by Acts 1979, 66th Leg., p. 1960, ch. 773, § 99.05, eff. Sept. 1, 1979

For subject matter of former arts. 657 and 658, see, now, art. 601b, §§ 3.15 and 3.16.

For subject matter of former art. 658a, see, now, art. 601b, § 3.24.

Arts. 659 to 664. Repealed by Acts 1957, 55th Leg., p. 739, ch. 304, § 18

Arts. 664-1 to 664-3. Repealed by Acts 1979, 66th Leg., p. 1960, ch. 773, § 99.05, eff. Sept. 1, 1979

For subject matter of former arts. 664-1 and 664-2, see, now, art. 601b, §§ 3.27 and 3.28.

For subject matter of former art. 664-3, see, now, art. 601b, § 3.01 et seq.

Art. 664-4. Professional Services Procurement Act

Sec. 1. This Act shall be known and may be cited as the "Professional Services Procurement Act."

Sec. 2. For purposes of this Act the term "professional services" shall mean those within the scope of the practice of accounting, architecture, optometry, medicine or professional engineering as defined by the laws of the State of Texas or those performed by any licensed architect, optometrist, physician, surgeon, certified public accountant or professional engineer in connection with his professional employment or practice.

Sec. 3. No state agency, political subdivision, county, municipality, district, authority or publicly-owned utility of the State of Texas shall make any contract for, or engage the professional services of, any licensed physician, optometrist, surgeon, architect, certified public accountant or registered engineer, or any group or association thereof, selected on the basis of competitive bids submitted for such contract or for such services to be performed, but shall select and award such contracts and engage such services on the basis of demonstrated competence and qualifications for the type of professional services to be performed and at fair and reasonable prices, as long as professional fees are consistent with and not higher than the published recommended practices and fees of the various applicable professional associations and do not exceed the maximum provided by any state law.

Sec. 4. Any and all such contracts, agreements or arrangements for professional services negotiated, made or entered into, directly or indirectly, by any agency or department of the State of Texas, county, municipality, political subdivision, district, authority or publicly-owned utility in any way in violation of the provisions of this Act or any part thereof are hereby declared to be void as contrary to the public policy of this State and shall not be

given effect or enforced by any Court of this State or by any of its public officers or employees.

[Acts 1971, 62nd Leg., p. 72, ch. 38, eff. March 30, 1971.]

Sections 5 to 7 of the 1971 Act provide:

"Sec. 5. Nothing in this Act shall affect the validity or binding effect of any valid contracts in existence at the effective date hereof.

"Sec. 6. If any section, sentence, clause or part of this Act is, for any reason, held to be unconstitutional, such decision shall not affect the remaining portion of this Act.

"Sec. 7. Any laws or parts of laws in conflict with the provisions of this Act are hereby repealed."

Art. 664-5. Repealed by Acts 1979, 66th Leg., p. 2429, ch. 842, art. 1, § 2(1), eff. Sept. 1, 1979

Acts 1979, 66th Leg., ch. 842, repealing this article, enacts the Human Resources Code.

For disposition of the subject matter of the repealed article, see Disposition Table preceding the Human Resources Code.

Art. 664-6. Repealed by Acts 1979, 66th Leg., p. 679, ch. 301, § 8(a), eff. May 31, 1979; Acts 1979, 66th Leg., p. 2052, ch. 803, § 10, eff. Aug. 27, 1979

Art. 664-7. Purchasing Program for Local Governments

Definition

Sec. 1. In this Act, "local government" means a county, city, town, special district, school district, junior college district, or other legally constituted political subdivision of the state.

Purchasing Program

Sec. 2. (a) The State Purchasing and General Services Commission shall establish a program by which the commission performs purchasing services for local governments. The services shall include:

(1) the extension of state contract prices to participating local governments when the commission considers it feasible;

(2) solicitation of bids on items desired by local governments if the solicitation is considered feasible by the commission and is desired by the local government; and

(3) provision of information and technical assistance to local governments about the purchasing program.

(b) The commission may charge a participating local government an amount not to exceed the actual costs incurred by the commission in providing purchasing services to the local government under the program.

(c) The commission may adopt rules and procedures necessary to administer the purchasing program.

Local Government Participation

Sec. 3. (a) A local government may participate in the purchasing program of the commission by

filing with the commission a resolution adopted each year by the governing body of the local government requesting that the local government be allowed to participate and stating that the local government:

(1) will designate an official to act for the local government in all matters relating to the program, including the designation of specific contracts in which the local government desires to participate, and that the governing body will direct the decisions of the representative;

(2) will purchase from the contracts made under this subsection, except in emergencies;

(3) will be responsible for payment directly to the vendor under each contract; and

(4) will be responsible for the vendor's compliance with all conditions of delivery and quality of the purchased item.

(b) A local government that purchases an item under a state contract satisfies any state law requiring the local government to seek competitive bids for the purchase of the item.

[Acts 1979, 66th Leg., p. 726, ch. 320, §§ 1, 2, eff. Aug. 27, 1979. Amended by Acts 1981, 67th Leg., p. 626, ch. 248, § 2, eff. May 28, 1981.]

¹ State Board of Control abolished; any reference to State Board of Control means State Purchasing and General Services Commission; see art. 601b, § 11.01(b).

CHAPTER FOUR. PUBLIC BUILDINGS AND GROUNDS DIVISION

Art.

665 to 678. Repealed.

678a. Board of Mansion Supervisors.

678b to 678i. Repealed.

Arts. 665 to 666. Repealed by Acts 1979, 66th Leg., p. 1960, ch. 773, § 99.05, eff. Sept. 1, 1979

For subject matter of former art. 665, see, now, art. 601b, § 4.01.

For subject matter of former art. 665b, see, now, art. 601b, § 9.15.

For subject matter of former art. 666, see, now, art. 601b, § 9.01 et seq.

Arts. 666-1, 666-2. Repealed by Acts 1957, 55th Leg., p. 1247, ch. 414, § 2

Art. 666a. Repealed by Acts 1979, 66th Leg., p. 1960, ch. 773, § 99.05, eff. Sept. 1, 1979

See, now, art. 601b, § 4.02.

Art. 666a-1. Repealed by Acts 1957, 55th Leg., p. 1247, ch. 414, § 2

Arts. 666a-2 to 669. Repealed by Acts 1979, 66th Leg., p. 1960, ch. 773, § 99.05, eff. Sept. 1, 1979

For subject matter of former art. 666b, see, now, art. 601b, § 6.01 et seq.

For subject matter of former arts. 667 to 669, see, now, art. 601b, §§ 4.03 to 4.05, respectively.

Arts. 670 to 672. Repealed by Acts 1965, 59th Leg., p. 926, ch. 455, § 16, eff. Sept. 1, 1965

See, now, art. 601b, § 5.12 et seq.

Arts. 673 to 676. Repealed by Acts 1979, 66th Leg., p. 1960, ch. 773, § 99.05, eff. Sept. 1, 1979

For subject matter of former arts. 673 to 676, see, now, art. 601b, §§ 4.06 to 4.09, respectively.

Art. 677. Repealed by Acts 1949, 51st Leg., p. 320, ch. 153, § 2

Art. 678. Repealed by Acts 1979, 66th Leg., p. 1960, ch. 773, § 99.05, eff. Sept. 1, 1979

See, now, art. 601b, § 4.10.

Art. 678a. Board of Mansion Supervisors

Membership; Appointment; Term

Sec. 1. There is hereby created the "Board of Mansion Supervisors." Said Board shall consist of three members, and one of the three shall be Chairman. The Chairman and other members of the Board shall be appointed by the Governor. The Chairman shall be appointed for an unexpired term ending January 1, 1936, one member shall be appointed for an unexpired term ending January 1, 1934, and one member shall be appointed for an unexpired term ending January 1, 1932, or until their successors are appointed and qualified. Thereafter, the Governor shall appoint such Chairman and members for terms of six years.

Semi-annual Meetings

Sec. 2. Said Board of Mansion Supervisors shall hold regular and semi-annual meetings in January and July of each year on dates to be specified by the Board and may hold such special meetings at such times and places as the Board may deem necessary and proper. It shall require two members of said Board to constitute a quorum.

Rules and Regulations; Records

Sec. 3. Said Board of Mansion Supervisors is hereby authorized to make such rules and regulations for the conduct of its work as may be deemed necessary. Said Board of Mansion Supervisors shall keep a record of all proceedings and official acts.

Plans and Designs for Repairs; Report to Board of Control

Sec. 4. It shall be the duty of said Board, from time to time, to make plans and designs for repairs to the Governor's Mansion, conforming to the style of architecture of the original building, and for such rehabilitation, renovation, repairing, beautifying and decorating generally of Mansion and the grounds adjacent thereto, as in their judgment may be deemed proper and expedient. It shall also be the duty of the Board to study the need of furni-

ture, fixtures, equipment and interior decoration of the Mansion. The Board shall, on or before September 1, 1932, and each two years thereafter, submit a report to the Board of Control, embodying their recommendations and an estimate of the cost. The Board of Control shall incorporate in the biennial budget, under the head of "Mansion and Grounds," the requests of said Board of Mansion Supervisors and the recommendation of the Board of Control on such requests. The Board may, from time to time, submit reports with their recommendations to the Legislature.

Consent to Removal of Equipment; Visitation

Sec. 5. The furniture, fixtures and equipment belonging to the State and now situated in the Mansion shall not be taken therefrom and no changes shall be made in said furniture, fixtures and equipment without the consent of the Board of Mansion Supervisors and the Board of Control. The Board of Mansion Supervisors, or any member thereof, shall have the authority to visit the Mansion and grounds at any reasonable time.

[Acts 1931, 42nd Leg., p. 855, ch. 363.]

Abolition

Acts 1965, 59th Leg., p. 674, ch. 323, § 8 abolished the Board of Mansion Supervisors and transferred all its powers, duties and authority to the Texas Fine Arts Commission. See art. 6144g, § 8.

Arts. 678b, 678c. Repealed by Acts 1979, 66th Leg., p. 1960, ch. 773, § 99.05, eff. Sept. 1, 1979

For subject matter of former art. 678b, see, now, art. 601b, § 4.11.

Art. 678d. Repealed by Acts 1965, 59th Leg., p. 445, ch. 227, § 13, eff. Aug. 30, 1965

See, now, Human Resources Code, § 94.001 et seq.

Art. 678d-1. Repealed by Acts 1979, 66th Leg., p. 2429, ch. 842, art. 1, § 2(1), eff. Sept. 1, 1979

Acts 1979, 66th Leg., ch. 842, repealing this article, enacts the Human Resources Code.

For disposition of the subject matter of the repealed article, see Disposition Table preceding the Human Resources Code.

Arts. 678e to 678i. Repealed by Acts 1979, 66th Leg., p. 1960, ch. 773, § 99.05, eff. Sept. 1, 1979

For subject matter of former arts. 678e, 678e-2, and 678f-1, see, now, art. 601b, §§ 4.12 to 4.14, respectively.

For subject matter of former art. 678f, see, now, art. 601b, § 5.12 et seq.

For subject matter of former art. 678g, see, now, art. 601b, § 7.01 et seq.

For subject matter of former art. 678h, see, now, art. 601b, §§ 5.18 and 5.19.

For subject matter of former art. 678i, see, now, art. 601b, §§ 5.27 to 5.30.

CHAPTER FOUR A. STATE BUILDING COMMISSION

Art.

678m to 678m-2. Repealed.
678m-2½. Lorenzo de Zavala State Archives and Library Building.
678m-3 to 678m-5. Repealed.

Arts. 678m to 678m-2. Repealed by Acts 1979, 66th Leg., p. 1960, ch. 773, § 99.05, eff. Sept. 1, 1979

For subject matter of former art. 678m, see, now, art. 601b, §§ 5.01 to 5.09.

Art. 678m-2½. Lorenzo de Zavala State Archives and Library Building

Sec. 1. The name of the State Archives and Library Building is changed to the Lorenzo de Zavala State Archives and Library Building.

Sec. 2. All references to the State Archives and Library Building shall hereafter mean the Lorenzo de Zavala State Archives and Library Building.

[Acts 1973, 63rd Leg., p. 1369, ch. 522, eff. June 14, 1973.]

Arts. 678m-3 to 678m-5. Repealed by Acts 1979, 66th Leg., p. 1960, ch. 773, § 99.05, eff. Sept. 1, 1979

For subject matter of former arts. 678m-4 and 678m-5, see, now, art. 601b, §§ 5.10 and 5.11.

CHAPTER FIVE. DIVISION OF DESIGN AND CONSTRUCTION

Arts. 679 to 683. Repealed by Acts 1965, 59th Leg., p. 926, ch. 455, § 16, eff. Sept. 1, 1965

See, now, art. 601b, § 5.12 et seq.

Arts. 684 to 687. Repealed by Acts 1959, 56th Leg., p. 813, ch. 370, § 1

CHAPTER SIX. DIVISION OF ESTIMATES AND APPROPRIATIONS

IN GENERAL

Art.

688 to 689a. Repealed.

BUDGETS

- 689a-1. Governor as Chief Budget Officer.
- 689a-2. Uniform Budget Estimate Blanks.
- 689a-3. Repealed.
- 689a-4. Hearings by Governor in Preparation of Budget.
- 689a-4a. Cooperation by Governor and Legislative Budget Board; Joint Hearings.
- 689a-4b. Determination by Governor of Prerequisites to Expenditure of Appropriations.
- 689a-4c. Expenditure of Funds by Governor in Certified Emergency; Administration.
- 689a-5. Compilation of Budget by Governor.
- 689a-6. Transmission of Copies of Budget; Committee Hearings; Copies of Budget for Distribution.

Art.

- 689a-7. Budget Bills of Appropriations Submitted by Governor; Hearings on Bills.
- 689a-8. Budget Bill Not to Include Per Diem and Mileage of Members of Legislature.
- 689a-8a. Constitutional Amendment; Effect if Adopted.
- 689a-9. County Budget; County Judge as Budget Officer.
- 689a-9a. Taxes Included in Estimated Revenues of Year in Which Levied and Collected.
- 689a-10. County Budget Filed with Clerk of County Court.
- 689a-11. Commissioners' Court to Hold Hearings and Approve Budget in Certain Counties.
- 689a-12. County Officers to Furnish Information to County Judge.
- 689a-13. Budget Officers and Preparation of Budget in Cities and Towns.
- 689a-14. Budget Filed with Clerk of City or Town.
- 689a-15. Hearings on City or Town Budgets, Approval and Filing.
- 689a-16. Municipal Officers to Furnish Information to Mayor or City Manager.
- 689a-17 to 689a-18. Repealed.
- 689a-19. Penal Provision.
- 689a-19a. Repealed.
- 689a-20. Construction.
- 689a-21. Neglect of Duty Concerning Budget.
- 689b. Validating Tax Levies in Counties of 27,000 to 28,000 Failing to Comply with Uniform Budget Law.

IN GENERAL

Arts. 688 to 689a. Repealed by Acts 1979, 66th Leg., p. 1960, ch. 773, § 99.05, eff. Sept. 1, 1979

BUDGETS

Art. 689a-1. Governor as Chief Budget Officer

The Governor is hereby made the chief budget officer of the State.

[Acts 1931, 42nd Leg., p. 339, ch. 206, § 2.]

Art. 689a-2. Uniform Budget Estimate Blanks

The Governor is hereby authorized to collaborate with the Legislative Budget Board in designing and preparing uniform budget estimate blanks upon which all requests for appropriations from the Legislature shall be prepared; and the Governor shall require that all requests for appropriations be submitted to him on such blanks or forms.

[Acts 1931, 42nd Leg., p. 339, ch. 206, § 3. Amended by Acts 1951, 52nd Leg., p. 572, ch. 332, § 5.]

Art. 689a-3. Repealed by Acts 1957, 55th Leg., p. 1322, ch. 446, § 1

Art. 689a-4. Hearings by Governor in Preparation of Budget

Upon receipt of the estimates for appropriations, the Governor shall afford to the heads of departments, institutions or other agencies that are seeking appropriations an opportunity to appear and be heard at a public hearing wherein such estimates are to be considered; and, if so desired, the Govern-

nor shall have the right to require the heads of such departments, institutions or other agencies, or any employees thereof, to appear at such public hearing and to give further information concerning requested appropriations. Any taxpayer shall have the right to be present at any and all such public hearings and to participate in the discussion of any item proposed to be included in the budget under consideration. The Governor shall preside at and conduct all such hearings, or, if unable for any reason to conduct such hearings, the Governor may authorize any employee of the Executive Department to preside at such hearings and represent him.

[Acts 1931, 42nd Leg., p. 339, ch. 206, § 5. Amended by Acts 1951, 52nd Leg., p. 572, ch. 332, § 6.]

Art. 689a-4a. Cooperation by Governor and Legislative Budget Board; Joint Hearings

With respect to matters pertaining to the compilation of the biennial appropriation budget, the Governor and the Legislative Budget Board created by Chapter 487, Acts of the 51st Legislature, 1949, page 908,¹ may cooperate and exchange information, and may, if they so desire, jointly hold public hearings pertaining to the biennial appropriation budgets. At any such joint public hearings, the Governor shall preside, or, if for any reason he be unable to conduct such hearings, the Lieutenant-Governor or such person as the Governor and the Lieutenant-Governor shall appoint, shall preside.

[Acts 1951, 52nd Leg., p. 572, ch. 322, § 7.]

¹ Article 5429c.

Art. 689a-4b. Determination by Governor of Prerequisites to Expenditure of Appropriations

Sec. 1. The Governor of the State of Texas is authorized to find any fact specified by the Legislature in any appropriation bill as a contingency enabling expenditure of any designated item of appropriation.

Sec. 2. (a) The Governor shall base his finding on the evidence as it exists at the time of his determination; provided the Legislature may by condition in an appropriation bill require such determination to be made following a public hearing.

(b) The decision of the Governor, together with his findings of fact, shall be filed with the Comptroller of Public Accounts and the Legislative Budget Board.

(c) The Governor's decision shall be final, subject to review in the courts by mandamus or other appropriate legal remedies.

(d) His certificate, under the seal of his office, stating his decision, shall be evidence of his decision.

[Acts 1972, 62nd Leg., 4th C.S., p. 22, ch. 5, eff. Jan. 16, 1973.]

Art. 689a-4c. Expenditure of Funds by Governor in Certified Emergency; Administration

Declaration of Policy

Sec. 1. It is in the public interest for the Governor to have available authority and funds for use in instances when the Legislature is not in session and there arises an emergency and an imperative public necessity that the emergency be met. Within the limits of the funds appropriated for this purpose and upon the compliance by the Governor with the requirements of this Act, it is the legislative intent to enable the Governor to act in instances of emergency and imperative public necessity without being forced to call the Legislature into session. The funds appropriated pursuant to this Act are to be available only in those instances where no other funds are available for purposes specifically appropriated for by the Legislature due to exhaustion of appropriations. At the time of the certification provided for in Section 2, the Comptroller of Public Accounts shall determine, with whatever assistance he deems necessary from other agencies, as to whether other funds are available.

Procedure

Sec. 2. When, in the judgment of the Governor, a situation arises that presents an emergency and an imperative public necessity requiring the use of the funds hereby authorized, the Governor shall certify such facts to said Comptroller, stating in the certification the facts presenting the emergency and imperative public necessity and why the facts present an emergency and an imperative public necessity. The Comptroller shall endorse on the Governor's Certificate the availability or unavailability of other funds setting forth their source and amount, if any, and must return said certificate to the Governor's Office within two (2) working days of receipt of said certificate. No expenditures shall be made by the Governor prior to receipt by the Governor of a return of his certificate from the Comptroller showing that no other funds are available. Copies of the Governor's Certificate, and the returned certificate containing the endorsement by the Comptroller, shall be filed with the Secretary of State and with the Legislative Budget Board.

Administration of Funds

Sec. 3. For purposes of this Act, the Governor may by interagency contract, in each instance, use any agency of the executive branch for administration of the funds hereby authorized. Such interagency contracts are exempt from the provisions of Article 4413(32), Vernon's Texas Civil Statutes.

Funding and Expenditures

Sec. 4. Following certification in compliance with this statute, the Governor is authorized to expend appropriated funds for purposes of the certified emergency, and the necessary warrants shall

be drawn by the Comptroller and paid by the State Treasurer. The Legislature may appropriate money to the Governor pursuant to this Act to be expended for the Executive branch of government only.

Cumulative Clause

Sec. 5. The provisions of this Act shall be cumulative of all other laws or parts of laws, general or special.

Severability Clause

Sec. 6. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

[Acts 1972, 62nd Leg., 4th C.S., p. 23, ch. 6, eff. Oct. 17, 1972.]

Art. 689a-5. Compilation of Budget by Governor

Based on information submitted to the Governor in the estimates and obtained by him at public hearings, from inspections and from other sources, the Governor shall compile the biennial appropriation budgets. On such budgets, the list of appropriations shall be shown for the current year preceding the biennium for which appropriations are sought and recommended, and the expenditures shall be shown for each of the two (2) full years next preceding the current year. The budget shall also show the amounts requested by the various agencies and the amounts recommended by the Governor for each of the years of the ensuing biennium.

[Acts 1931, 42nd Leg., p. 339, ch. 206, § 6. Amended by Acts 1951, 52nd Leg., p. 572, ch. 322, § 8; Acts 1957, 55th Leg., p. 1322, ch. 446, § 2.]

Art. 689a-6. Transmission of Copies of Budget; Committee Hearings; Copies of Budget for Distribution

Within five (5) days after the beginning of each Regular Session of the Legislature, the Governor shall transmit to all members of the Legislature printed copies of the budget; and, the Appropriations Committee in the House and the Finance Committee in the Senate may, if they so desire, begin preliminary committee hearings on the budget without waiting for the submission of the budget bills. The Governor shall also cause to be printed such extra copies of the budget as in his judgment are necessary for public distribution.

[Acts 1931, 42nd Leg., p. 339, ch. 206, § 7. Amended by Acts 1951, 52nd Leg., p. 572, ch. 322, § 9; Acts 1969, 61st Leg., p. 1688, ch. 546, § 1, eff. Sept. 1, 1969.]

Art. 689a-7. Budget Bills of Appropriations Submitted by Governor; Hearings on Bills

Within thirty (30) days after the beginning of each regular session of the Legislature, the Govern-

nor may prepare and submit printed copies of a general appropriation bill for the ensuing biennium to the Speaker of the House of Representatives, to the Lieutenant Governor, and to each Member of the House and Senate; provided, however, that in years when a newly elected Governor other than the then Governor is to be inaugurated, the appropriation bill may be prepared by the incoming Governor and shall be transmitted to the Legislature within twenty (20) days from the date he takes the oath of office.

The Director of the Budget, under the direction of the Legislative Budget Board, shall also prepare a general appropriation bill for introduction at each regular session of the Legislature, and shall transmit copies of the bill to all Members of the Legislature and to the Governor within seven (7) days after the convening of any regular session of the Legislature.

Upon receipt of the general appropriation bill prepared by the Director of the Budget, the Lieutenant Governor in the Senate and the Speaker in the House may, if they so desire, cause such bill to be introduced in the Senate and in the House of Representatives, or it may be introduced by any Member of the House or the Senate. A general appropriation bill submitted by the Governor may also be introduced in like manner. Hearings on the appropriation bills shall be conducted before the Appropriation Committee of the House and the Finance Committee of the Senate. The Appropriations Committee and the Finance Committee may, if they so desire, begin preliminary committee hearings on the budget upon receipt of the bill prepared by the Director of the Budget without waiting for submission of the bill prepared by the Governor. All heads of departments, institutions or other agencies of the government requesting appropriations shall have the right to appear before either of these committees in behalf of the appropriation requested. Likewise, any taxpayer in the State shall have the right to be present and to be heard at the hearing on the proposed appropriation.

[Acts 1931, 42nd Leg., p. 339, ch. 206, § 8. Amended by Acts 1957, 55th Leg., p. 1322, ch. 446, § 3.]

Art. 689a-8. Budget Bill Not to Include Per Diem and Mileage of Members of Legislature

The budget and budget bill so to be prepared and submitted by the Governor shall not have included therein any appropriations for the per diem and mileage of the members of the Legislature, nor the necessary expenses of the Legislature, and nothing herein contained shall affect any such appropriations.

[Acts 1931, 42nd Leg., p. 339, ch. 206, § 9.]

Art. 689a-8a. Constitutional Amendment; Effect if Adopted

In the event a Constitutional Amendment providing for annual budget sessions of the Legislature is adopted, all references in the preceding sections of this Act, in Chapter 487, Acts of the Fifty-first Legislature, Regular Session (Article 5429c, Vernon's Texas Civil Statutes) and in Section 7 of Chapter 332, Acts of the Fifty-second Legislature (Article 689a-4a, Vernon's Texas Civil Statutes) to biennial budgets shall be deemed to mean annual budgets, and all references to biennial sessions or regular sessions of the Legislature shall mean the annual budget sessions.

[Acts 1957, 55th Leg., p. 1322, ch. 446, § 4.]

Art. 689a-9. County Budget; County Judge as Budget Officer

The County Judge shall serve as budget officer for the Commissioners' Court in each county, and during the month of July of each year he, assisted by the County Auditor or by the County Clerk, shall prepare a budget to cover all proposed expenditures of the county government for the succeeding year. Such budget shall be carefully itemized so as to make as clear a comparison as practicable between expenditures included in the proposed budget and actual expenditures for the same or similar purposes for the preceding year. The budget must also be so prepared as to show as definitely as possible each of the various projects for which appropriations are set up in the budget, and the estimated amount of money carried in the budget for each of such projects. The budget shall also contain a complete financial statement of the county, showing all outstanding obligations of the county, the cash on hand to the credit of each and every fund of the county government, the funds received from all sources during the previous year, the funds available from all sources during the ensuing year, the estimated revenues available to cover the proposed budget and the estimated rate of tax which will be required.

[Acts 1931, 42nd Leg., p. 339, ch. 206, § 10.]

Art. 689a-9a. Taxes Included in Estimated Revenues of Year in Which Levied and Collected

The County Judge in preparing the budget to cover all proposed expenditures of the county government for the succeeding year shall estimate the revenue to be derived from taxes to be levied and collected during such succeeding year, and such revenue shall be included in the estimated revenues available to cover the proposed budget.

[Acts 1953, 53rd Leg., p. 1056, ch. 439, § 1.]

Art. 689a-10. County Budget Filed with Clerk of County Court

When the County Judge has completed the budget for the county, a copy of it shall be filed with the

clerk of the County Court, and it shall be available for the inspection of any taxpayer.

[Acts 1931, 42nd Leg., p. 339, ch. 206, § 11.]

Art. 689a-11. Commissioners' Court to Hold Hearings and Approve Budget in Certain Counties

The Commissioners' Court in each county shall each year provide for a public hearing on the county budget—which hearing shall take place on some date to be named by the Commissioners' Court subsequent to August 15th and prior to the levy of taxes by said Commissioners' Court. Public notice shall be given that on said date of hearing the budget as prepared by the County Judge will be considered by the Commissioners' Court. Said notice shall name the hour, the date and the place where the hearing shall be conducted. Any taxpayer of such county shall have the right to be present and participate in said hearing. At the conclusion of the hearing, the budget as prepared by the County Judge shall be acted upon by the Commissioners' Court. The Court shall have authority to make such changes in the budget as in their judgment the law warrants and the interest of the taxpayers demand. When the budget has been finally approved by the Commissioners' Court, the budget, as approved by the Court shall be filed with the Clerk of the County Court, and taxes levied only in accordance therewith, and no expenditure of the funds of the county shall thereafter be made except in strict compliance with the budget as adopted by the Court. Except that emergency expenditures, in case of grave public necessity, to meet unusual and unforeseen conditions which could not, by reasonably diligent thought and attention, have been included in the original budget, may from time to time be authorized by the Court as amendments to the original budget. In all cases where such amendments to the original budget is made, a copy of the order of the Court amending the budget shall be filed with the Clerk of the County Court, and attached to the budget originally adopted.

Provided, however, that in all counties of this State, containing a population in excess of three hundred and fifty thousand (350,000), according to the last preceding United States census, the provisions hereof shall not apply to the making of such county budgets, and in such counties all matters pertaining to the county budget shall be governed by existing law.

[Acts 1931, 42nd Leg., p. 339, ch. 206, § 12. Amended by Acts 1981, 67th Leg., p. 325, ch. 130, § 1, eff. May 13, 1981.]

Art. 689a-12. County Officers to Furnish Information to County Judge

In the preparation of the budget, the County Judge shall have authority to require any officer of the county to furnish such information as may be necessary for the County Judge to have in order

that the budget covering the expenditures of the county may be properly prepared.

[Acts 1931, 42nd Leg., p. 339, ch. 206, § 13.]

Art. 689a-13. Budget Officers and Preparation of Budget in Cities and Towns

The Mayor of every incorporated city, town or village shall serve as the budget officer for the Board of Commissioners or Council of such city, town or village, except that any such city or town as shall have a City Manager form of Government, the City Manager shall serve as the budget officer. Such Mayor or City Manager shall prepare each year a budget to cover all proposed expenditures of the Government of said city or town for the succeeding year. Such budget shall be carefully itemized so as to make as clear a comparison as practicable between expenditures included in the proposed budget and actual expenditures for the same or similar purposes for the preceding year. The budget must also be so prepared as to show as definitely as possible each of the various projects for which appropriations are set up in the budget, and the estimated amount of money carried in the budget for each of such projects. The budget shall also contain a complete financial statement of the city, town or village, showing all outstanding obligations of such city, town or village, the cash on hand to the credit of each and every fund, the funds received from all sources during the previous year, the funds available from all sources during the ensuing year, the estimated revenue available to cover the proposed budget, and the estimated rate of tax which will be required.

If a city or town in this State has already set up in its charter definite requirements which provide for the preparation each year of a budget of all expenditures of said city and a public hearing on said budget, then the charter provisions of said city as to the time of public hearings and the method of preparation of the budget shall govern, provided that when said budget has been finally prepared and approved, that a copy of said budget, together with all amendments thereto, shall be filed with the County Clerk, the same as this Act requires other budgets to be filed.

[Acts 1931, 42nd Leg., p. 339, ch. 206, § 14. Amended by Acts 1981, 67th Leg., p. 326, ch. 130, § 2, eff. May 13, 1981.]

Art. 689a-14. Budget Filed with Clerk of City or Town

Said budget so to be prepared by such Mayor or City Manager shall be filed with the Clerk of such city, town or village not less than thirty (30) days prior to the time the Board of Commissioners or Council of such city, town or village makes its tax levy for the current fiscal year, and such budget shall be available for the inspection of any taxpayer.

[Acts 1931, 42nd Leg., p. 339, ch. 206, § 15.]

Art. 689a-15. Hearings on City or Town Budgets, Approval and Filing

The Board of Commissioners or Council of every such city, town or village, shall each year provide for a public hearing on such budget, which hearing shall take place on some date to be fixed by such Board of Commissioners or Council, not less than fifteen days subsequent to the time such budget is filed as provided in Section 15¹ hereof, and prior to the time said Board of Commissioners or Council of such city, town or village makes its tax levy. Public notice of the hour, date and place of such hearing shall be given, or caused to be given by such Board of Commissioners, or Council, and any taxpayer of such city, town or village shall have the right to be present and participate in such hearing. At the conclusion of such hearing, the budget as prepared by the Mayor or City Manager shall be acted upon by the said Board of Commissioners or Council. The Board of Commissioners, or Council shall have the authority to make such changes in the budget as in their judgment the law warrants and the best interests of the taxpayers of such city, town or village demands. When the budget has been finally approved by such Board of Commissioners, or Council, the budget as so approved shall be filed with the Clerk of such city, town or village, and taxes levied only in accordance therewith, and no expenditure of the funds of such city, town or village shall thereafter be made except in strict compliance with such adopted budget, except that in case of grave public necessity, emergency expenditures to meet unusual and unforeseen conditions, which could not, by reasonable diligent thought and attention, have been included in the original budget, may from time to time be authorized by such Board of Commissioners, or Council, as amendments to the original budget. In all cases where such amendment to the original budget is made, a copy of the order or resolution of the Board of Commissioners or Council amending such budget shall be filed with the Clerk of such city, town or village, and attached to the budget originally adopted. Immediately after the adoption of said budget or any amendment thereto, the Mayor or City Manager, as the case may be, shall file or cause to be filed, a true copy of said approved budget, and all amendments thereto, in the office of the County Clerk of the County in which said municipality is situated.

[Acts 1931, 42nd Leg., p. 339, ch. 206, § 16. Amended by Acts 1981, 67th Leg., p. 326, ch. 130, § 3, eff. May 13, 1981.]

¹ Article 689a-14.

Art. 689a-16. Municipal Officers to Furnish Information to Mayor or City Manager

In the preparation of the budget the Mayor or City Manager shall have authority, to require any officer or board of such city, town or village to furnish such information as may be necessary for the Mayor or City Manager to have in order that the

budget covering the expenditures of such city, town or village may be properly prepared.

[Acts 1931, 42nd Leg., p. 339, ch. 206, § 17.]

Art. 689a-17. Repealed by Acts 1957, 55th Leg., p. 1245, ch. 413, § 6

Art. 689a-17a. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 899, repealing this article, enacts Titles 1 and 2 of the Education Code.

Art. 689a-18. Repealed by Acts 1957, 55th Leg., p. 1243, ch. 412, § 6

Art. 689a-19. Penal Provision

Section 20 of Acts 1931, 42nd Leg., p. 339, ch. 206, a penal provision, is set out as art. 689a-21.

Art. 689a-19a. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 899, repealing this article, enacts Titles 1 and 2 of the Education Code.

Art. 689a-20. Construction

Nothing contained in this Act shall be construed as precluding the Legislature from making changes in the budget for State purposes or prevent the County Commissioners' Court from making changes in the budget for county purposes or prevent the governing body of any incorporated city or town from making changes in the budget for city purposes, or prevent the trustees or other school governing body from making changes in the budget for school purposes; and the duties required by virtue of this Act of State, County, City and School Officers or Representatives shall be performed for the compensation now provided by law to be paid said officers respectively.

[Acts 1931, 42nd Leg., p. 339, ch. 206, § 20a.]

Art. 689a-21. Neglect of Duty Concerning Budget

Any officer, employee or official of the State Government, or of the County Government, or of any school district who shall refuse to comply with the provisions of this Act shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than One Hundred Dollars

(\$100.00) nor more than One Thousand Dollars (\$1,000.00), or be imprisoned in the county jail for not less than one month, or more than twelve months, or shall be punished by both such fine and imprisonment.

[Acts 1931, 42nd Leg., p. 339, ch. 206, § 20.]

Art. 689b. Validating Tax Levies in Counties of 27,000 to 28,000 Failing to Comply with Uniform Budget Law

That the failure of the Commissioners Court of any county having a population of not less than twenty-seven thousand (27,000) and not more than twenty-eight thousand (28,000) according to the next preceding Federal Census to comply with the provisions of Articles 688 and 689, Chapter 6, Title 20, Revised Civil Statutes, 1925, as amended, known as the Uniform Budget Law shall not invalidate any tax levies made by such Court, and all outstanding warrants or scrip issued by such counties are hereby validated and declared to be the legal obligations of such counties, provided such warrants or scrip are within the Constitutional limits applicable thereto.

[Acts 1935, 44th Leg., 1st C.S., p. 1583, ch. 395, § 1.]

CHAPTER SEVEN. DIVISION OF ELEEMOSYNARY INSTITUTIONS

Art.
690 to 695. Repealed.

Arts. 690 to 695. Repealed by Acts 1979, 66th Leg., p. 1960, ch. 773, § 99.05, eff. Sept. 1, 1979

CHAPTER SEVEN A. CHILD WELFARE

Art.
695a to 695a-5. Repealed.

Arts. 695a to 695a-5. Repealed by Acts 1979, 66th Leg., p. 2429, ch. 842, art. 1, § 2(1), eff. Sept. 1, 1979

Acts 1979, 66th Leg., ch. 842, repealing these articles, enacts the Human Resources Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Human Resources Code.

TITLE 20A

BOARD AND DEPARTMENT OF PUBLIC WELFARE

Art.

695b to 695c-3. Repealed.

695d. Time Limit for Presentation of Disbursing Orders for Relief Issued Before October, 1936.

695e. Transfer of Child Welfare Services from State Board of Control to Department of Public Welfare.

695f. Repealed.

695g. Federal Old Age and Survivors Insurance Coverage for County and Municipal Employees.

695h. Federal Old Age and Survivors Insurance Coverage for State Employees.

695i to 695l. Repealed.

695m. Expired.

695n. Employment Incentive Act.

695o. Expired.

695p to 695r. Repealed.

Art. 695b. Repealed by Acts 1939, 46th Leg., p. 544, § 47

Arts. 695c, 695c-1. Repealed by Acts 1979, 66th Leg., p. 2429, ch. 842, art. 1, § 2(1), eff. Sept. 1, 1979

Acts 1979, 66th Leg., ch. 842, repealing these articles, enacts the Human Resources Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Human Resources Code.

Section 1 of Acts 1979, 66th Leg., p. 1648, ch. 689, eff. June 13, 1979, amended former § 7-B of art. 695c. Section 2 of said Act provided:

"This Act does not affect offenses committed under Section 7-B, The Public Welfare Act of 1941, as added (Article 695c, Vernon's Texas Civil Statutes), before the effective date of this Act. Such an offense is covered by the law in effect on the date that the offense was committed, and the former law is continued in effect for the prosecution of the offense."

Art. 695c-2. Repealed by Acts 1973, 63rd Leg., p. 1458, ch. 543, § 3, eff. Jan. 1, 1974

Acts 1973, 63rd Leg., p. 1458, ch. 543, repealing this article, enacts Title 2 of the Family Code.

See, now, Family Code, § 34.01 et seq.

Acts 1973, 63rd Leg., p. 881, ch. 398, § 1, added a § 9 to this article, providing a penalty for failure to report. Said § 9 was repealed by Acts 1975, 64th Leg., p. 1273, ch. 476, § 57. See, now, Family Code, § 34.07.

Art. 695c-3. Repealed by Acts 1979, 66th Leg., p. 2429, ch. 842, art. 1, § 2(1), eff. Sept. 1, 1979

Acts 1979, 66th Leg., ch. 842, repealing this article, enacts the Human Resources Code.

For disposition of the subject matter of the repealed article, see Disposition Table preceding the Human Resources Code.

Art. 695d. Time Limit for Presentation of Disbursing Orders for Relief Issued Before October, 1936

Sec. 1. Any person having a claim against the State of Texas based on any disbursing order issued for general or transient relief purposes by the Texas Relief Commission or The Texas Relief Commission Division of the State Board of Control, or any of their authorized representatives, agents or employees, prior to October, 1936, shall, within six (6) months from the effective date of this Act, present the same to the State Department of Public Welfare for approval and payment, and failure to do so shall forever bar any claim based thereon against the State of Texas.

Sec. 2. Any person to whom a check was issued by the Texas Relief Commission or the Texas Relief Commission Division of the State Board of Control, or any of their authorized representatives, agents or employees, prior to July 1, 1936, for relief purposes, or his heirs, assigns or legal representatives, shall present the same to the State Department of Public Welfare for approval and payment within six (6) months from the effective date of this Act, and failure to do so shall forever bar any claim against the State of Texas evidenced by said check or upon the claim to satisfy which said check was given.

[Acts 1941, 47th Leg., p. 798, ch. 496.]

Art. 695e. Transfer of Child Welfare Services from State Board of Control to Department of Public Welfare

All of the functions and duties which were designated as being the responsibility of the State Board of Control and/or the Division of Child Welfare of the State Board of Control as expressed in Chapter 194, Page 323, Acts of the Forty-second Legislature, Regular Session, 1931, being Article 695A of Vernon's Texas Civil Statutes, including Article 606A, Sections 6 and 7, of Vernon's Texas Penal Code, and the duties and functions of the State Health Department as described in Chapter 204, Page 444, of the General and Special Laws of the Regular Session of the Forty-first Legislature, 1929, and being Article 4442A of Vernon's Texas Civil Statutes are hereby transferred to the State Department of Public Welfare, save and except where they apply to the child wards of the State of Texas who are being cared for and educated in the eleemosynary schools of the State. The expressed purpose of this Act is to correct a defective transference of duties and re-

sponsibilities which relate to children and which may be classed as child welfare services, which transference was attempted in Senate Bill No. 36, Acts of the Forty-sixth Legislature, Regular Session;¹ and all duties, responsibilities, and functions set out in these Sections of the law are expressly transferred to the Department of Public Welfare.

[Acts 1945, 49th Leg., p. 297, ch. 215, § 1.]

¹ Article 695c (repealed; see, now, Human Resources Code).

Art. 695f. Repealed by Acts 1979, 66th Leg., p. 2429, ch. 842, art. 1, § 2(1), eff. Sept. 1, 1979

Acts 1979, 66th Leg., ch. 842, repealing this article, enacts the Human Resources Code.

For disposition of the subject matter of the repealed article, see Disposition Table preceding the Human Resources Code.

Art. 695g. Federal Old Age and Survivors Insurance Coverage for County and Municipal Employees

Definitions

Sec. 1. The following definitions of words and terms shall apply as used in this Act:

(a) The term "wages" means all remuneration for employment as defined herein, including the cash value of all remuneration paid in any medium other than cash, except that such term shall not include that part of such remuneration which, even if it were for "employment" within the meaning of the Federal Insurance Contributions Act,¹ would not constitute "wages" within the meaning of that Act.

(b) The term "employment" means any service performed by an employee in the employ of a county or municipality or other political subdivision of the state except (1) service which in the absence of an agreement entered into under this Act would constitute "employment" as defined in the Social Security Act;² or (2) service which under the Social Security Act may not be included in an agreement between the State and the Federal Security Administrator entered into under this Act; or (3) service in any policeman's position, which is subject to an existing Retirement System at the time the agreement is undertaken, in incorporated cities having a population of 250,000 or more according to the most recent decennial Federal Census prior to the date of said agreement.

(c) The term "employee" includes an officer of a county, municipality, or other political subdivision of the State; also the word "employee" shall include any State Employee or officer who is paid wholly from United States funds and would be a Federal employee except for classification as a State employee by the Federal Government.

(d) The term "State Agency" means the Employees Retirement System of Texas.

(e) The term "Federal Security Administrator" includes any individual to whom the Federal Security Administrator has delegated any of his functions

under the Social Security Act with respect to coverage under such Act of employees of States and their political subdivisions.

(f) The term "municipality" means incorporated cities, towns, and villages.

(g) The term "Social Security Act" means the Act of Congress approved August 14, 1935, Chapter 531, 49 Stat. 620, officially cited as the "Social Security Act," (including regulations and requirements issued pursuant thereto), as such Act has been and may from time to time be amended.

(h) The term "political subdivision" includes an instrumentality of the State, of one or more of its political subdivisions, or of the State and one or more of its political subdivisions, but only if such instrumentality is a juristic entity which is legally separate and distinct from the State or subdivision and only if its employees are not by virtue of their relation to such juristic entity employees of the State or subdivision.

(i) The term "State working days" includes all days of the year excluding weekends, and State or National holidays.

¹ 26 U.S.C.A. § 3101 et seq.

² 42 U.S.C.A. § 301 et seq.

Administration of Act

Sec. 2. The Employees Retirement System of Texas is designated the State Agency to administer the provisions of this Act. The Executive Director of the department shall act for it and shall direct and administer its functions under this Act.

Agreements With Federal Security Administrator

Sec. 3. The State Agency is authorized to enter into agreements with the Federal Security Administrator to obtain Federal old-age and survivor's insurance coverage for employees of any of the counties, municipalities or other political subdivisions of the State. These agreements may contain such provisions relating to coverage, benefits, contributions, effective date, modification, and termination of the agreement, administration, and any other appropriate matters consistent with the Constitution and laws of Texas as the State Agency and Federal Security Administrator shall agree.

Agreements with County and Municipal Governing Bodies; Agreements Between Adjutant General, State Agency and United States Government

Sec. 4. The State Agency is authorized to enter into agreements with the governing bodies of counties and with the governing bodies of municipalities and with the governing bodies of other political subdivisions of the State which are eligible for Social Security coverage under Federal law when the governing body of any of said counties or municipalities or other political subdivisions desire to obtain coverage under the old-age and survivor's insurance program for their employees, these agreements to embrace such provisions relating to cover-

age benefits, contributions, effective date, modification and termination of the agreement, administration, and any other appropriate matters consistent with the Constitution and laws of Texas as the State Agency and the governing body of the county, municipality or other political subdivision shall agree. Any such agreement entered into shall include a provision that no action of the Federal Government shall ever impair or impede the retirement program of this State or its political subdivisions. Any instrumentality of the State, for which direct appropriations are made by the Legislature, may contribute to the old-age and survivor's insurance program of the Federal Government for employees covered under Chapter 470, Acts, 1937, Forty-fifth Legislature, Regular Session,¹ and amendments thereto, only such funds as are specifically appropriated therefor.

¹ Article 2922-1 (repealed; see, now, Title 110B, § 31.001 et seq.).

Rules and Regulations; Terms of Agreements

Sec. 5. The Employees Retirement System of Texas is authorized and directed to promulgate all reasonable rules and regulations it deems necessary to govern applications for and eligibility to participate in this program, and it shall prescribe the terms of the agreements necessary to carry out the provisions of this Act and to insure financial responsibility on the part of participating counties, municipalities or other political subdivisions of the State.

Authority of Governing Bodies

Sec. 6. The respective governing bodies of the various counties, municipalities or other political subdivisions of the State which are now or shall hereafter become eligible under applicable Federal requirements are hereby authorized to enter into all necessary agreements with the State Agency to enable the employees of the respective counties, municipalities and other political subdivisions to have coverage under the Social Security Act. The respective governing bodies are authorized to pay contributions as required by these agreements from those funds from which the covered employees receive their compensations, and it is expressly provided that all prior laws and parts of laws which fix a maximum compensation for any covered employees of counties are hereby amended to allow payment of the matching contribution necessary to this program in addition to any maximum compensations otherwise fixed by law.

Submission and Approval of Plans

Sec. 7. Each county, municipality or other political subdivision of the State is authorized to submit for approval by the State Agency a plan for extending the benefits of the Federal old-age and survivor's insurance system to employees of the county, municipality or political subdivision. The State Agency shall not finally refuse to approve a submitted plan and shall not terminate an approved plan without reasonable notice and opportunity for

hearing to the affected county, municipality or political subdivision. Each plan shall be approved by the State Agency if it finds it is in conformity with requirements provided in the regulations of the State Agency, except that no plan shall be approved unless:

(a) it is in conformity with requirements of the applicable Federal law and with the Federal-State agreements;

(b) it specifies the source or sources from which the funds necessary to make the payments required are to be derived and contains guarantees that these sources will be adequate for this purpose (the State Agency may by appropriate rules and regulations require guarantees in the form of surety bonds, advance payments into escrow, detailed representations and assurances of priority dedication, or any legal undertakings to create adequate security that each county, municipality and political subdivision will be financially responsible for its share in this program for at least a minimum period equivalent to that specified by Federal requirements to precede coverage cancellation);

(c) provides such methods for administration of the plan by the county, municipality or political subdivision as are found by the State Agency to be necessary for proper and efficient administration;

(d) it provides the county, municipality or political subdivision will make reports in such form and containing such information as the State Agency may from time to time require and will comply with such provisions as the State Agency or appropriate Federal authorities may from time to time find necessary to assure the receipt, correctness and verification of these reports; and

(e) it authorizes the State Agency to terminate the plan in its entirety if it finds there has been a failure to comply with any provision contained in the plan, this termination to take effect at the expiration of such notice and upon such conditions as may be provided by regulations of the State Agency consistent with applicable Federal law.

Contributions; Reports; Delinquencies

Sec. 8. (a) Each county, municipality or other political subdivision as to which a plan has been approved may and shall pay to the State Agency, with respect to employees' wages, contributions in the amounts and at the rates specified by the applicable agreement entered into pursuant to the Federal-State agreement. Counties, municipalities or other political subdivisions required to make such payments are authorized, in consideration of the employees' retention in or entry upon employment, to impose upon its employees as to services which are covered by an approved plan, a contribution with respect to wages in keeping with applicable State and Federal requirements. Contributions so collected shall be paid to the State Agency in partial discharge of the liability of the county, municipality or political subdivision, but failure to deduct contri-

butions from employees' wages shall not relieve the employee or the employer of liability for the contribution. If more or less than the correct amount of any contribution is paid or deducted, adjustments or refunds shall be made in the manner and at the time prescribed by the State Agency. Matching contributions by the employing counties, municipalities or other political subdivisions as prescribed by the approved plan in keeping with Federal requirements shall be paid from the respective sources of funds from which covered employees receive their compensation.

(b) Monthly reports and contributions shall be received by the State Agency on or before the sixth State working day of the month in which the report and contributions are required to be submitted to the Federal Social Security Administration. Quarterly reports and contributions are due and must be received by the State Agency on or before the 15th State working day of the month preceding the month in which the report and contributions are due to the Federal Social Security Administration. Contributions received after the day payment is due and wage reports received after the due date are delinquent and the reporting entity shall pay interest for each and every calendar day of delinquency including the day the delinquent contributions and reports are received by the State Agency. The interest rate shall be at the same rate as the interest rate charged by the Federal Social Security Administration for delinquent payment of contributions. Interest on delinquent contributions shall be deposited in the Social Security Administration Fund.

Assessment and Collection of Contributions

Sec. 9. When the governing body of a county, municipality or other political subdivision elects to enter into an agreement with the State Agency, it shall become the duty of the County Treasurer in the respective counties and of the person or persons who hold comparable positions in the municipalities or other political subdivisions to assess and collect the required contributions of the various employees in the respective counties, municipalities or other political subdivisions and transmit the same to the State Agency. Each plan approved by the State Agency will specify the responsible personnel of the undertaking county, municipality or other political subdivision who will be charged with the duty to make assessments, collections, and reports.

Administrative Expenses

Sec. 10. The respective governing bodies of the various counties, municipalities or other political subdivisions of this State which enter into agreements under this program are hereby authorized to pay to the State Agency, out of any available funds not otherwise dedicated, such amounts, separate and apart from employees' contributions and matching contributions, as may be agreed between the respective governing body and the State Agency to be necessary to finance the county's, municipality's

or other political subdivision's proportionate share in the administrative cost of this program at the State level. The State Agency shall require specific undertakings to defray a proportionate share of the administrative expenses at the State level in agreements negotiated with counties, municipalities or other political subdivisions on any basis mutually agreeable between the State Agency and the participating county, municipality or other political subdivision, whether as an annual fee for each participating county, municipality or other political subdivision, an annual fee per employee covered, a percentage based upon the contributions to the Federal authorities, or any other equitable measure. Annually at the close of each fiscal year, the State Agency shall pay from the Social Security Administration Fund to the State Treasurer for deposit to the General Revenue Fund of the State of Texas an amount not less than ten (10%) per cent of these contributions during the preceding year to defray administrative expenses until such time as the amount appropriated to the State Agency from funds of the State for administrative purposes has been reimbursed in full, at which time such payments shall cease.

Delinquent Payments

Sec. 11. The State Agency may require in agreements with counties, municipalities and other political subdivisions an undertaking to pay legal interest on delinquent payments. The State Agency is empowered to sue to collect any delinquencies and interest thereon in courts of competent jurisdiction. The State Agency may direct the deduction of any delinquent payments with interest from any moneys payable to the delinquent county, municipality or other political subdivision by the State or any department or agency of the State; provided, however, that deductions shall be made only from such prior appropriations as were expressly made subject to such deductions. The Comptroller and the State Treasurer are empowered and directed to comply with the State Agency's deduction directives and to remit the deducted amounts to the State Agency in trust for the contributions of the delinquent county, municipality or other political subdivision.

Social Security Fund; Social Security Administration Fund

Sec. 12. (a) There is hereby established as a special fund, separate and apart from all public moneys or funds of this State, to be known as the Social Security Fund, which shall be administered as directed by the State Agency exclusively for the purposes of this Act. The State Treasurer shall be treasurer and custodian of the fund. He shall administer such fund in accordance with the directions of the State Agency, and the Comptroller shall issue warrants upon it in accordance with such regulations as the State Agency shall prescribe. The State Agency shall deposit all moneys collected under the provisions of this Act, except moneys to defray administrative expenses at the State level, in

the Social Security Fund. All moneys so deposited with the State Treasurer in the Social Security Fund shall be held in trust, separate and apart from all public moneys or funds of this State. The State Agency is vested with full power, authority, and jurisdiction over the fund and may perform any and all acts necessary to the administration thereof and to pay the amounts required to be paid to the appropriate Federal authorities and any refunds or adjustments necessary under this Act.

(b) The State Agency shall deposit all moneys collected under the provisions of this Act from participating counties, municipalities or other political subdivisions to defray the cost of administering this program at the State level in a special fund to be known as the Social Security Administration Fund. The State Treasurer shall be treasurer and custodian of the fund, which shall be held separate and apart from all public moneys or funds of this State. The State Treasurer shall administer this fund in accordance with the directions of the State Agency. Moneys deposited in either of these special funds shall be disbursed upon warrants issued by the Comptroller of Public Accounts pursuant to sworn vouchers executed by the State Agency acting through the executive director of personnel of the agency to whom he expressly delegates this function. These funds will not be State funds and will not be subject to legislative appropriation. This fund may be used to pay interest assessed as a penalty by the Federal Social Security Administration because of delinquent payment of contributions.

Expenditures; Personnel

Sec. 13. The State Agency is authorized to expend moneys in the Social Security Administration Fund for any purpose necessary to carry on the administration of this program at the State level, including but not limited to salaries, traveling expenses, printing, stationery, supplies, equipment, bond premiums, postage, communications, and contingencies, and the State Agency is authorized to employ such personnel, purchase such equipment, incur such expenses as may be necessary to carry out the administration of this program at the State level, provided all salaries and expenditures from this fund shall be consistent with the letter and spirit of comparable items and general provisions in the general departmental appropriation bill then current.

Application of Law to Employees of Political Subdivisions Not Otherwise Provided For

Sec. 13a. All of the provisions of House Bill No. 603, Chapter 500, Acts 52nd Legislature, Regular Session, 1951, as amended by Senate Bill No. 124, Acts 53rd Legislature, Regular Session, 1953,¹ shall be applicable to all such employees of political subdivisions of this State as are not otherwise provided for in said Act if and when a Constitutional Amendment providing for coverage of such employees, as

embodied in House Joint Resolution No. 37, is adopted by vote of the people of this State.

¹ Acts 1953, 53rd Leg., p. 544, ch. 197.

[Acts 1951, 52nd Leg., p. 1480, ch. 500. Amended by Acts 1953, 53rd Leg., p. 544, ch. 197, §§ 1, 2; Acts 1954, 53rd Leg., 1st C.S., p. 129, ch. 58, §§ 1, 2; Acts 1955, 54th Leg., p. 1253, ch. 501, § 1; Acts 1955, 54th Leg., p. 1254, ch. 502, §§ 1 to 4; Acts 1963, 58th Leg., p. 1170, ch. 456, § 1; Acts 1975, 64th Leg., p. 965, ch. 366, § 1(a), eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 1476, ch. 645, §§ 1 to 3, eff. Aug. 27, 1979.]

Art. 695h. Federal Old Age and Survivors Insurance Coverage for State Employees

Definitions

Sec. 1. The following definitions of words and terms shall apply as used in this Act:

(a) The term "Wages" means all remuneration for employment as defined herein, including the cash value of all remuneration paid in any medium other than cash, except that such term shall not include that part of such remuneration which, even if it were for "employment" within the meaning of the Federal Insurance Contributions Act,¹ would not constitute "wages" within the meaning of that Act.

(b) The term "Employment" means any service performed by a State employee except (1) service which in the absence of an agreement entered into under this Act shall constitute "employment" as defined in the Social Security Act;² or (2) service which under the Social Security Act may not be included in an agreement between the State and the Secretary of Health, Education and Welfare entered into under this Act.

(c) The term "State Employee" in addition to its usual meaning shall include elective and appointive officials of the state; and shall not include those persons rendering services in positions the compensation for which is on a fee basis. The term "State Employee" shall not include any employees in positions subject to the Teacher Retirement System except those employed by state departments, state agencies, and state institutions as construed in their usual meaning.

(d) The term "State Agency" means the Employees Retirement System of Texas.

(e) The term "Secretary of Health, Education and Welfare" includes any individual to whom the Secretary of Health, Education and Welfare has delegated any of his functions under the Social Security Act with respect to coverage under such Act of employees of States.

(f) The term "Social Security Act" means the Act of Congress approved August 14, 1935, Chapter 531, 49 Stat. 620, officially cited as the "Social Security Act", (including regulations and requirements issued pursuant thereto), as such Act has been and may from time to time be amended.

(g) The term "Federal Insurance Contributions Act" means subchapter A and B of Chapter 21 of

the Federal Internal Revenue Code of 1954 as such Code has been and may from time to time be amended; and the term "employee tax" means the tax imposed by Section 3101 of such Code of 1954.

(h) The term "State working days" includes all days of the year excluding weekends, and State or National holidays.

¹26 U.S.C.A. § 3101 et seq.

²42 U.S.C.A. § 301 et seq.

Administration of Act

Sec. 2. The Employees Retirement System of Texas is designated the State Agency to administer the provisions of this Act. The Executive Director of the Department shall act for and shall direct and administer its functions under this Act. He is further instructed to negotiate the best possible contract for the employees of the State of Texas.

Agreements to Obtain Coverage

Sec. 3. The State Agency is authorized to enter into agreements with the Secretary of Health, Education and Welfare to obtain Federal Old Age and Survivors insurance coverage for State employees. These agreements may contain such provisions relating to coverage, benefits, contributions, administration and any other appropriate matters consistent with the terms and provisions of this Act as the State Agency and the Secretary of Health, Education and Welfare shall agree.

Contributions by State Agency from Social Security Trust Fund

Sec. 4. The State Agency is authorized to pay contributions as required by these agreements from the Social Security Trust Fund established by Chapter 500, Acts of the 52nd Legislature, Regular Session, 1951, as amended (Article 695g, Vernon's Texas Civil Statutes). The payment of contributions by the State under the program may not be considered compensation under any law of this State.

Contributions by State Employees

Sec. 5. (a) Except as provided by Subsection (b) of this section, the State is required to pay all contributions under this program except that portion of the employee tax which would be imposed by the Federal Insurance Contributions Act¹ if such services constituted employment within the meaning of that Act that is in excess of 5.85 percent of wages, such wages not to exceed \$16,500 in a calendar year. Except as provided by this subsection, any contributions in excess of 5.85 percent of wages, such wages not to exceed \$16,500 in any calendar year, are the obligation of the employee. The Legislature may provide in the General Appropriations Act for the State payment of employee contributions under this program in excess of the amounts required by this subsection. The Legislature may provide for payment at any rate equal to or greater than 5.85 percent of wages and payment computed on any wage base equal to or greater

than \$16,500 a calendar year. If the Legislature provides for State payment of employee contributions in excess of the amounts required by this subsection, a State employee is obligated to pay only the difference between the amount the Legislature provides and the amount required by federal law.

(b) Subsection (a) of this section does not apply to State-paid judges. The State is not required to pay any contributions of State-paid judges under the Federal Insurance Contributions Act. However, the Legislature may provide in the General Appropriations Act for the State payment of State-paid judges' contributions under the Federal Insurance Contributions Act at any rate and on any amount of State-paid compensation that it considers appropriate. There is imposed on the services of State-paid judges which are covered by an agreement with the Secretary of Health and Human Services a contribution with respect to wages (as defined in Section 1(a) of this Act) equal to the amount of the employee tax which would be imposed by the Federal Insurance Contributions Act if such services constituted employment within the meaning of that Act. Any contributions in excess of the State payment, if any, prescribed by the General Appropriations Act are the obligations of the State-paid judges.

(c) Such contributions shall be paid to the Social Security Trust Fund from the respective funds from which covered employees receive their compensation.

(d) The Comptroller of Public Accounts may prorate the State's projected contribution to each employee over the portion of the calendar year that the employee's salary is subject to the Federal Insurance Contributions Act to equalize monthly contributions from the employee during the portion of the year that the salary continues to be subject to FICA taxes.

¹26 U.S.C.A. § 3101 et seq.

Collection of Contributions

Sec. 6. (a) The collection of said employees' contributions shall be as follows:

(1) Each department (including for the purpose of this Act any State office, board, bureau, or agency) of the State shall cause to be deducted on each and every payroll of a covered employee for each and every payroll period beginning on the date of establishment of Social Security coverage for said employee the contributions payable by such employee, as provided in this Act. Each department head of the State shall certify to the proper disbursing officer of said department on each and every payroll a statement of the amount of the employee's contribution which should be deducted from each employee's salary and a statement of the total amount to be deducted from all salaries and shall include the total amount in the payroll voucher. Each department head at the end of each month shall certify to the State Agency copies of said payroll statement

and voucher on forms prescribed by the State Agency.

(2) The proper disbursing officer of each State department on authorization from the department head shall make deductions from salaries of the employees as provided in this Act. The total amount deducted shall be paid by each department head to the State Treasurer as custodian of the Social Security Trust Fund, and the State Treasurer shall deposit said amounts in the Social Security Trust Fund.

(3) If less than the correct amount of an employee's contribution is deducted with respect to any remuneration, the employee shall remain liable therefor.

(4) If more than the correct amount of the employee's contribution is paid or deducted with respect to any remuneration, proper adjustments, or refund, if adjustment is impracticable, shall be made, without interest, in such manner and at such times as the State Agency shall prescribe.

(b) The collection of the State's contribution shall be made as follows:

(1) After September 1, 1978, and after the date of the establishment of Social Security coverage for State employees, there is hereby allocated and appropriated to the Social Security Trust Fund, in accordance with this Act, from the several funds from which the employees benefited by this Act receive their respective salaries, a sum equal to the amount of the contribution to be paid by the State as provided in Sections 4 and 5 of this Act for employees whose compensation is paid from funds in the State Treasury. The State Agency shall certify to the State Comptroller of Public Accounts at the end of each month the total amount of the State's monthly contributions for employees whose salaries are paid from funds in the State Treasury. The State Comptroller after receipt of the certification shall pay the amount to the State Treasurer as custodian of the Social Security Trust Fund. The State Treasurer shall deposit the amounts so received in the Social Security Trust Fund.

(2) Thereafter, on or before the first day of November next preceding each Regular Session of the Legislature, the State Agency shall certify to the Governor for review and adoption the amount necessary to pay the contributions of the State of Texas for the ensuing biennium. This amount shall be included in the budget of the State which the Governor submits to the Legislature. The State Agency shall send a copy to the State Comptroller of Public Accounts of the certification to the Governor.

(3) All moneys hereby allocated and appropriated by the State to the Social Security Trust Fund shall be paid to the Fund in monthly installments.

(4) In those instances in which State employees are paid from funds not in the State Treasury, the department head at the end of each month shall certify to the proper disbursing officer the total

amount of the State's contributions based upon compensation paid the employees. The disbursing officer shall pay that amount to the State Treasurer as custodian of the Social Security Trust Fund. The State Treasurer shall deposit the amounts in the Social Security Trust Fund. A copy of the department heads' certification in these instances shall be given to the State Agency at the same time the original is certified to the disbursing officer. These copies shall be on forms prescribed by the State Agency.

Monthly reports and contributions shall be received by the State Agency on or before the sixth State working day of the month in which the report and contributions are required to be submitted to the Federal Social Security Administration. Quarterly reports and contributions are due and must be received by the State Agency on or before the 15th State working day of the month preceding the month in which the report and contributions are due to the Federal Social Security Administration. Contributions received after the day payment is due and wage reports received after the due date are delinquent and the reporting entity shall pay interest for each and every calendar day of delinquency including the day the delinquent contributions and reports are received by the State Agency. The interest rate shall be at the same rate as the interest rate charged by the Federal Social Security Administration for delinquent payment of contributions. Interest on delinquent contributions shall be deposited in the State Social Security Administration Fund.

Powers and Duties of State Agency

Sec. 7. The State Agency shall have the power to make and publish such rules and regulations, not inconsistent with the provisions of this Act, and to require such reports from the Departments as it finds necessary or appropriate to the efficient administration of the functions with which it is charged under this Act. It is further provided that the State Agency shall certify to the Comptroller of Public Accounts any and all departments which have not filed required reports within the specified time, and the Comptroller of Public Accounts is hereby directed to withhold any salary warrants or expense reimbursement warrants to the heads or any employees of such departments as are on the certified list until such time as the State Agency shall notify the Comptroller that such delinquent reports have been filed. In those instances in which State employees' salaries are paid from funds other than funds in the State Treasury, it shall be unlawful for the disbursing officer of a department to pay any salaries or expense reimbursements after notification by the State Agency that a required report is delinquent; and said disbursing officer shall be personally liable as well as liable on his official bond for payment of salaries or expense reimbursements after notification of delinquency by the State Agency.

State Social Security Administration Fund

Sec. 8. There is hereby created a special fund, separate and apart from all public moneys or funds of this State, to be known as the State Social Security Administration Fund. The State Treasurer shall be treasurer and custodian of the fund and shall administer it in accordance with directions from the State Agency. Money deposited in this fund shall be disbursed upon warrants issued by the Comptroller of Public Accounts pursuant to sworn vouchers executed by the State Agency acting through the executive director or personnel of the agency to whom he expressly delegates this function. This fund may be used to pay interest assessed as a penalty by the Federal Social Security Administration because of delinquent payment of contributions.

Expenditures; Personnel

Sec. 9. The State Agency is authorized to expend moneys in the State Social Security Administration Fund for any purpose necessary to the proper administration of this Act including, but not limited to, salaries, traveling expenses, printing, stationery, supplies, equipment, bond premiums, postage, communications, and contingencies; and the State Agency is authorized to employ such personnel, accountants and attorneys, purchase such equipment, and incur such expenses as may be necessary to carry out the administration of this Act, provided all salaries and expenditures from this fund shall be consistent with the letter and spirit of comparable items and general provisions in the general departmental appropriation bill then current.

Appropriation

Sec. 10. For the purpose of administering the provisions of this Act, there is hereby appropriated from any funds in the State Treasury not otherwise appropriated to the State Social Security Administration Fund the sum of Fifteen Thousand Dollars (\$15,000).

Benefits from both State Employees Retirement Act and Federal Social Security Act; Conflicting Laws Repealed

Sec. 11. Nothing shall prevent any employee from receiving benefits under both the State Employees Retirement Act¹ and the Federal Social Security Act and any law in conflict herewith is repealed to the extent of such conflict.

¹ Article 6228a (repealed; see, now, Title 110B, § 21.001 et seq.).

[Acts 1955, 54th Leg., p. 1188, ch. 467. Amended by Acts 1957, 55th Leg., p. 2, ch. 2, § 1; Acts 1961, 57th Leg., p. 7, ch. 4, § 1; Acts 1975, 64th Leg., p. 965, ch. 366, § 1(b), eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 907, ch. 341, §§ 1 to 3, eff. Aug. 29, 1977; Acts 1978, 65th Leg., 2nd C.S., p. 1, ch. 1, § 1, eff. Aug. 4, 1978; Acts 1979, 66th Leg., p. 1478, ch. 645, §§ 4 to 6, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 3188, ch. 834, § 1, eff. Sept. 1, 1981.]

Art. 695i. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this article, enacts Titles 1 and 2 of the Education Code.

Arts. 695j to 695k. Repealed by Acts 1979, 66th Leg., p. 2429, ch. 842, art. 1, § 2(1), eff. Sept. 1, 1979

Acts 1979, 66th Leg., ch. 842, repealing these articles, enacts the Human Resources Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Human Resources Code.

Art. 695k-1. Repealed by Acts 1983, 68th Leg., p. 1002, ch. 235, art. 4, § 1(b), eff. Sept. 1, 1983

See, now, Human Resources Code, § 101.028.

Art. 695l. Repealed by Acts 1981, 67th Leg., p. 88, ch. 47, § 1, eff. Aug. 31, 1981

Art. 695m. Expired

The expired article, derived from Acts 1977, 65th Leg., p. 280, ch. 135, related to pilot multipurpose service centers for displaced homemakers, and provided for its own expiration on August 31, 1981.

Art. 695n. Employment Incentive Act

Short Title

Sec. 1. This Act may be cited as the Employment Incentive Act.

Definitions

Sec. 2. In this Act:

(1) "AFDC" means aid to families with dependent children authorized by The Public Welfare Act of 1941.¹

(2) "AFDC recipient" means a person who receives or who the State Department of Public Welfare has determined is eligible to receive AFDC payments.

¹ Article 695c (repealed; see, now, Human Resources Code, § 11.001 et seq.)

Employment Program

Sec. 3. The Texas Employment Commission, after consultation with the State Department of Public Welfare, shall establish an employment program designed to assist and encourage AFDC recipients in obtaining employment. The commission shall adopt the rules necessary to implement the employment program consistent with this Act and applicable federal law.

Registration

Sec. 4. (a) Except as provided in Subsection (b) of this section, each AFDC recipient shall register with the commission in the employment program established under Section 3 of this Act.

(b) An AFDC recipient is not required to register if he is in the class of individuals that is exempt from registering for manpower services, training,

and employment under Section 402, Title IV-A of the federal Social Security Act (42 U.S.C. Section 602) and rules adopted pursuant to that law.

Duty of Registrant

Sec. 5. Each registrant shall:

- (1) report to the commission for interview at the reasonable request of the commission;
- (2) furnish the commission with information it requests that is reasonably related to placing the registrant in suitable employment;
- (3) apply for suitable employment as directed by the commission;
- (4) accept any offer of suitable employment; and
- (5) continue in suitable employment obtained after registration until:
 - (A) the work becomes unsuitable;
 - (B) he becomes exempt from the registration requirement as provided in Section 4 of this Act; or
 - (C) he is terminated from the employment due to circumstances beyond his control.

Review of Registrants; Notification of Welfare Department

Sec. 6. (a) The commission shall establish a system of periodic review to determine whether registrants comply with Section 5 of this Act. In each case reviewed, the commission shall determine whether the registrant without good cause failed to comply. Before making its decision, the commission shall give the registrant an opportunity for an adjudicative hearing.

(b) In determining suitability of employment, the commission shall consider the facts and circumstances relative to the particular registrant, including but not limited to his health, his training and education, the degree of risk to his health and safety, his experience and prior earnings, his prospects of securing work in his customary occupation, and the commuting distance and expense.

(c) Employment is not suitable if the commission determines that:

- (1) the compensation, work hours, or other conditions of work are substantially less favorable to the registrant than those prevailing for similar work in the locality;
- (2) as a condition of employment the registrant is required to join, resign from, or refrain from joining a labor organization;
- (3) the work site is subject to a strike or lockout at the time of the offer of employment;
- (4) the degree of risk to the registrant's health or safety is unreasonable;
- (5) the registrant is physically or mentally unfit to perform the work;
- (6) the commuting distance is unreasonable; or

(7) the employment fails to satisfy standards established under applicable federal law.

(d) If the final decision of the commission is that a registrant failed to comply with Section 5 of this Act without good cause, the commission promptly shall give the Commissioner of Public Welfare written notice of the decision. However, if the registrant appeals the decision, the commission shall delay notification pending the final outcome of the appeal.

Loss of AFDC Eligibility; Reinstatement

Sec. 7. (a) If a registrant has failed to comply with Section 5 of this Act without good cause as determined by the commission, the registrant is ineligible to receive AFDC payments. The ineligibility takes effect on the date the commission's decision on the matter becomes final.

(b) AFDC ineligibility resulting from the application of Subsection (a) of this section continues until the registrant's eligibility is reinstated by the commission.

(c) On application by a registrant for reinstatement of AFDC eligibility in the manner prescribed by rule of the commission, the commission shall determine whether to reinstate eligibility.

(d) The commission shall reinstate AFDC eligibility if it finds that the registrant, after having lost eligibility under Subsection (a) of this section, obtained employment of at least 30 hours a week. Before making its decision, the commission shall give the registrant an opportunity for an adjudicative hearing.

(e) On reinstatement of a registrant's AFDC eligibility, the commission shall give the Commissioner of Public Welfare written notice of the reinstatement.

Deduction for Unsuccessful Appeal

Sec. 8. (a) If the final outcome of a registrant's appeal of a decision made by the commission under Section 6 of this Act upholds the commission's decision, the department of public welfare shall deduct the amount of AFDC payments made to the registrant during the pendency of the appeal from any future AFDC payments made to the registrant.

(b) In each case in which a deduction is required under Subsection (a) of this section, the commission shall give the Commissioner of Public Welfare written notice of the time elapsed between the rendering of the commission's decision and the reviewing court's judgment.

Hearings

Sec. 9. The commission, a hearing examiner appointed by the commission, or an appeal tribunal established under the Texas Unemployment Compensation Act (Article 5221b-22b, Vernon's Texas Civil Statutes) may conduct an adjudicative hearing held under this Act.

Venue of Appeal

Sec. 10. Venue in an appeal of a decision made by the commission under this Act is in the district court of the county in which the registrant resides.

Sec. 11. [Adds § 19-B to art. 695c]

Delayed Effective Date

Sec. 12. Sections 5 through 11 of this Act take effect March 1, 1978. Otherwise, this Act takes effect September 1, 1977.

Sunset Provision

Sec. 13. Unless reenacted, the provisions of this Act shall be without effect after August 31, 1987.

[Acts 1977, 65th Leg., p. 749, ch. 281, §§ 1 to 4, 12, 13, eff. Sept. 1, 1977. Amended by §§ 5 to 11, eff. March 1, 1978.]

Art. 695o. Expired

This article, the AFDC Education and Employment Act, expired of its own terms on August 31, 1983.

Art. 695p. Repealed by Acts 1981, 67 Leg., p. 3316, ch. 867, § 3, eff. Sept. 1, 1981

See, now, Human Resources Code, § 51.001 et seq.

Art. 695q. Repealed by Acts 1979, 66th Leg., p. 2443, ch. 842, art. 2, § 24, eff. Sept. 1, 1979

Acts 1979, 66th Leg., ch. 842, repealing this article, enacts the Human Resources Code.

For disposition of the subject matter of the repealed article, see Disposition Table preceding the Human Resources Code.

Art. 695r. Repealed by Acts 1983, 68th Leg., p. 1008, ch. 235, art. 4, § 2(b), eff. Sept. 1, 1983

See, now, Human Resources Code, § 102.001 et seq.

TITLE 21

BOND INVESTMENT COMPANIES

- Art.
696. Deposit.
697. Default of Deposit.
698. Receiver.
699. Interchange of Deposit.
700. Return of Deposit.
700a. Penalty for Violation of Laws.

Art. 696. Deposit

Each corporation, company or individual, doing business in this State as a bond investment company, or company to place or sell bonds, certificates or debentures on the partial payment or installment plan, shall deposit with the State Treasurer, in cash or securities approved by said Treasurer, the sum of five thousand dollars, and shall deposit semi-annually with said Treasurer, in cash or securities, to be approved by said officer, ten percent of all net premiums received until the sum deposited amounts to one hundred thousand dollars.

[Acts 1925, S.B. 84.]

Art. 697. Default of Deposit

If any such domestic corporation, shall fail, for sixty days after its organization, to make with the State Treasurer the deposit required by this title, it shall be considered to have forfeited its charter; and the Attorney General shall upon information thereof, bring suit in the name of the State to have such charter or certificate of incorporation declared forfeited, and the court, upon so finding, shall declare such charter forfeited and appoint a receiver for such company, whose duty it shall be, under the order of the court, to distribute to the shareholders the assets of the company. The court shall out of such assets make equitable compensation for the receiver.

[Acts 1925, S.B. 84.]

Art. 698. Receiver

In case of the failure of any such company, the district court of the county in which the principal office is located, upon the application of one or more shareholders, shall appoint a receiver for such company, whose duty it shall be to wind up its affairs, liquidate its debts, and distribute its assets, using therefor, upon the order of the court, the deposit

previously made with the State Treasurer to secure the shareholders. Said Treasurer is authorized to pay out such deposit upon the warrant of the Comptroller in accordance with requisitions made upon the Comptroller by said receiver, approved by the court.

[Acts 1925, S.B. 84.]

Art. 699. Interchange of Deposit

On request of any such company, the State Treasurer is authorized to permit such company to interchange cash for the securities or securities for the cash deposited by such company under the provisions of this title with said Treasurer, such securities always to be approved by said Treasurer on the written advice of the Attorney General.

[Acts 1925, S.B. 84.]

Art. 700. Return of Deposit

If any such company shall cease to do business in this State and satisfy the Comptroller and the Attorney General that it has no liabilities in this State, the Comptroller shall issue his warrant to the State Treasurer; and said Treasurer upon such warrant of the Comptroller, shall return to such company the cash or securities deposited by it under the provisions of this title.

[Acts 1925, S.B. 84.]

Art. 700a. Penalty for Violation of Laws

Any officer, agent, or representative of any domestic or foreign corporation or company doing business in this State as a bond investment company or company to place or sell bonds, certificates or debentures on the partial payment or installment plan, who shall attempt to place or sell shares or transact any business in the name of or on behalf of such company while it fails to comply with the laws of this State requiring deposits to be made with the State Treasurer, shall be fined not less than one hundred nor more than one thousand dollars, or be imprisoned in jail not less than thirty days nor more than six months, or both.

[1925 P.C.]

TITLE 22

BONDS—COUNTY, MUNICIPAL, ETC.

Chapter	Article	Art.	
1.	General Provisions and Regulations	701	716b. Validating County Bond Issues and Elections Between June 19 and August 17, 1936.
2.	Courthouse, Jail and Other Bonds	718	717. Exceptions.
3.	Public Road Bonds	726	717a. Refunding Indebtedness of Unorganized Counties Since Organized.
4.	Viaducts, Bridges, Etc.	785	717a-1. Refunding Indebtedness of Counties of 100,000 or More; Taxes; Sinking Fund.
5.	Funding, Refunding and Compromises	796	717b. Borrowing from Federal Agencies.
6.	Reclamation and Irrigation Bonds	803	717c. Counties Authorized to Borrow from Federal Agencies and to Levy Tax to Repay Indebtedness.
6a.	Navigation Aid Bonds	822a	717d. Validating County Bonds for Road Construction and Tax Levies.
7.	Municipal Bonds	823	717e. Validating Bonds and Proceedings of Water Improvement Districts, Drainage Districts, and Other Districts and Cities, Towns, etc., Issued for Loans or Grants by Federal Agencies.
8.	Sinking Funds—Investments, Etc.	836	717f. Validation of Election Revoking Authority to Issue Bonds.
9.	State Bonds	842b	717g. Revocation or Cancellation of Authority to Issue Bonds.
CHAPTER ONE. GENERAL PROVISIONS AND REGULATIONS			
Art.			
701.	Shall Hold Election.		717h. Bonds for Repair or Improvement of Toll Bridge Across Rio Grande.
702.	Question Submitted.		717i. Validation of County Bond Elections for Flood Control, Drainage or Irrigation; Issuance of Bonds Under Election Previously Ordered.
703.	Submission of Proposition.		717j. Repealed.
703a.	Use of Bond Proceeds for Other Purposes; Election.		717j-1. Texas Uniform Facsimile Signature of Public Officials Act.
703b.	Use of Unexpended Bond Proceeds for Other Purposes; Election.		717k. State, County, Municipality or Political Subdivision; Issuer of Bonds, Notes, etc.
704.	Time of Election; Notice of Election.		717k-1. Public Securities; Issuance by State, County, Municipality or Political Subdivision; Denominations.
705.	Form of Ballot.		717k-2. Public Securities; Issuance by Public Agencies; Interest Rate.
705a.	Cancellation of Unsold Bonds of Cities or Towns; Election.		717k-3. Refunding Bonds; Issuance by Public Agencies; Approval; Registration; etc.
706.	Maturity Dates.		717k-4. Revenue Bonds; Issuance by Cities, Towns and Villages; Validation of Proceedings.
707.	Interest and Sinking Fund.		717k-5. Validation of Contracts, Warrants and Refunding Bonds Authorized by Counties, Cities or Towns.
708.	Sale Price.		717k-6. Bond Procedures Act of 1981.
708a.	Authorizing Sale of Securities to Reconstruction Finance Corporation.		717l. County Bonds; Taxation to Pay; Surveys, Maps and Plats.
708b.	Defense Bonds and Other United States Obligations; Investment of Bond Proceeds by Political Subdivisions.		717l-1. Contracts to Destroy Paid Certificates, Bonds, Interest Coupons, and Evidences of Indebtedness.
708b-1.	Bond Proceeds Not Usable Because of Labor and Material Shortages; Investment in United States Obligations.		717m. Repealed.
709.	Examination of Bonds, Etc.		717m-1. Declaratory Judgment Concerning Validity of Securities.
709a.	Approval of Bonds of Improvement Districts of Home Rule Cities.		717n. Counties; Issuance of Certificates of Indebtedness.
709b.	Home Rule Cities; Validation of Bonds.		717n-1. Counties over 1,000,000; Issuance of Certificates of Indebtedness for Certain Purposes.
709c.	Home Rule Cities; Advertising Bonds for Sale and Receipt of Bids Before Passage of Ordinance Authorizing Bond Issue.		717o. Local Government Sport Centers.
709d.	Offer for Sale of Bonds, Obligations and Pledges; Submission to Attorney General; Certificate of Validity.		717p. River Authorities Engaged in Distribution and Sale of Electrical Energy.
710.	Registration.		
711.	Special Registration.		
712.	Certificate of Approval.		
713.	Shall Cancel Old Bonds.		
714.	Requisites of Cancellation.		
715.	Evidence of Validity.		
715a.	Replacement for Damaged, Destroyed, Lost or Stolen Bonds.		
715b.	Bond Registration Act.		
716.	Validity of Certain Bonds.		
716a.	Validating Municipal Bond Issues.		

- Art.
717q. Short Term Obligations for Public Utility.
717r. Metropolitan Water Control and Improvement
Districts and Subdistricts; Issuance of Bonds
and Refunding Bonds.

Art. 701. Shall Hold Election

The bonds of a county or an incorporated city or town shall never be issued for any purpose unless a proposition for the issuance of such bonds shall have been first submitted to the qualified voters who are property tax payers of such county, city or town.

[Acts 1925, S.B. 84.]

Art. 702. Question Submitted

In all cases when the governing body of a county, city or town shall order an election for the issuance of the bonds of the county, city or town or of any political subdivision or defined district of a county, city or town, such body shall at the same time submit the question of whether or not a tax shall be levied upon the property of such county, city or town, political subdivision or defined district for the purpose of paying the interest on the bonds and to create a sinking fund for the redemption of the bonds. Bonds issued by the governing body of any such county, city or town, political subdivision or defined district whether required by law to be submitted to the Attorney General for approval or not, may be submitted by such governing body to the Attorney General for his approval in the manner provided for the approval of bonds issued by counties, cities, towns, and in case such bonds are so submitted to the Attorney General they shall be examined by him and approved or disapproved in accordance with laws governing bonds issued by counties, cities or towns, and if approved, such bonds shall be registered by the Comptroller as is provided in such laws.

[Acts 1925, S.B. 84. Amended by Acts 1953, 53rd Leg., p. 369, ch. 95, § 1.]

Art. 703. Submission of Proposition

The proposition to be submitted shall distinctly specify:

1. The purpose for which the bonds are to be issued;
2. The amount thereof;
3. The rate of interest;
4. The levy of taxes sufficient to pay the annual interest and provide a sinking fund to pay the bonds at maturity;
5. The maturity date, or that the bonds may be issued to mature serially within any given number of years not to exceed forty.

[Acts 1925, S.B. 84.]

Art. 703a. Use of Bond Proceeds for Other Purposes; Election

This Act shall apply to all cities, including, but not limited to, home rule cities, which have heretofore issued, sold and delivered bonds for a specific purpose or purposes and such purpose or purposes have been accomplished by other means or have been abandoned and all or a portion of such bond proceeds remain unexpended. In such cases, the governing body of each such city shall be authorized to call and hold an election, in the same manner provided for calling and holding bond elections, for the purpose of submitting to the duly qualified resident electors of such city who own taxable property within said city and who have duly rendered the same for taxation the proposition of whether or not such unexpended funds may be expended for other and different purposes specified in the election resolution or ordinance and the election notice. If a majority of those voting at such election vote in favor of the use of such unexpended funds for such designated purpose or purposes, then the governing body of such city shall be authorized to make such expenditures.

[Acts 1955, 54th Leg., p. 4, ch. 4, § 1.]

Art. 703b. Use of Unexpended Bond Proceeds for Other Purposes; Election

This Act shall apply to all cities, including but not limited to, home rule cities, which have sold and delivered bonds for a specific purpose or purposes and such purpose or purposes have been accomplished by other means or have been abandoned and all or a portion of such bond proceeds remain unexpended. In such cases, the governing body of each such city shall be authorized to call and hold an election, in the same manner provided for calling and holding bond elections, for the purpose of submitting to the duly qualified resident electors of such city who own taxable property within said city and who have duly rendered the same for taxation the proposition of whether or not such unexpended funds may be expended for other and different purposes specified in the election resolution or ordinance and the election notice. If a majority of those voting at such election vote in favor of the use of such unexpended funds for such designated purpose or purposes, then the governing body of such city shall be authorized to make such expenditures.

[Acts 1957, 55th Leg., p. 557, ch. 263, § 1.]

Art. 704. Time of Election; Notice of Election

The time and place or places of holding said election shall be designated in the election order, and such election shall be held not less than fifteen (15) nor more than ninety (90) days from the date of such order. Notice of said election shall be given by posting a substantial copy of the election order at three (3) public places in such county, city, or town, and also at the county courthouse if for a county election and at the city hall if for a city or town election. Such notice shall also be published

on the same day in each of two (2) successive weeks in a newspaper of general circulation published within said county, city, or town, the date of the first publication to be not less than fourteen (14) days prior to the date set for said election. The provisions of this Article shall control over any city charter provisions to the contrary. Except as herein provided, the manner of holding said election shall be governed by the laws governing general elections.

[Acts 1925, S.B. 84. Amended by Acts 1935, 44th Leg., 1st C.S., p. 1558, ch. 382, § 1; Acts 1977, 65th Leg., p. 1395, ch. 561, § 1, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 58, ch. 36, § 1, eff. Aug. 27, 1979.]

Art. 705. Form of Ballot

All voters desiring to support the proposition shall have written or printed upon their ballots the words "For the issuance of bonds," and those opposed, the words "Against the issuance of bonds."

[Acts 1925, S.B. 84.]

Art. 705a. Cancellation of Unsold Bonds of Cities or Towns; Election

Sec. 1. Any incorporated city or town in this State, including cities incorporated under the Home Rule Provisions of the Constitution and Laws of Texas, which has heretofore or may hereafter vote in favor of or execute bonds which have been or may be unsold for a period of ten (10) or more years after the same have been or may be executed, may revoke and cancel such bonds at an election called by the governing body of any such city or town upon its own motion or upon petition of not less than ten per cent (10%) of the qualified property taxpaying voters voting in the last preceding city election, shall order an election to determine whether or not such bonds shall be revoked or cancelled. None but qualified taxpaying voters may vote at such an election. Such election shall be ordered and held on a date stated in such order not less than twenty (20) nor more than thirty (30) days from the date of such order and notice thereof shall be given for fifteen (15) days before such election by publication of the notice thereof in some newspaper published in such city or town and such election shall be held and conducted in the same manner and form as required in elections to authorize the issuance of such bonds. Those voting to revoke and cancel such bonds shall have written or printed on their ballot: "FOR revocation of the bonds"; and those voting not to revoke or cancel such bonds shall have written or printed on their ballot: "AGAINST revocation of the bonds."

Sec. 2. The result of such election, whether favorable to the cancellation of such bonds or not, shall be duly recorded by the governing body of said city or town, and the returns thereof and the result duly entered on record in the minutes of said governing body, and in the event the result of such election for the cancellation and revocation of such bonds shall show that a majority of the qualified

resident property taxpaying voters of such city or town, voting at such election, have voted for the cancellation and revocation of such unsold bonds, the governing body shall cancel and burn all such executed bonds, and forward to the Comptroller a certified copy of the minutes showing such revocation, cancellation and destruction. The Comptroller shall thereupon cancel the registration of said bonds on the records of his office.

Sec. 3. When said bonds have been destroyed the governing body of such city or town shall readjust the existing tax levies in such city or town by an amount equal to that levied or proposed to be levied for interest and sinking fund accounts of the bonds to be cancelled.

Sec. 4. After deducting any claims properly chargeable against such taxes, the unexpended part of all taxes that have been collected, with the view to the sale of such bonds as destroyed, shall be refunded to the taxpayers ratably upon order of the governing body. The City Treasurer shall take and file proper receipts for all funds so refunded.

Sec. 5. Nothing in this Act shall be construed as invalidating any bond election or any bonds which have been sold by such city or town.

[Acts 1947, 50th Leg., p. 675, ch. 340.]

Art. 706. Maturity Dates

Bonds may be issued to mature serially within any given number of years not to exceed forty, within the discretion of the governing body issuing the same.

[Acts 1925, S.B. 84.]

Art. 707. Interest and Sinking Fund

When the issuance of bonds has been authorized, the governing body of a county or town shall provide for the levy and collection of a tax annually sufficient to pay the annual interest and provide a sinking fund for the payment of the bonds at maturity. Such bonds shall bear a rate of interest not exceeding six per cent.

[Acts 1925, S.B. 84.]

Art. 708. Sale Price

Bonds shall never be sold at less than their par value and accumulated interest, exclusive of commissions.

[Acts 1925, S.B. 84.]

Art. 708a. Authorizing Sale of Securities to Reconstruction Finance Corporation

Whenever any county, district, city or town, or other municipality or defined subdivision of this State shall own bonds or other securities, or warrants, notes or other obligations or evidences of indebtedness of any other county, district, city or town, or other municipality or defined subdivision of this State, the same may be sold to the Reconstruction Finance Corporation or any other agency of the

United States of America or department of the Federal Government at such price, whether or not less than the par or face amount thereof, as shall seem to the governing body of the seller to be reasonable and for the best interests of the seller.

[Acts 1935, 44th Leg., p. 705, ch. 301, § 1.]

Art. 708b. Defense Bonds and Other United States Obligations; Investment of Bond Proceeds by Political Subdivisions

That any political subdivision of the State of Texas which heretofore has issued and sold bonds and is unable to obtain labor and materials to carry out the purpose for which the bonds were issued may invest the proceeds of such bonds now on hand in defense bonds or other obligations of the United States of America; provided, however, that whenever war time or any other regulations shall permit such political subdivisions to acquire the necessary labor and materials, the obligations of the United States in which said proceeds are invested shall be sold or redeemed and the proceeds of said obligations shall be used for the purpose for which the bonds of any such political subdivision were authorized.

[Acts 1943, 48th Leg., p. 211, ch. 131, § 2.]

Art. 708b-1. Bond Proceeds Not Usable Because of Labor and Material Shortages; Investment in United States Obligations

Any political subdivision of the State of Texas which heretofore has issued and sold bonds and is unable to obtain labor and materials to carry out the purposes for which the bonds were issued may invest the proceeds of such bonds now on hand in government bonds or other obligations of the United States of America; provided, however, that whenever conditions shall permit such political subdivisions to acquire the necessary labor and materials the obligations of the United States in which said proceeds are invested shall be sold or redeemed and the proceeds of said obligations shall be used for the purposes for which the bonds of any such political subdivision were authorized.

[Acts 1947, 50th Leg., p. 388, ch. 216, § 2. Amended by Acts 1949, 51st Leg., p. 710, ch. 373, § 1.]

Art. 709. Examination of Bonds, Etc.

Before any bonds shall be offered for sale, the county judge or the mayor, as the case may be, shall forward the bonds to the Attorney General, together with a certified copy of the order or ordinance levying the tax to pay the interest and provide a sinking fund, and a statement of the total bonded indebtedness of the county, city or town, including the series of bonds proposed, together with the amount of the assessed value of the property of the county, city or town for purposes of taxation as shown by the last official assessment of such county, city or town. Such county judge or

mayor shall also furnish the Attorney General with any additional information he may require.

[Acts 1925, S.B. 84.]

Art. 709a. Approval of Bonds of Improvement Districts of Home Rule Cities

Bonds issued by the governing body of any home rule city for and on behalf of an improvement district created within said city under the provisions of the home rule charter may be submitted to the Attorney General for his approval in the manner provided for the approval of bonds issued by cities and towns, and when so submitted such bonds shall be examined by the Attorney General and approved or disapproved in accordance with the laws governing bonds issued by cities and towns, and if approved, such bonds shall be registered by the Comptroller as in the case of bonds issued by cities and towns.

[Acts 1953, 53rd Leg., p. 753, ch. 301, § 1.]

Art. 709b. Home Rule Cities; Validation of Bonds

Sec. 1. All bonds heretofore authorized by any Home Rule City in the State of Texas which pledge the revenues of its water, sewer, or electric systems, or any combination of the revenues of such systems, and any and all proceedings pertaining to the authorization and issuance thereof, are hereby validated, ratified, approved and confirmed notwithstanding any lack of charter or statutory authority of such city, or the governing body thereof to authorize and issue such bonds and make such pledge of revenue or revenues, and notwithstanding the fact that the election might not have been ordered and held in all respects in accordance with the provisions of the charter or statutes, and the issuance, sale and delivery of such bonds are hereby authorized and approved irrespective of the fact that any such city may be engaged in any suit or litigation questioning the power of such city to annex territory wherein the validity of its Home Rule Charter and the authority of the governing body to function under such Home Rule Charter may be contested or under attack in such suit or litigation; and such bonds, when approved by the Attorney General and registered by the Comptroller of Public Accounts of the State of Texas, and sold and delivered, in accordance with law, shall be binding, legal, valid and enforceable obligations against the revenues so encumbered, and the bonds shall be incontestable.

Sec. 2. This Act shall apply only to such bonds as were authorized at an election or elections where in a majority of the voting qualified property tax-paying voters who had duly rendered their property for taxation voted in favor of the issuance thereof.

Sec. 3. This Act shall not be construed as validating any such proceedings or bonds issued or to be issued, the validity of which is contested or under attack in any suit or litigation pending at the time

this Act becomes effective, if such suit or litigation is ultimately determined against the validity of the proceedings or bonds, except insofar as such proceedings or bonds might be affected by any such city being engaged in any suit or litigation questioning the power of such city, or the governing body thereof, to annex territory wherein the validity of its Home Rule Charter and the authority of the governing body to so function under such Home Rule Charter may be contested or under attack.

[Acts 1961, 57th Leg., p. 175, ch. 92.]

Art. 709c. Home Rule Cities; Advertising Bonds for Sale and Receipt of Bids Before Passage of Ordinance Authorizing Bond Issue

Sec. 1. This Act shall be applicable to any Home Rule City having a charter which provides that bonds issued by the city shall be advertised for sale after the bonds have been authorized and issued.

Sec. 2. In order for the city to receive competitive bids on the interest rate its bonds are to bear, as well as on the amount of the premium, the governing body of any city to which this Act is applicable shall advertise its bonds for sale and receive bids therefor before the passage of the ordinance authorizing the issuance of the bonds.

[Acts 1961, 57th Leg., p. 571, ch. 268.]

Art. 709d. Offer for Sale of Bonds, Obligations and Pledges; Submission to Attorney General; Certificate of Validity

When any county bonds, or the bonds of any incorporated city, independent or common school district, road precinct, drainage, irrigation, navigation and levee districts, or obligations and pledges of the University of Texas are offered for sale, the party offering, or proposing to sell, such bonds, obligations, and pledges shall first submit them to the Attorney General, who shall carefully inspect and examine the same in connection with the law under which they were issued, and shall diligently inquire into the facts and circumstances so far as may be necessary to determine the validity thereof; and, upon being satisfied that such bonds, obligations, and pledges were issued in conformity with law, and that they are valid and binding obligations, he shall thereupon certify to their validity, and his certificate to that effect, so procured by the party offering such bonds, obligations, and pledges as the case may be, shall be submitted to the Comptroller or State Board of Education with the bonds, obligations, and pledges so offered for sale, and shall be carefully preserved by the Comptroller. If the same be purchased from the county, city, precinct, or district issuing the same or from the University of Texas, or from any person authorized to act for it in the negotiation or sale of the same, they shall thereafter be held to be valid and binding obligations in every action or proceeding in which their validity is or may be called in question, unless fraudulently issued, or issued in violation of the

constitutional limitation. In every such action, such certificate of the Attorney General shall be admitted and received as prima facie evidence of the validity of such bonds, obligations, or pledges, and coupons thereto, which may have been so purchased.

[Acts 1925, S.B. 84. Amended by Acts 1929, 41st Leg., p. 573, ch. 278, § 1. Renumbered from art. 2670 by Acts 1971, 62nd Leg., p. 3024, ch. 994, § 16(a), eff. Aug. 30, 1971.]

Art. 710. Registration

When said bonds have been examined and certified by the Attorney General, they shall be registered by the Comptroller in a book kept for that purpose.

[Acts 1925, S.B. 84.]

Art. 711. Special Registration

The Comptroller shall indorse his certificate of registration on each city bond so registered, and at the request of the mayor, give his certificate to the amount of bonds so registered to date.

[Acts 1925, S.B. 84.]

Art. 712. Certificate of Approval

The certificate of the Attorney General to the validity of such bonds shall be preserved of record.

[Acts 1925, S.B. 84.]

Art. 713. Shall Cancel Old Bonds

In the case of funding or refunding bonds, the Comptroller shall not register the same until the original bonds are presented to him for cancellation.

[Acts 1925, S.B. 84.]

Art. 714. Requisites of Cancellation

After registration of the new bonds, the Comptroller shall cancel the old, and deliver the new bonds to the proper party or parties. The old bonds may be presented for cancellation in installments, and a like amount of the new bonds registered and delivered as herein provided.

[Acts 1925, S.B. 84.]

Art. 715. Evidence of Validity

Such bonds, after receiving the certificate of the Attorney General, and having been registered in the Comptroller's office, shall be held in every action, suit or proceeding in which their validity is or may be brought into question, prima facie valid and binding obligations. In every action brought to enforce collection of such bonds, the certificate of the Attorney General, or a duly certified copy thereof, shall be admitted and received in evidence of its validity, together with the coupons attached thereto. The only defense which can be offered against the validity of such bonds shall be forgery or fraud. This article shall not be construed to give validity to any such bonds as may be issued in excess of the

limit fixed by the Constitution, or contrary to its provisions.

[Acts 1925, S.B. 84.]

Art. 715a. Replacement for Damaged, Destroyed, Lost or Stolen Bonds

Sec. 1. This Act shall be applicable to (and the term "issuer" as used in this Act shall mean and include) the State of Texas, or any department, agency or instrumentality of the State of Texas or any county, municipal corporation, taxing district or other political district or subdivision of the State of Texas having power to borrow money and issue bonds.

Sec. 2. Any issuer may issue a replacement bond to be exchanged for any damaged or mutilated bond theretofore lawfully issued and which at the time of exchange is outstanding, and may also issue a replacement bond for any bond theretofore lawfully issued and which is outstanding to replace any such bond which has been destroyed, lost or stolen, without an election. Any bond issued to replace a destroyed, lost or stolen bond, shall be issued upon indemnity satisfactory to the issuer, and to the Trustee if such bond is secured by a Trust Indenture. The issuer may require an affidavit or any other form of evidence satisfactory to the issuer to establish proof of ownership and the circumstances of the loss, theft, destruction, mutilation or damage of such bond.

Sec. 3. Any bond issued pursuant to the provisions of this Act shall be of like tenor and effect as the bond which it is issued to replace, except that such replacement bond shall bear a date specified by the issuer and shall be signed manually, or in facsimile, as provided by law, by the officers of the issuer holding office at the time of issuance of the replacement bond.

Sec. 4. Any such replacement bond shall be submitted to the Attorney General for his approval. If the Attorney General finds that such bond has been issued in accordance with the provisions of this Act he shall approve same and shall transmit any such bond to the Comptroller of Public Accounts for registration. The Comptroller shall register any such replacement bond in the same manner as the original bond was registered, giving it the same registration number as the original bond, except that such number shall be preceded by the letter R. The Comptroller shall date his registration certificate as of the date of registration of the replacement bond. Prior to registration of a bond issued to replace a mutilated or damaged bond, the Comptroller shall cancel the bond being replaced and return same to the issuer. The Comptroller shall register other bonds authorized herein upon certification from the Attorney General that such bond is being issued to replace a bond which has been lost, stolen or destroyed.

Sec. 5. This Act shall be cumulative of all existing laws relating to the issuance of bonds.

[Acts 1965, 59th Leg., p. 701, ch. 334, eff. Aug. 30, 1965.]

Art. 715b. Bond Registration Act

Citation of Act

Sec. 1. This Act may be cited as the "Bond Registration Act."

Definitions

Sec. 2. As used in this Act:

(1) "Comptroller" means the comptroller of public accounts.

(2) "Fully registrable" means, with reference to the public securities, that the principal of and interest on such securities are payable only to the registered owner thereof, the principal thereof being payable upon presentation of the securities at the place of payment and the interest thereon being payable to the registered owner at the most recent address of said registered owner shown on the books of the registrar.

(3) "Issuer" means the State of Texas, any department, board, agency, or instrumentality of the State of Texas, any municipal corporation, any political subdivision, any district, authority, or any other political corporation of the State of Texas having the authority to issue public securities.

(4) "Public securities" means bonds, notes, certificates of obligation, certificates of indebtedness, or other obligations for the payment of money lawfully issued by an issuer.

(5) "Registered owner" means the payee named in a fully registrable public security, his legal representative or successor.

(6) "Registrar" means the comptroller of public accounts or a commercial bank or issuer-registrar meeting the requirements of this Act which is named as registrar in the proceedings authorizing public securities.

(7) "Issuer-Registrar" shall mean an incorporated city, operating under a home-rule charter adopted pursuant to Article XI, Section 5, of the Constitution of Texas, and having a population in excess of 100,000 according to the most recent official census published by the U.S. Bureau of the Census, which is named as registrar in the proceedings authorizing issuance of its public securities.

Form of Public Securities; Denomination

Sec. 3. (a) Any issuer may provide in the proceedings authorizing the issuance of public securities that such public securities may be in a form:

(1) having appertaining thereto coupons and being unregistrable;

(2) having appertaining thereto coupons and being registrable as to principal only; or

(3) being fully registrable. Such proceedings may provide that public securities of the same issue or series may be of one or more of such types and may be exchangeable in whole or in part for one or more of such types.

(b) Any issuer may also provide in the proceedings authorizing the issuance of public securities that such public securities shall be in a form having initially appertaining thereto coupons and being permitted to become fully registrable in accordance with Section 5 of this Act.

(c) Public securities may be issued in any denomination or denominations, provided that if such public securities are authorized to be in a denomination or denominations in excess of \$1,000, they shall be in a denomination or denominations that are multiples of \$1,000.

Registrar of Securities; Rules and Regulations

Sec. 4. If the proceedings authorizing public securities provide that such securities can be fully registrable, the registrar therefor shall be the comptroller, an issuer-registrar, or a banking corporation or association at which the principal of such public securities shall be payable. They may be registered under such reasonable rules and regulations not inconsistent herewith as such proceedings may provide.

Comptroller as Registrar: Attachment or Removal of Coupons

Sec. 5. If the comptroller of public accounts is named the registrar in proceedings authorizing the issuance of public securities, in accordance with such proceedings such public securities may be originally issued with coupons appertaining thereto and subsequently become fully registrable by the removal by the comptroller of the coupons appertaining thereto upon the presentation of the securities to the comptroller, and may be originally issued fully registrable and subsequently become public securities with coupons appertaining thereto by attachment of the coupons appertaining thereto by the comptroller upon presentation of such securities to the comptroller. Such attachment and removal may occur successively from time to time. No matured coupon will be attached or reattached by the comptroller.

Exchange or Change in Form of Securities

Sec. 6. (a) If the proceedings authorizing the issuance of public securities provide or have heretofore provided that such public securities having appertaining thereto coupons or being fully registrable may be exchanged or such public securities change form by attachment or removal of coupons in accordance with Section 5 hereof, and such public securities on initial issuance are approved by the attorney general in accordance with law and registered by the comptroller, upon exchange or their change in form by attachment or removal of coupons in accordance with this Act, it shall not be

necessary for the attorney general to again approve and it shall not be necessary for the comptroller to again register such public securities, resulting from such exchange or change in form, but the public securities resulting from such exchange or change in form shall as a matter of law be considered as having been approved by the attorney general and registered by the comptroller.

(b) If such public securities are exchanged, the registrar shall cause to be placed on the public securities received in exchange an appropriate inscription manually signed verifying that the public securities received in exchange are in lieu of the public securities presented for exchange.

Change of Registered Owner or Address; Replacement for Damaged, Destroyed, Lost or Stolen Bonds: Form and Identity Changes

Sec. 7. (a) If the comptroller is named as registrar in the proceedings authorizing the issuance of public securities, upon the change on the registration books of the registrar of the registered owner or his address, the comptroller shall notify all places of payment with reference to such change or changes.

(b) In the event application is made to the comptroller for the replacement of damaged, destroyed, lost, or stolen bonds, pursuant to Chapter 334, Acts of the 59th Legislature, Regular Session, 1965 (Article 715a, Vernon's Texas Civil Statutes), and any such bond or bonds as described in said application do not appear in the comptroller's records in the form and bear the identity as originally registered by the comptroller, the applicant for such replacement shall furnish the comptroller a chronology of the changes from the original, registered form and identity as to enable the comptroller, under regulations promulgated by him to effect such purpose, to trace the changes in form and identity by such chronology, of such bond or bonds into the original, registered form and identity.

Cost and Expenses for Registration and Exchange of Securities

Sec. 8. Where the proceedings authorizing public securities provide for public securities to be fully registrable whether initially or through exchange or conversion, such proceedings shall provide to the extent the issuer is to pay the cost and expenses in connection with the registration and exchange of such public securities including the fees of the registrar therein named. The comptroller shall adopt reasonable regulations for his performing the services provided for herein, and shall publish a schedule of fees for performing such services.

Cumulative Effect; Conflicting Provisions

Sec. 9. (a) The provisions of this Act shall be cumulative of all laws or parts of laws, general or special, and specifically are not intended to qualify the Texas Uniform Commercial Code or limit the negotiability of public securities as provided therein.

(b) In the event of conflict between the provisions of this Act and the provisions of any city charter the provisions of this Act shall prevail.

Severability

Sec. 10. If any provision of this Act or the application thereof to any person, political subdivision, or circumstances is held invalid, such invalidity shall not affect any other provision or application of this Act, which can be given effect without the invalid provisions or application, and to this end the provisions of the Act are declared to be severable.

[Acts 1975, 64th Leg., p. 1132, ch. 431, § 1, eff. June 19, 1975. Amended by Acts 1983, 68th Leg., p. 5288, ch. 972, § 1, eff. Aug. 29, 1983.]

Section 2 of the 1983 amendatory act provides:

"If any word, phrase, clause, sentence, paragraph, section, or other part of this Act or the application thereof to any person or circumstance shall ever be held to be invalid or unconstitutional by a court of competent jurisdiction in this state, the remainder of the Act and application of such word, phrase, clause, sentence, paragraph, section, or other part of this Act to other persons or circumstances shall not be affected thereby."

Art. 716. Validity of Certain Bonds

No bonds or coupons legally and lawfully issued and signed by the duly authorized officers of any county, city, town, political subdivision, defined district, water improvement district or water control district or any school district of this State, shall ever be held invalid by reason of the fact that at the time of the actual delivery of such bonds to a purchaser, such bonds or coupons had been signed or executed by different officers acting in the same capacity or when such bonds or coupons had been signed or executed by officers who had succeeded other officers who had executed or signed a part of said bonds or coupons, nor shall any such bonds ever be held invalid by reason of the fact that at the time of the actual delivery of such bonds to the purchaser, the respective persons who had signed such bonds or coupons, or any part thereof, may have been replaced in their respective offices by other persons after the signing of such bonds or coupons or any part thereof and before the delivery thereof, and any officer acting in the same official capacity as his predecessor, shall have the same right to complete the execution of such bonds and their issuance in the manner and form as provided by law and to the same extent as did his predecessor and it shall be lawful for the official board or managing body of any such political subdivision or district to select in the manner provided by law another official or person in whom may be vested the authority and duty of the execution of such bonds and/or coupons and of issuing such bonds and completing the record in respect thereto, provided, however, such action or actions shall be set forth in the records of said subdivision or district.

[Acts 1925, S.B. 84. Amended by Acts 1929, 41st Leg., 3rd C.S., p. 237, ch. 6, § 1.]

Art. 716a. Validating Municipal Bond Issues

Sec. 1. This Act may be cited as "The 1935 Validating Act."

Sec. 2. The following terms, whenever used or referred to in this Act, shall have the following meaning:

(a) The term "public body" means a Water Control and Improvement District, Water Improvement District, Irrigation District, Conservation and Reclamation District, Navigation District, Road District, School District, County, City or Incorporated town of this State.

(b) The term "bonds" includes bonds, notes, warrants, debentures, certificates of indebtedness, temporary bonds, temporary notes, interim receipts, interim certificates and all instruments or obligations evidencing or representing indebtedness, or evidencing or representing the borrowing of money, or evidencing or representing a charge, lien or encumbrance on specific revenues, income or property of a public body, or including all instruments or obligations payable from a special fund.

Sec. 3. All bonds heretofore issued for the purpose of financing or aiding in the financing of any work, undertaking or project by any public body to which any loan or grant has heretofore been made by the United States of America through the Federal Emergency Administrator of Public Works for the purpose of financing or aiding in the financing of such work, undertaking or project, including all proceedings for the authorization and issuance of such bonds, and the sale, execution and delivery thereof, are hereby validated, ratified, approved and confirmed, notwithstanding any lack of power (other than constitutional) of such public body, or the governing board or commission or officers thereof, to authorize and issue such bonds, or to sell, execute or deliver the same, and notwithstanding any defects or irregularities (other than constitutional) in such proceedings, or in such sale, execution or delivery; and such bonds are and shall be binding, legal, valid and enforceable obligations of such public body.

Sec. 4. Provided however, that the provisions of this Act shall not be construed as validating any such proceedings, or bonds or other obligations issued by virtue thereof, where the validity of any such proceedings or obligations or bonds issued thereunder has been contested or attacked in any pending suit or litigation.

[Acts 1935, 44th Leg., 1st C.S., p. 1561, ch. 384.]

Art. 716b. Validating County Bond Issues and Elections Between June 19 and August 17, 1936

All proceedings heretofore had by the governing bodies of all counties, between June 19, 1936 and August 17, 1936, both inclusive, in the State of Texas in connection with the issuance of bonds for any purpose, including the orders for and notices of

elections, the conduct and returns of elections, and the canvassing of such returns of such elections, and the bonds heretofore or hereafter issued pursuant thereto, are hereby in all things fully validated, confirmed, approved and legalized, including among others, instances wherein there have been irregularities in the calling of elections and the giving of notice of elections, notwithstanding the fact that the election order designated a time for holding the election on a day more than thirty (30) days from the date of such order, and notwithstanding the fact that the notice of election was posted within such county instead of having been both posted and published in a newspaper of general circulation, and not withstanding the fact that both such irregularities have occurred in connection with the same election. All bonds issued pursuant to such proceedings, when approved by the Attorney General of the State of Texas, registered in the office of the Comptroller of Public Accounts, and delivered to the purchasers thereof, shall constitute valid and binding obligations of such county. All tax levies made by such governing bodies for the purpose of paying the principal of and interest on such bonds, are hereby in all things validated, confirmed, approved and legalized.

Provided, however, that the provisions of this Act shall not apply to any such proceedings or obligations issued thereunder, the validity of which is being contested or attacked in any suit or litigation pending at the time this Act becomes effective, or that may be filed sixty (60) days after the effective date hereof and shall not validate any levy, assessment of valuation made or placed on any property where any suit, as aforementioned, shall be or shall have been filed within the time aforementioned. [Acts 1936, 44th Leg., 3rd C.S., p. 2098, ch. 504, § 1.]

Art. 717. Exceptions

The first three Articles of Chapter 1, Title 22, Revised Civil Statutes of Texas, 1925, shall not apply to refunding bonds issued, or to be issued, for the refunding of any valid outstanding bonds of a county, city, or town; nor to any bond issue for a sum less than Two Thousand (\$2,000.00) Dollars, when issued for the purpose of repairing buildings or structures for the building of which bonds are allowed to be issued; provided, however, that the aggregate principal amount of bond issues for the repairing of such buildings and structures shall never in any one calendar year exceed Two Thousand (\$2,000.00) Dollars.

[Acts 1925, S.B. 84. Amended by Acts 1951, 52nd Leg., p. 67, ch. 40, § 1.]

Art. 717a. Refunding Indebtedness of Unorganized Counties Since Organized

Issuance of Refunding Bonds; Taxes and Sinking Fund

Sec. 1. That the Commissioners Court of any organized county in this State which was unorga-

nized at the time¹ taking the next preceding United States Census, and which had a population of less than one hundred at the time of said census, is authorized and empowered to fund into the bonds of any such county such legal indebtedness of the county which is evidenced by the legally issued and outstanding warrants and scrip of such county issued for any purpose, as authorized by law, and which indebtedness existed on January 1st 1929. Said refunding bonds may be issued by the Commissioners court of any such county, payable serially or otherwise, within a period of time not exceeding forty years as the court may direct, and shall bear interest at a rate of not more than six per cent per annum, payable annually or semiannually; the rate of interest and payment dates to be determined by the Commissioners Court of such counties, to be issued in such denominations as may be prescribed by the Commissioners Court of such counties. At the time of the passage of an order of the Commissioners Court, authorizing the issuance of such bonds, it shall be the duty of the Commissioners Court of such counties to levy an annual Ad Valorem tax on all taxable property within the county sufficient to provide for the payment of the interest on such bonds and to create a sinking fund with which to pay the principal thereof as it matures; and in such cases it shall not be necessary to submit the question of the issuance of said refunding bonds to a vote of the people. The Commissioners Court of such counties are¹ authorized to issue said bonds in exchange for like amounts of the outstanding warrants or scrip of said counties as existed on January 1st 1929. Said bonds, when executed shall be approved by the Attorney General of the State of Texas and shall be registered by the Comptroller as in the case of other legally authorized refunding bonds.

Limitation on Warrants or Indebtedness

Sec. 2. From and after the taking effect of this act, it shall be unlawful for the Commissioners Court of any county coming within the provisions of this act to issue or cause to be issued any warrants, scrip, or evidence of indebtedness, or to create any debt against the road and bridge fund of such county, except as authorized by this act, in excess of the current revenues for said county road and bridge purposes; provided that in case of great calamity or urgent public necessity, said court may issue warrants against the road and bridge fund in excess of the current revenues for the purpose of repairing roads and building bridges occasioned by such calamity or urgent public necessity, but in no instance shall such warrants exceed the limitations provided by the constitution and laws of this State; and provided further that no warrant shall be issued for such purposes until first authorized by order passed by said court, and provided further that said order shall recite fully the necessity therefor and particularly specify the several purposes for which said warrants are to be issued, which said order shall be published at least one time in some newspa-

per published in said county before said warrants are issued. If no newspaper is being published in said county, then in some newspaper in an adjoining county nearest the county seat of said county.

[Acts 1929, 41st Leg., p. 503, ch. 240.]

¹ So in enrolled bill.

Art. 717a-1. Refunding Indebtedness of Counties of 100,000 or More; Taxes; Sinking Fund

Sec. 1. The Commissioners Court of any county in this State, having a population of one hundred thousand (100,000) inhabitants, or more, according to the last preceding Federal Census, shall have the power to issue bonds for the purpose of refunding any and all outstanding indebtedness of such county, chargeable against the General Fund which existed on April 30, 1941. Items of indebtedness as of said date, in the form of scrip or time warrants, either or both, may be included in such refunding bond issue. Such refunding bonds may be issued by the Court payable serially, or otherwise, within a period of time not exceeding thirty (30) years as the Court may direct, and shall bear interest at a rate not to exceed five (5) per centum per annum, interest payable annually or semiannually as may be determined by the Court; provided, however, that the amount of bonds issued under this Act shall never reach an amount where a tax of Five (5) Cents on the one hundred dollars valuation of property will not pay current interest and provide a sinking fund sufficient to redeem them at maturity; and, provided further, that said refunding bonds shall have been first authorized by a majority vote cast by the duly qualified property taxpaying voters voting at an election held for that purpose.

Sec. 2. That said Commissioners Courts are further authorized and empowered to levy (within the maximum rate hereinabove prescribed) a tax upon all real and personal property situated in such county, out of the tax of Twenty-five (25) Cents authorized for county purposes by Section 9 of Article 8 of the Constitution of Texas, sufficient to pay the principal of and interest on such bonds, if voted or authorized as herein provided, and no bonds shall be issued under this Act until a tax levy, as herein provided, shall have been made, and when said levy shall have been so made, the same shall continue in force until the whole amount of the principal of and interest on such bonds shall have been fully paid.

Sec. 3. The general laws relative to county refunding bonds, not in conflict with the provisions of this Act, shall apply to the issuance, approval, and certification, and the registration of the bonds provided for in this Act.

Sec. 4. If any section, clause, or phrase of this Act is held to be unconstitutional, such decision shall not affect the remaining portion of this Act.

[Acts 1941, 47th Leg., p. 793, ch. 492.]

Art. 717b. Borrowing from Federal Agencies

Any governmental agency and/or municipality of the State of Texas, heretofore authorized to borrow money from the Reconstruction Finance Corporation under Acts of the 43rd Legislature and prior Acts is also authorized to borrow money in accordance with the provisions of the several Acts of the 43rd Legislature and prior Acts from any other Federal Agency now or to be hereafter created.

[Acts 1933, 43rd Leg., p. 601, ch. 198, § 1.]

Art. 717c. Counties Authorized to Borrow from Federal Agencies and to Levy Tax to Repay Indebtedness

Borrowing and Receiving Grants Authorized; Restrictions

Sec. 1. All counties in this State acting by and through their respective Commissioners Courts may borrow money and/or receive grants of money from the Federal Emergency Administrator of Public Works or any other Federal agency that may be provided for similar purposes under the terms and provisions, and in accordance with the provisions of the Act of the Congress of the United States commonly known as the "National Industrial Recovery Act."¹ Provided that all actions taken by the Commissioners Courts in carrying out the provisions of this Act shall be done in accordance with, and subject to all the restrictions of Chapter 163 of the Acts of the Forty-second Legislature,² and nothing in this Act shall be construed as repealing any of the provisions of House Bill No. 312, passed by the Regular Session of the Forty-second Legislature.²

¹ Act June 16, 1933, ch. 90, 48 U.S.Stat. 195.

² Article 2368a.

Security for Repayment

Sec. 2. When any such money is borrowed as authorized and provided in Section 1 hereof for any purpose for which counties in this State may create an indebtedness and levy a tax to pay such indebtedness under the Constitution and laws of this State the repayment of such loan by such county making the loan may be secured in the following manner:

(a) Such county or counties may sell or pledge its bonds to the United States of America acting through the Federal Emergency Administrator of the Public Works or other Federal Agency at not less than par value and accrued interest; and/or

(b) Such counties may issue their negotiable warrants or certificates of indebtedness and sell the same to the United States of America acting through the Federal Emergency Administrator of Public Works or other Federal Agency at not less than par value and accrued interest; and/or

(c) Such counties may convey the site on which any county project is located to the United States of America acting through the Federal Emergency Administrator of Public Works or other Federal Agency and lease said county project from the United

States of America acting through such Administrator or other Federal Agency at such rental as will repay such loan within the time agreed upon, at which time title to such project shall vest in such county.

Bonds or Security Approved by Attorney General; Contest of Validity

Sec. 3. In all instances where the Federal Emergency Administrator of Public Works or other Federal Agency delivers to any county officer or agent authorized to receive the same the consideration or money for which the security provided for herein is given and such money is so received such counties may not thereafter contest the validity of any such security except for fraud or forgery; provided, however, that such bonds or other security herein provided for is first approved by the Attorney General of the State of Texas, whose duty it shall be to pass upon any such security to be given by any such county to the Federal Emergency Administrator of Public Works or other Federal Agency.

Expiration Date

Sec. 4. Any contract or agreement made and entered into by any such county under the authority and provisions of this Act shall be valid and in full force and effect for the period of time provided for in said contract and agreement made by such county.

Construction as to Existing Law

Sec. 5. The provisions of this Act shall be cumulative of any existing laws; provided, however, that the provisions of this Act shall apply wherever there is any conflict with any other law or laws during the period of the existence of this Act.

[Acts 1933, 43rd Leg., 1st C.S., p. 298, ch. 109. Amended by Acts 1935, 44th Leg., 1st C.S., p. 1652, ch. 423, §§ 1, 3.]

Art. 717d. Validating County Bonds for Road Construction and Tax Levies

Sec. 1. Where, under authority of Section 52, of Article 3, of the Constitution of the State of Texas, a two-thirds majority of the resident property taxpayers, being qualified electors of any county voting on the proposition, having voted at an election held in such county called by the County Commissioners' Court of such county, in favor of the issuance of bonds of such county and the levy of a tax upon the taxable property therein for the purpose of paying the interest on said bonds and providing a sinking fund for redemption thereof for the construction, maintenance and operation of macadamized, graveled or paved roads or turnpikes, or in aid thereof within such county, the canvass of said vote, revealing such majority having been recorded in the minutes of said County Commissioners' Court, and where thereafter the County Commissioners' Court of each such county, by order adopted and recorded in its minutes, authorized the issuance of such bonds of such county, prescribed

the date and maturity thereof and rate of interest the bonds were to bear, the place of payment of principal and interest, and providing for the levy of a tax upon the valuation of taxable property in each such county according to the value thereof as fixed for State and County purposes, sufficient to pay the interest on such bonds and to produce a sinking fund sufficient to pay the bonds at maturity, and such bonds were approved by the Attorney General of the State of Texas and thereafter issued and delivered, each such election and all acts and proceedings had and taken in connection therewith by such County Commissioners' Court in respect of such bonds, levy of taxes, construction, maintenance and operation of macadamized, graveled or paved roads or turnpikes, or in aid thereof, are hereby legalized, approved and validated; and such bonds are hereby validated and constitute the legal obligations of such county. Any such county bonds heretofore voted and authorized, as aforesaid, and not yet issued, may be issued and delivered by order of the County Commissioners' Court of such county when approved by the Attorney General of the State of Texas and such bonds shall constitute the valid and binding obligation of such county.

Sec. 2. Taxes, sufficient to pay the principal of and interest upon such bonds, so levied for such purpose upon the valuation of taxable property in such County, according to the value of taxable property as determined for State and County purposes, are hereby found and fixed as the amount to be raised in each such county, and constitute the basis for such taxation, and the assessment and levy of such taxes is hereby validated and legalized; and such taxes, in an amount sufficient to pay the principal of and interest upon such bonds now outstanding, or hereafter issued, as aforesaid, shall be annually assessed and collected according to the value of taxable property as fixed for State and County taxes, by the County Commissioners' Court of each such county and express authority so to do is hereby delegated and granted to such courts.

Sec. 3. Such orders, and all other orders adopted by such County Commissioners' Court in respect of such bonds and taxes, as the same appear upon the record of such court, or copies thereof duly certified, are hereby constituted legal evidence of such orders, and shall be authority for such court to annually levy, assess and collect taxes in an amount sufficient to pay the principal of and interest upon such bonds as the same mature and became due, such taxes to be levied and assessed upon the value of taxable property in such county as fixed for state and county taxes.

Sec. 4. The legislature hereby exercises the authority upon it conferred by Section 52, of Article 3, of the Texas Constitution, and confirms and ratifies the acts and proceedings of such courts in respect of such election, authorization, issuance and delivery of such bonds, the levy of taxes to pay principal thereof and interest thereon, with like effect, as though at the time or times said acts and proceed-

ings were done or had, there existed statutory authority for the doing thereof. Provided, however, that the provisions of this Act shall not apply to any proceedings, levies, or to any bonds or warrants issued thereunder, the validity of which has been contested or attacked in suit or litigation which is pending at the time this Act becomes a law.

[Acts 1937, 45th Leg., p. 12, ch. 12.]

Art. 717e. Validating Bonds and Proceedings of Water Improvement Districts, Drainage Districts, and Other Districts and Cities, Towns, etc., Issued for Loans or Grants by Federal Agencies

Sec. 1. This Act may be cited as "The 1939 Validating Act."

Sec. 2. As used in this Act:

(a) The term "public body" includes a Water Control and Improvement District, Water Improvement District, Irrigation District, Conservation and Reclamation District, Drainage District, Levee District, Navigation District, Road District, School District, County, City or Incorporated Town or Village of this State.

(b) The term "bonds" includes bonds, notes, warrants, debentures, certificates of indebtedness, temporary bonds, temporary notes, interim receipts, interim certificates and all instruments or obligations evidencing or representing indebtedness, or evidencing or representing the borrowing of money, or evidencing or representing a charge, lien or encumbrance on specific revenues, income or property of a public body, or including all instruments or obligations payable from a special fund.

Sec. 3. All bonds heretofore issued for the purpose of financing or aiding in the financing of any work, undertaking or project by any public body to or for the benefit of which, any loan or grant or both has been made heretofore by the United States of America through the Federal Emergency Administration (or Administrator) of Public Works or the Reconstruction Finance Corporation for the purpose of financing or aiding in the financing of such work, undertaking or project, or for the purpose of funding or refunding previously existing indebtedness, including all proceedings for the authorization and issuance of such bonds, the provisions made for the payment thereof, and the sale, execution and delivery thereof, are hereby validated notwithstanding any lack of previous legislative authorization to such public body, or the governing body thereof, to issue such bonds, or to sell, execute or deliver the same, and notwithstanding any defects or irregularities (other than constitutional) in such proceedings, or in such sale, execution or delivery; and such bonds are and shall be binding, legal, valid and enforceable obligations of such public body. All bonds heretofore authorized for such purposes by an election or by action of the governing body of a public body to or for which a loan or grant, or both

has been made by the United States of America through the Federal Emergency Administration (or Administrator) of Public Works, or the Reconstruction Finance Corporation, shall, when issued (and when approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts if such approval and registration are authorized by statute) be binding legal, valid and enforceable obligations of such public body, notwithstanding any lack of previous legislative authorization, and notwithstanding any defects or irregularities (other than constitutional) in such proceedings, or in the execution, sale or delivery thereof.

Sec. 4. Provided, however, that the provisions of this Act shall not be construed as validating any such proceedings, or bonds or other obligations issued by virtue thereof, where the validity of any such proceedings, or obligations or bonds issued thereunder has been contested or attacked in any suit or litigation instituted prior to the delivery of such bonds to the Federal Emergency Administration of Public Works or the Reconstruction Finance Corporation, and pending at the time this Act becomes effective.

[Acts 1939, 46th Leg., p. 687, ch. 3.]

Art. 717f. Validation of Election Revoking Authority to Issue Bonds

Sec. 1. All elections ordered by the Commissioners Courts of any and all counties for the purpose of revoking or cancelling the authority of such Courts to issue bonds (which bonds have been previously authorized at an election wherein a majority of the qualified property-taxpaying voters who had duly rendered the same for taxation voting at such election voted in favor of such bonds, but which bonds have not been issued) and in which election or elections a majority of the qualified property-taxpaying voters who had duly rendered the same for taxation voting at such election or elections voted in favor of such revocation or cancellation, are hereby in all things validated.

Sec. 2. Any and all acts of the Commissioners Courts and other county officials in levying and collecting taxes in anticipation of the issuance of any such bonds, the authority of the Commissioners Courts to issue such bonds having been so revoked or cancelled subsequent to such levy, are hereby in all things validated, and such taxes shall be placed in the constitutional fund out of which such taxes were levied and collected.

[Acts 1949, 51st Leg., p. 181, ch. 98.]

Art. 717g. Revocation or Cancellation of Authority to Issue Bonds

Sec. 1. The Commissioners Court of any county and the governing body of any incorporated city or town, including Home Rule Cities, are hereby empowered and authorized to order an election or elections for the purpose of determining whether

the authority to issue bonds theretofore voted but which have not at the time of ordering such election been sold and delivered shall be revoked or canceled. The authority granted by this Act shall apply to unsold and undelivered bonds whether the same constitute all or only a portion of an issue. Such election shall be ordered, held, and conducted in the same form and manner and under the same procedure as that at which such bonds were originally authorized. All voters desiring to support the proposition shall have written or printed upon their ballots the words:

“FOR the revocation of bonds”; and those opposed, the words: “AGAINST the revocation of bonds.”

If the revocation election covers bonds of more than one voted issue, there shall be a separate proposition pertaining to the bonds of each voted issue.

Sec. 2. The Commissioners Court or the governing body of the city or town shall pass an order or resolution canvassing the returns, and if the election carries by the vote required under the statutes under which the bonds were originally voted, the authority to issue such bonds shall thereupon be revoked and canceled. If the bonds have been printed the Commissioners Court or governing body shall destroy the bonds by canceling and burning the same. If said bonds have been approved by the Attorney General and registered by the Comptroller, a certified copy of the order or resolution and the minutes pertaining thereto shall be forwarded to said Attorney General and Comptroller. If the bonds have not been printed, a certified copy of the order or resolution showing that the authority to issue such bonds has been revoked and canceled and the minutes pertaining thereto shall be forwarded to the Attorney General.

[Acts 1951, 52nd Leg., p. 174, ch. 110.]

Art. 717h. Bonds for Repair or Improvement of Toll Bridge Across Rio Grande

Sec. 1. This Act shall be applicable to all incorporated cities and towns, including Home Rule Cities, which own the portion of an international toll bridge over the Rio Grande River which is situated within the United States of America. Any such city or town may from time to time issue bonds payable from the net revenues derived from the operation of such bridge for the purpose of repairing or improving the bridge, acquiring approaches thereto, and constructing buildings to be used in connection therewith, or for any of such purposes. Such bonds shall be issued in conformity with and subject to the provisions of Chapter 1 of Title 22, Revised Civil Statutes of Texas, as amended.

Sec. 2. Where there are outstanding bonds payable from the net revenues derived from the operation of such bridge, additional revenue bonds are permitted or authorized by the provisions of the outstanding bonds and the proceedings relating to

such outstanding bonds. The additional bonds shall be issued to the extent and under the conditions provided by the provisions of the outstanding bonds and the proceedings relative thereto, including any trust indenture securing the outstanding bonds, and such additional bonds may be secured by a pledge of and lien on the net revenues junior to the pledge and lien securing the outstanding bonds, or by a pledge of and lien on the net revenues on a parity with such outstanding bonds, depending upon the provisions of said outstanding bonds and the proceedings relative thereto.

Sec. 3. If any word, phrase, clause, sentence, paragraph, section, or part of this Act shall be held by any court of competent jurisdiction to be invalid, it shall not affect any other word, phrase, clause, sentence, paragraph, section, or part of this Act. [Acts 1951, 52nd Leg., p. 805, ch. 449.]

Art. 717i. Validation of County Bond Elections for Flood Control, Drainage or Irrigation; Issuance of Bonds Under Election Previously Ordered

Sec. 1. All county-wide election proceedings heretofore had for the issuance of bonds by the county for the purposes of improving rivers, creeks and streams for the prevention of overflows, for necessary drainage purposes in connection therewith, for constructing and maintaining lakes, pools, reservoirs, dams, canals and waterways for purposes of irrigation, or in aid thereof, or purchasing improvements already existing and adding thereto, and incidental expenses in connection therewith, including the acquisition of right of way for flood control and the site or sites for dams or other structures to prevent overflows and to provide necessary drainage, constructing flood control systems or aiding therein, and constructing canal systems or aiding therein, are hereby in all things validated. Without in any way limiting the generalization of the foregoing, petitions heretofore presented to the Commissioners Court praying for an election for the issuance of bonds for any or all of said purposes, orders or resolutions of the Commissioners Court heretofore passed or adopted ordering an election or elections to authorize the issuance of bonds for said purposes, election notices heretofore given, and the like, are hereby in all things validated, provided, that this validating section shall not be effective as to litigation pending at the time this Act becomes effective.

Sec. 2. All county-wide bond elections heretofore called and held for the issuance of county bonds for any or all of said purposes at which elections not less than two-thirds ($\frac{2}{3}$) of the resident qualified property taxpaying voters whose property had been duly rendered for taxation, voting at said election, voted in favor of said bonds are hereby in all things validated.

Sec. 3. All bonds for said purposes, the election for the authorization of which has heretofore been

ordered by the Commissioners Court, but which election has not been held by the time that this Act becomes effective, may be issued if at the election not less than two-thirds ($\frac{2}{3}$) of the resident qualified property taxpaying voters whose property has been duly rendered for taxation, voting at said election, shall vote in favor of the issuance thereof, and said bonds, and bonds which have heretofore been authorized at an election as provided in Section 2 of this Act but which bonds have not yet been issued, shall be issued in accordance with the applicable general laws governing the issuance of county bonds, being Chapter 1 of Title 22, Revised Civil Statutes, 1925, as amended.¹ Such bonds shall be submitted to the Attorney General for approval, and if he approves the same, they shall be registered by the Comptroller of Public Accounts, as provided by general law. After said bonds are approved by the Attorney General, registered by the Comptroller, and delivered to the purchaser or purchasers thereof for not less than their par value and accrued interest, they shall thereafter be incontestable. Any bonds issued under the provisions of this Act may be refunded either through option provisions contained in such bonds or with the consent of the holder or holders thereof, at the same or lower rate of interest, said refunding bonds to mature serially in not to exceed forty (40) years, and said refunding bonds to be issued in the same manner as provided for and with the same effect as the original bonds, provided, however, that no election shall be necessary to authorize the issuance of said refunding bonds.

Sec. 4. Bonds issued under this Act are hereby declared to be bonds issued by counties under the authority of Section 52, Article III, Constitution of Texas, or by counties as conservation and reclamation districts under the authority of Section 59, Article XVI, Constitution of Texas, and the petition praying for the election to authorize the issuance of said bonds shall determine under which of said Constitutional provisions said bonds are issued or to be issued.

[Acts 1953, 53rd Leg., p. 962, ch. 406.]

¹ Article 701 et seq.

Art. 717j. Repealed by Acts 1961, 57th Leg., p. 406, ch. 204, § 9

Art. 717j-1. Texas Uniform Facsimile Signature of Public Officials Act

Definitions

Sec. 1. As used in this Act:

(a) "Public security" means a bond, note, certificate of indebtedness, or other obligation for the payment of money, issued by this state, its political subdivisions, or by any department, agency, or other instrumentality of this state or its political subdivisions.

(b) "Instrument of payment" means a check, draft, warrant, or order for the payment, delivery, or transfer of funds.

(c) "Certificate of assessment" means any certificate or instrument, evidencing a special assessment, issued by any agency or political subdivision of this state which is authorized by law to levy such assessments.

(d) "Authorized officer" means any official of this state, its political subdivisions, or any department, agency, or other instrumentality of this state or its political subdivisions whose signature to a public security, eligible contract, instrument of payment or certificate of assessment is required or permitted.

(e) "Facsimile signature" means a reproduction by engraving, imprinting, lithographing, stamping, or other means of the manual signature of an authorized officer.

(f) "Eligible contract" means any written contract, purchase order, surety bond, or other written evidence of agreement and any application, certificate, approval, or other document related thereto (other than a public security or instrument of payment) executed, authenticated, certified, or endorsed for or on behalf of any home-rule city with a population of 1,200,000 or more, according to the last preceding or any future federal census.

Facsimile Signature

Sec. 2. If the use of a facsimile signature is authorized by the board, body, or officer empowered by law to authorize the issuance of the public securities, instruments of payment or certificates of assessment, or, in the case of an eligible contract, if the use of a facsimile signature is authorized by the governing body of the city, any authorized officer may execute, authenticate, certify, or endorse, or cause to be executed, authenticated, certified, or endorsed with a facsimile signature in lieu of his manual signature:

(a) Any public security, provided that at least one signature required or permitted to be placed thereon shall be manually subscribed;

(b) Any instrument of payment;

(c) Any certificate of assessment; and

(d) Any eligible contract.

In any suit or legal action instituted against the officer whose name is affixed under the provisions of this Act, it shall not be a defense that such name was affixed to any public security, eligible contract, instrument of payment or certificate of assessment, as herein defined, without his authority or consent. Upon compliance with this Act by the authorized officer, his facsimile signature has the same legal effect as his manual signature.

However, as to a public security required to be registered by the Comptroller of Public Accounts of the State of Texas, only his signature or that of a deputy designated in writing to act for the Comptroller is required to be manually subscribed to such public security or to a certificate thereon.

Facsimile Seal

Sec. 3. When the seal of this state, its political subdivisions, or any department, agency, or other instrumentality of this state or its political subdivisions is required in the execution, authentication, certification, or endorsement of a public security, eligible contract, instrument of payment or certificate of assessment, the authorized officer may cause the seal to be printed, engraved, lithographed, stamped, or otherwise placed in facsimile thereon. The facsimile seal has the same legal effect as the impression of the seal.

Penalty

Sec. 4. Any person who with intent to defraud uses on a public security, an eligible contract, an instrument of payment or a certificate of assessment:

(a) A facsimile signature, or any reproduction of it, of any authorized officer; or

(b) Any facsimile seal, or any reproduction of it, of this state, its political subdivisions, or any department, agency, or other instrumentality of this state or its political subdivisions shall upon conviction be confined in the penitentiary not less than two nor more than seven years.

Uniformity of Interpretation

Sec. 5. This Act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Short Title

Sec. 6. This Act may be cited as the Texas Uniform Facsimile Signature of Public Officials Act.

Severability Clause

Sec. 7. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Applicability

Sec. 8. This Act applies to all public securities authorized and all instruments of payment executed after the effective date of this Act. The signature upon public securities authorized after the effective date of House Bill No. 725, Acts 1955, 54th Legislature, Chapter 293,¹ but prior to the effective date of this Act and which were not executed prior to the effective date of this Act may be placed upon these public securities by complying either with House

Bill No. 725, Acts 1955, 54th Legislature, Chapter 293, or with this Act.

¹ Article 717j (repealed).

[Acts 1961, 57th Leg., p. 406, ch. 204. Amended by Acts 1967, 60th Leg., p. 701, ch. 290, § 1, eff. May 25, 1967; Acts 1981, 67th Leg., p. 623, ch. 246, §§ 1, 2, eff. Sept. 1, 1981.]

Art. 717k. State, County, Municipality or Political Subdivision; Issuer of Bonds, Notes, etc.**"Issuer" Defined; Applicability of act**

Sec. 1. This Act shall be applicable to (and the term "issuer" as used in this Act shall mean and include) the State of Texas, or any department, agency or instrumentality of the State of Texas or any county, municipal corporation, taxing district or other political district or subdivision of the State of Texas having power to borrow money and issue bonds, notes or other evidences of indebtedness; and which has the power to issue refunding bonds in lieu of outstanding obligations of the issuer.

Refunding Bonds; Power to Issue; Sale Price; Maturity; Interest Rate; Security; Combination Issuance; Election; Approval; Registration; Sale and Delivery; Legal Investments; Exception

Sec. 2. (a) The governing body of any issuer shall be authorized to refund all or any part of any of its outstanding bonds, notes, or other general or special obligations by the issuance of refunding bonds to be sold for cash in such principal amounts as are necessary to provide all or any part of the money required to pay the principal of any obligations being refunded and the interest to accrue on said obligations to the maturity thereof, and/or to provide all or any part of the money required to redeem any obligations being refunded, prior to maturity, on any date or dates upon which said obligations are subject to such redemption, including principal, and any required redemption premium, and the interest to accrue on said obligations to said redemption date or dates. Said refunding bonds shall be sold for not less than their par value plus accrued interest to date of delivery, shall mature not more than forty years from their date, and shall bear interest at any rate or rates as shall be determined within the discretion of the governing body of the issuer. Such refunding bonds may be secured by and made payable from the same source as the obligations being refunded thereby, or may be secured by and made payable from taxes or revenues, or both, or any other or different source, or any combination of sources, if the issuer is otherwise authorized by the Texas Constitution or any statute to secure or pay any kind or type of bonds by or from any such source. Said refunding bonds may be issued in combination with new bonds, and/or with provision for the subsequent issuance of additional parity bonds, or subordinate lien bonds, under such terms or conditions, and with such security, as may be set forth in the proceed-

ings authorizing the issuance of said refunding bonds, all within the discretion of the governing body of the issuer; provided, however, that no such bonds shall be issued contrary to the provisions of the Texas Constitution. All refunding bonds issued pursuant to this Act may be issued without any election in connection with the issuance thereof or the creation of any encumbrance in connection therewith; except that if the Texas Constitution would require an election or vote to permit any procedure, action, or matter pertaining to such refunding bonds, then an election to authorize any such procedure, action, or matter shall be held substantially in accordance with Chapter 1, Title 22, Revised Civil Statutes of Texas, 1925, as amended,¹ to the extent practicable, applicable, and appropriate. All bonds permitted to be issued under this Act, and the appropriate proceedings authorizing their issuance, shall be submitted to the Attorney General of the State of Texas for examination. If he finds that such bonds have been authorized in accordance with the Texas Constitution and this Act he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas, without the surrender, exchange, or cancellation of the obligations being refunded; and notwithstanding any provisions of this Act to the contrary, such bonds shall be so registered before the making of the deposit with the State Treasurer as required hereunder, and such refunding bonds may be sold and delivered to the purchaser thereof in order to permit the issuer to use the proceeds from such sale and delivery to make all or any part of said deposit. After such approval and registration, such bonds shall be incontestable in any court, or other forum, for any reason, and shall be valid and binding obligations in accordance with their terms for all purposes. All refunding bonds issued under this Act, shall be legal and authorized investments for all banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies of all kinds and types, fiduciaries, trustees and guardians, and for the interest and sinking funds and other public funds of any issuer, as such term is defined in this Act. Said refunding bonds also shall be eligible and lawful security for all deposits of public funds of the State of Texas and of any issuer, as such term is defined in this Act, to the extent of the market value of said refunding bonds, when accompanied by any unmatured interest coupons appurtenant thereto. Notwithstanding any provisions of this Act to the contrary, no refunding bonds shall be issued hereunder unless the obligations to be refunded are scheduled to mature or are subject to redemption prior to maturity within not more than five years from the date of the refunding bonds; and no refunding bonds shall be issued hereunder to refund electric and gas system revenue bonds issued by any city having a population in excess of 500,000, according to the most recent federal census.

(b) An issuer shall have the right to deposit, or cause to be deposited to the State Treasurer of the State of Texas a sum of money equal to the principal amount of the bonds, notes, and other evidences of indebtedness which it proposes to refund plus the amount of interest which will accrue thereon calculated to the date on which it is to become due or on which it may be redeemed, together with the amount of contract premium if any, required for redemption; and concurrently with such deposit shall pay to the State Treasurer for his services and to reimburse him for his expenses in performing his duties under this Act a sum of money equivalent to one-twentieth ($\frac{1}{20}$) of one per cent (1%) of the principal amount of said bonds and one-eighth ($\frac{1}{8}$) of one per cent (1%) of the interest to accrue on all of said underlying obligations, and an additional amount of money sufficient to pay the charges of the bank or trust company at which the principal and interest of said underlying obligations are payable for its services in paying such principal and interest. The State Treasurer may rely on a certificate by such city as to the amount of the charges made by such bank or trust company. At the same time such city shall deliver to the State Treasurer a certified copy of the ordinance authorizing said underlying obligations, or a certified excerpt therefrom, showing clearly the amounts and the date or dates on which interest is due on such underlying obligations, the date when the principal becomes subject to redemption, and the name and address of the bank or trust company at which such principal and interest must be paid. It shall be the duty of the State Treasurer to accept such deposits, payments, and instruments, and safely to keep and use such money for the purposes set forth in this Act and for no other purpose, and no part of such money except that in payment for his services and to reimburse his expenses in performing such services shall be used by or for the State of Texas or for any creditor of the State of Texas, nor shall such money be commingled with any other money.

¹ Article 701 et seq.

Duty of State Treasurer

Sec. 3. Upon receipt of such deposits and payments, it shall be the duty of the State Treasurer, if the securities involved are to be redeemed at a place of payment other than his office, immediately and by the most expeditious means to forward to and deposit with the bank or trust company where such underlying securities are payable, the amount out of such deposits as is specified as being for the payment of the principal and interest, and contract premium, if any, on the securities to be redeemed, and for the payment of the service charges of such bank or trust company; provided however, that the issuer shall have made deposits and payments with the State Treasurer during normal banking hours at least one (1) business day prior to the date on which such securities are designated to be redeemed. The State Treasurer shall notify such bank or trust company to forward to him the underlying securi-

ties thus redeemed and cancelled, and after the State Treasurer shall have made a record of their payment and cancellation shall forward such cancelled bonds, coupons or securities to issuer.

Issuance and Sale of Refunding Bonds; Registration by Comptroller of Public Accounts

Sec. 4. When the issuer shall have deposited and paid into the Office of the State Treasurer the money, and shall have done the things required by Section 2 of this Act, it shall have authority to issue, sell and deliver refunding bonds in lieu of the underlying securities, despite the fact that the holders of other such underlying securities may not have surrendered or presented the same for payment; provided that the Attorney General of Texas shall certify to the Comptroller of Public Accounts as to any underlying securities which have not reached their normal maturity date that the issuer has validly called the bonds for redemption in accordance with the contract rights of the issuer. Where the issuer has complied with the requirements of this Act, the Comptroller shall register the refunding bonds despite the fact that some or all of the underlying securities shall not have been surrendered by the holder for payment and cancellation.

Cancellation of Underlying Securities not Required for Issuance, Sale or Registration of Refunding Bonds

Sec. 5. Regardless of any provisions to the contrary contained in prior laws requiring the issuance of refunding bonds, the issuer shall have the right to issue, register and sell such bonds without cancellation of the underlying securities provided the issuer has made the deposit required and has otherwise complied with the requirements of this Act.

Withdrawal of Deposits on Cancellation of Underlying Obligation

Sec. 6. After an issuer has made the deposits and payments required under Section 2 hereof, the issuer may apply to the State Treasurer to withdraw from the paying agent the amount of money deposited on the account of any underlying bond or security, together with the deposit for interest thereon and premium, if any, by exhibiting to the State Treasurer said obligation duly cancelled, whereupon the State Treasurer shall make a proper record of the payment and cancellation of such instrument. No funds so deposited by issuer with the State Treasurer under the provisions of this Act shall otherwise be withdrawn by the issuer except upon the conditions stated above in this Section, or unless the Attorney General of Texas shall certify to the State Treasurer that the payment by the issuer of the underlying security is barred by limitation and that payment thereof by the issuer is forbidden by law.

Deposits with State Treasurer; Effect; Refunding of Obligations; Fees; Forwarding to Place of Payment; Time of Payment

Sec. 7. When the deposit of money required hereunder is made with the State Treasurer in accordance with this Act, for any obligations being refunded pursuant hereto, such deposit shall constitute the making of firm banking and financial arrangements for the discharge and final payment or redemption of the obligations being refunded; provided, however, that, at the option of and within the discretion of the issuer, provision may be made in the proceedings authorizing the issuance of such refunding bonds for the subordination thereof to the obligations being refunded, but only in the manner and to the extent specifically provided in said proceedings. Notwithstanding any provisions of this Act to the contrary, the fees to be paid the State Treasurer for his services and expenses under this Act shall not exceed a maximum of \$1,000. Immediately after the receipt thereof, and by the most expeditious means, it shall be the duty of the State Treasurer to forward to and deposit with the place of payment (paying agent) for the obligations being refunded all of the money deposited with him pursuant hereto (excepting the fees for his services). If there is more than one place of payment for the obligations being refunded, the State Treasurer shall forward the aforesaid money directly to the one of said places of payment which is located in the State of Texas; provided that if more than one of such places of payment is located in the State of Texas, or if no place of payment is located in the State of Texas and there is more than one place of payment located outside of the State of Texas, then said money shall be forwarded directly to the one of such places of payment having the largest capital and surplus. It shall be the duty of the place of payment to deposit the aforesaid money received from the State Treasurer (excepting the amount thereof representing the charges of the place of payment) into an interest and sinking fund to be established and maintained in trust and as a trust fund for the payment of the obligations being refunded. Further, it shall be the duty of the place of payment, out of said interest and sinking fund, to pay or redeem the obligations being refunded when duly presented therefor at the maturity, due date, or redemption date thereof. If there is more than one place of payment, the one having the deposit shall make appropriate financial arrangements so that the necessary funds will be available at the other place or places of payment to pay or redeem any of such obligations being refunded when so presented for payment or redemption. The holder or holders of any obligations being refunded by any refunding bonds issued and sold under this Act shall not have the right to demand or receive payment thereof at any time before the scheduled maturity date or dates, due date or dates, or redemption date or dates, respectively, of said obligations being refunded, unless the governing body of the issuer shall have specifically and affirmatively pro-

vided for and authorized the earlier payment of said obligations in the proceedings authorizing said refunding bonds.

Alternate Procedures; Issuance and Sale of Refunding Bonds; Deposits in Connection with Payment or Redemption of Revenue Obligations

Sec. 7A. Notwithstanding any provision of this Act or any other law to the contrary, any issuer may, at its option, in lieu of making any deposit with the State Treasurer hereunder, deposit proceeds from the sale of refunding bonds issued hereunder, and/or any other available funds or resources, directly with any place of payment (paying agent) for any obligations payable from revenues (other than *ad valorem* tax revenues) which it wishes to refund, or to pay or redeem in whole or in part without the issuance of refunding bonds, or with the trustee under any trust indenture, deed of trust, or similar instrument securing such revenue obligations, in an amount sufficient to provide for the payment and/or redemption of any such revenue obligations of the issuer, including assumed obligations, which are to be refunded, or to be paid or redeemed in whole or in part without the issuance of refunding bonds; and such deposit, if made on or before such payment and/or redemption date, shall constitute the making of firm banking and financial arrangements for the discharge and final payment or redemption of the revenue obligations being refunded, or being paid or redeemed in whole or in part without the issuance of refunding bonds; and any issuer is authorized to enter into an escrow or similar agreement with any such place of payment (paying agent) or trustee with respect to the safekeeping, investment, reinvestment, administration, and disposition of any such deposit, upon such terms and conditions as the parties may agree, provided that such deposits may be invested and reinvested only in direct obligations of the United States of America, including obligations the principal of and interest on which are unconditionally guaranteed by the United States of America, and which may be in book entry form, and which shall mature and/or bear interest payable at such times and in such amounts as will be sufficient to provide for the scheduled payment and/or redemption of such revenue obligations, and further provided that if any such revenue obligations are scheduled to be paid and/or redeemed on a date later than the next succeeding scheduled interest payment date thereon, the issuer shall be required to enter into an appropriate escrow or similar agreement as described above. Notwithstanding any provisions of this Act or any other law to the contrary, refunding bonds may be issued under this Act to refund any revenue obligations which are scheduled to mature, or which are subject to redemption prior to maturity, not more than 20 years from the date of the refunding bonds, and refunding bonds issued under this Act may be sold at public or private sale, under such procedures, at any price (at a premium, at par, or at a discount), upon such terms, and bear interest

at such rate or rates, and mature not more than 40 years after their date, all as shall be determined within the discretion of the governing body of the issuer; provided that Chapter 3, Acts of the 61st Legislature, Regular Session, 1969, as now or hereafter amended (Article 717k-2, Vernon's Texas Civil Statutes), which pertains generally to the sale price and interest rates of all public securities, shall be applicable to said refunding bonds; and any issuer is further authorized to pledge to the payment of any refunding bonds issued hereunder (i) any surplus income to be available from the investment or reinvestment of any deposit made as authorized in this Section 7A and/or (ii) any other available revenues, income, or resources. The refunding bonds also may be issued in an additional amount sufficient to pay the costs and expenses of issuing said bonds and sufficient to fund any debt service reserve, contingency, or other similar fund deemed necessary or advisable by the issuer.

State Treasurer's Bond; Protection of Deposits of Moneys and Securities

Sec. 8. The bond or bonds given by the State Treasurer under Article 4368 to secure the faithful execution of the duties of his office (except such special bonds as may have been given to protect funds of the United States Government) and any and all other bonds which may have been given by the State Treasurer, shall be construed as protecting all moneys and securities deposited or placed with the State Treasurer under this Act.

Cumulative of Other Acts

Sec. 9. This Act is cumulative of all other Acts on the subject, but to the extent that its provisions are inconsistent or in conflict with the provisions of other laws, the provisions of this Act shall be controlling.

[Acts 1955, 54th Leg., p. 1256, ch. 503. Amended by Acts 1969, 61st Leg., p. 2316, ch. 783, §§ 1, 2, eff. June 14, 1969; Acts 1979, 66th Leg., p. 2182, ch. 832, § 1, eff. June 14, 1979.]

Art. 717k-1. Public Securities; Issuance by State, County, Municipality or Political Subdivision; Denominations

Sec. 1. The term "public securities" as used herein shall mean bonds, notes, or other obligations for the payment of money which may hereafter be issued by this state, or by any department, agency, or other instrumentality of this state, or by any county, municipality, taxing district, or other political district or subdivision (whether included within one county or more than one county) which are now or may hereafter be authorized by law to borrow money and to issue bonds, notes, or other evidences of indebtedness.

Sec. 2. All public securities authorized under the laws of this state may hereafter be issued in any denomination fixed and determined in the order, resolution, or ordinance authorizing the issuance of

such securities, by the board, body, or officer empowered by law to authorize the issuance of such securities.

Sec. 3. The provisions of the Act shall be cumulative of all existing laws pertaining to the issuance of public securities, but the provisions hereof concerning the denominations in which public securities may be issued shall apply to all public securities, despite any provision in any earlier law to the contrary.

[Acts 1967, 60th Leg., p. 2043, ch. 752, eff. June 18, 1967.]

Art. 717k-2. Public Securities; Issuance by Public Agencies; Interest Rate

Sec. 1. As used in this Act, unless the context otherwise requires:

(a) The term "public agency" shall mean and include the State of Texas, any department, board, agency, or instrumentality of the State of Texas, any municipal corporation, any political subdivision, any district, any body politic and corporate of the State of Texas, and solely for the purposes of this Act and not for any other purposes of law, any nonprofit corporation or other not-for-profit entity that has been determined to be an instrumentality of or is acting on behalf of any of the foregoing.

(b) The term "public securities" shall mean any bonds, notes, or other obligations payable from taxes, or revenues, or both, which any public agency is now or hereafter may be authorized to issue pursuant to provisions of law other than this Act.

(c) The term "net interest cost" with reference to an issue or series of public securities shall mean the total of all interest to accrue and come due thereon through the final scheduled maturity date thereof, plus any discount or minus any premium included in the price paid therefor; provided, however, with reference to floating rate public securities, the term "net interest cost" shall mean the total of all interest to accrue from the date of delivery and come due thereon through any date net interest cost is calculated thereon, plus, in the case of a discount, the figure obtained by multiplying the dollar amount of the discount by a fraction the numerator of which is the aggregate number of bond years to the date of such net interest cost calculation and the denominator of which is the aggregate number of bond years to the scheduled final maturity date of the floating rate public securities, or minus, in the case of a premium, the figure obtained by multiplying the dollar amount of the premium by a fraction the numerator of which is the aggregate number of bond years to the date of such net interest cost calculation and the denominator of which is the aggregate number of bond years to the scheduled final maturity date of the floating rate public securities. The term "discount" with reference to an issue or series of public securities shall mean the principal amount (par value) of such issue or series plus any accrued interest to the date of delivery minus the total sum of money paid to the issuer.

The term "premium" with reference to an issue or series of public securities shall mean the total sum of money paid to the issuer for such an issue or series minus the principal amount (par value) thereof, and also minus any accrued interest to the date of delivery. The term "bond years" with reference to each separate bond, note, or other obligation constituting part of an issue or series of public securities shall mean the figure obtained by dividing the principal amount (par value) of each such bond, note, or other obligation by one-thousand (1000) and multiplying such quotient by the number of years from the date interest commences to accrue thereon to its scheduled maturity date or, with respect to floating rate public securities, by the number of years from the date net interest cost commences to accrue thereon to the earlier of the date of maturity thereof or any date interest on such floating rate public securities is calculated. If any portion of an issue or series of public securities is subject to a mandatory redemption prior to scheduled maturity which at the time of delivery of such public securities is scheduled to occur on a date or dates certain, net interest cost and bond years shall be calculated as if the face amount of bonds, notes, or other obligations required to be redeemed on each such earlier date were scheduled to mature on such earlier date and net interest cost shall include any redemption premium required to be paid on any such mandatory redemption date. No other forms of compensation, whether due upon an optional or mandatory prepayment or redemption, shall be included in net interest cost.

(d) The term "net effective interest rate" with reference to an issue or series of public securities shall mean the figure obtained by dividing the amount of the net interest cost of such issue or series by the aggregate total number of bond years of all bonds, notes, or other obligations constituting such issue or series, and then dividing such quotient by ten (10) and expressing the result as a rate of interest in per cent per annum.

(e) The term "floating rate public securities" shall mean those public securities or portion thereof bearing a rate of interest determined in accordance with a clearly stated formula, calculation, or method, such that the net interest cost with reference thereto at any future date cannot be ascertained on the date of delivery thereof.

Sec. 2. (a) The maximum rate of interest for any issue or series of public securities shall be a net effective interest rate of 15 percent, and any public agency is hereby authorized to issue and sell any issue or series of its public securities at any price or prices and bearing interest at any rate or rates (provided that the net effective interest rate does not exceed 15 percent), as shall be determined within the discretion of the governing body of the public agency, subject to the exceptions hereinafter provided.

(b) Any public securities authorized by an election held before the effective date of the 1981 amendment of this section may be issued, sold, and bear interest as provided in Subsection (a) of this section, except that public securities heretofore authorized by an election required by the Constitution of Texas shall not be issued at an interest rate greater than authorized at such election unless a further election is held resulting favorably to the issuance of such previously voted public securities at a price and at a rate authorized by Subsection (a) of this section. Elections for that purpose shall be called and held, and notice thereof given, in the same manner as provided by law applicable to the previous election authorizing such public securities.

Sec. 3. The provisions of this Act concerning sale price and the maximum rates of interest which public securities may bear shall apply to all public securities notwithstanding the provisions or restrictions of any general or special law or charter to the contrary, but shall not apply to any public securities whose maximum rate of interest or maximum net effective interest rate is, at the time of issuance thereof, otherwise specifically fixed by the Constitution.

Sec. 4. If an issue or series of public securities is issued in exchange for property, labor, services, materials, or equipment pursuant to provisions of law other than this Act, such public securities may bear interest at any rate or rates, as shall be determined within the discretion of the governing body of the public agency, subject to the exceptions hereinafter provided, provided that the maximum interest rate shall not exceed 15 percent.

[Acts 1969, 61st Leg., p. 9, ch. 3, eff. Feb. 24, 1969. Amended by Acts 1969, 61st Leg., 2nd C.S., p. 48, ch. 3, § 1, eff. Sept. 11, 1969; Acts 1977, 65th Leg., p. 1951, ch. 776, § 1, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 1439, ch. 631, §§ 1, 2, eff. June 13, 1979; Acts 1981, 67th Leg., p. 135, ch. 61, § 1, eff. April 15, 1981; Acts 1983, 68th Leg., p. 5438, ch. 1017, §§ 1, 2, eff. Aug. 29, 1983.]

Art. 717k-3. Refunding Bonds; Issuance by Public Agencies; Approval; Registration; etc.

Definitions

Sec. 1. The term "issuer," as used in this Act, shall mean any department, board, authority, agency, subdivision, municipal corporation, district, public corporation, body politic, or instrumentality of the State of Texas of every kind or type whatsoever, including, without limitation, all counties, home rule charter cities, general law cities, towns, villages, state-supported educational institutions of higher learning, junior and regional college districts, school districts, hospital districts, water districts, road districts, navigation districts, conservation districts, and all other kinds and types of political or governmental entities. The term "governing body," as used in this Act, shall mean the board, council, commission, court, or other group which is

authorized by law to issue bonds for or on behalf of any issuer.

Complete or Partial Refunding

Sec. 2. The governing body of any issuer shall be authorized to refund all or any part of any of its outstanding bonds, notes, or other general or special obligations by the issuance of refunding bonds.

Maturity; Interest; Security and Source of Payment; Combination Issuance; Election; Exception

Sec. 3. Said refunding bonds shall mature serially or otherwise in not more than forty years from their date, and shall bear interest at any rate or rates as shall be determined within the discretion of the governing body of the issuer. Such refunding bonds may be secured by and made payable from the same source as the obligations being refunded thereby, or may be secured by and made payable from taxes or revenues, or both, or any other or different source, or any combination of sources, if the issuer is otherwise authorized by the Texas Constitution or any statute to secure or pay any kind or type of bonds by or from any such source. Said refunding bonds may be issued in combination with new bonds, and/or with provision for the subsequent issuance of additional parity bonds, or subordinate lien bonds, under such terms or conditions, and with such security, as may be set forth in the proceedings authorizing the issuance of said refunding bonds, all within the discretion of the governing body of the issuer; provided, however, that no such bonds shall be issued contrary to the provisions of the Texas Constitution. All refunding bonds issued pursuant to this Act may be issued without any election in connection with the issuance thereof or the creation of any incumbrance in connection therewith; except that if the Texas Constitution would require an election or vote to permit any procedure, action, or matter pertaining to such refunding bonds, then an election to authorize any such procedure, action, or matter shall be held substantially in accordance with Chapter 1, Title 22, Revised Civil Statutes of Texas, 1925, as amended,¹ to the extent practicable, applicable, and appropriate. Notwithstanding any provisions of this Act to the contrary, no refunding bonds shall be issued hereunder to refund electric and gas system revenue bonds issued by any city having a population in excess of 500,000, according to the most recent federal census.

¹ Article 701 et seq.

Negotiability; Redeemability; Issuance

Sec. 4. Said bonds, and any interest coupons appurtenant thereto, shall be negotiable instruments (except that such bonds may be made registrable as to principal alone or as to both principal and interest), and they may be made redeemable prior to maturity, and may be issued in such form, denominations, and manner, and under such terms, conditions and details, and may be executed, as provided

by the governing body of the issuer in the proceedings authorizing the issuance of said bonds.

Approval; Registration; Exchange

Sec. 5. All bonds permitted to be issued under this Act, and the appropriate proceedings authorizing their issuance, shall be submitted to the Attorney General of the State of Texas for examination. If he finds that such bonds have been authorized in accordance with the Texas Constitution and this Act, he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas; and after such approval and registration, such bonds shall be incontestable in any court, or other forum, for any reason, and shall be valid and binding obligations in accordance with their terms for all purposes. The refunding bonds authorized by this Act shall be issued in exchange for, and upon surrender and cancellation of, the obligations being refunded thereby, and the Comptroller of Public Accounts shall register the refunding bonds and deliver the same to the holder or holders of the obligations being refunded thereby, in accordance with the provisions of the proceedings authorizing the refunding bonds. Any such exchange may be made in one or in several installment deliveries, and all or any part of any outstanding issue of bonds, notes, or other obligations may be refunded in whole or in part hereunder. Any outstanding issue of bonds, notes, or other obligations, whether payable from revenues, taxes, or otherwise, may be refunded hereunder in part provided that the issuer can demonstrate to the attorney general at the time of the refunding that adequate resources will remain, based on then current conditions, to provide for the payment of the unrefunded part of such issue when due.

Legal Investments; Security for Deposits

Sec. 6. All bonds issued under this Act shall be legal and authorized investments for all banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies of all kinds and types, fiduciaries, trustees and guardians, and for the interest and sinking funds and other public funds of any issuer, as such term is defined in this Act. Said refunding bonds also shall be eligible and lawful security for all deposits of public funds of the State of Texas and of any issuer, as such term is defined in this Act, to the extent of the value of said refunding bonds, when accompanied by any unmatured interest coupons appurtenant thereto.

Cumulative Effect

Sec. 7. This Act shall be cumulative of all other laws on the subject, but this Act shall be wholly sufficient authority within itself for the issuance of the bonds and the performance of the other acts and procedures authorized hereby, without reference to any other laws or any restrictions or limitations contained therein, except as herein specifically pro-

vided; and when any bonds are being issued under this Act, then to the extent of any conflict or inconsistency between any provisions of this Act and any provisions of any other law, the provisions of this Act shall prevail and control; provided, however, that any issuer shall have the right to use the provisions of any other laws, not in conflict with the provisions hereof, to the extent convenient or necessary to carry out any power or authority, express or implied, granted by this Act.

Severability

Sec. 8. In case any one or more of the sections, provisions, clauses, or words of this Act, or the application thereof to any situation or circumstance, shall for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other sections, provisions, clauses, or words of this Act, or the application thereof to any other situation or circumstance, and it is intended that this Act shall be severable and shall be construed and applied as if any such invalid or unconstitutional section, provision, clause, or word had not been included herein.

[Acts 1969, 61st Leg., p. 2319, ch. 784, eff. June 14, 1969.]

Art. 717k-4. Revenue Bonds; Issuance by Cities, Towns and Villages; Validation of Proceedings

Sec. 1. Where any city, town, or village incorporated under the laws of the State of Texas has heretofore submitted to the qualified electors who own taxable property in said city and who had duly rendered the same for taxation a proposition or propositions for the issuance of revenue bonds for a purpose or purposes provided by Chapter 10, Title 28, Revised Civil Statutes of Texas, 1925, as amended, and such revenue bonds were approved by a majority vote of the said participating property tax-paying voters, all election proceedings relating thereto are hereby validated, ratified, and confirmed and such bonds may be issued and made payable from and secured by the net revenues of one or more of the utility systems mentioned in the said proposition or propositions approved at the said election, but in no event shall any such pledge of net revenues be made which would conflict with the contract rights of the holders of any outstanding bonds.

Sec. 2. All proceedings of the governing body of an incorporated city with respect to the authorization of bonds payable from revenues (any sources except ad valorem taxes) are hereby ratified and confirmed and such bonds shall be payable from and secured by the revenues pledged to the payment thereof.

Sec. 3. In all instances where revenue bonds are validated by the provisions hereof, all proceedings relating to the authorization of such bonds shall be submitted to the Attorney General of Texas, and when such bonds have been or are hereafter approved by the Attorney General and registered by

the Comptroller of Public Accounts, they shall be incontestable.

Sec. 4. The provisions hereof shall not be construed as validating any bonds where (i) such bonds were required by law to be approved at an election unless the issuance thereof was approved at such election by a majority of the participating resident qualified property taxpaying electors, or (ii) the bonds or election proceedings are involved in litigation questioning the validity thereof on the effective date of this Act if such litigation is ultimately determined against the validity thereof.

[Acts 1969, 61st Leg., 2nd C.S., p. 159, ch. 47, eff. Sept. 19, 1969.]

Art. 717k-5. Validation of Contracts, Warrants and Refunding Bonds Authorized by Counties, Cities or Towns

Sec. 1. In every instance where the commissioners court of a county or the governing board of a city, including home-rule cities, or town in this state has entered into contracts for, or has determined the advisability thereof by giving notice of intention to issue interest-bearing time warrants in payment therefor, the construction of public works or improvements, the purchase of land or interests in land, or for the purchase of materials, supplies, equipment, labor, supervision, wages, salaries, or professional or personal services, and has heretofore adopted orders or ordinances to authorize the issuance of scrip or time warrants to pay or evidence the indebtedness of such county or city, including home-rule cities, or town for the cost of such public works or improvements, land, material, supplies, equipment, labor, supervision, wages, salaries, or professional or personal services, all such contracts, scrip and time warrants, and the proceedings adopted by the commissioners court or governing body, as the case may be, relating thereto are hereby in all things validated, ratified, confirmed, and approved. All scrip warrants and time warrants heretofore issued by the commissioners court or governing body, as the case may be, in payment of work done by such county or city, including home-rule cities, or town and paid for by the day as the work progressed, and for materials and supplies purchased in connection with such work and for professional or personal services rendered to the county, city, or town, and each of these are hereby in all things validated, ratified, confirmed, and approved and all such warrants shall be payable in accordance with their respective terms. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify, or confirm any contract, scrip warrant, or time warrant executed or issued by any county with a population in excess of 350,000, according to the last preceding federal census, or any contract, scrip warrant, or time warrant, the validity of which is involved in litigation at the time this Act becomes effective if the question is ultimately determined against the validity thereof.

Sec. 2. All proceedings, governmental acts, orders, ordinances, resolutions, and other instruments heretofore adopted or executed by a commissioners court or governing body of a city, including home-rule cities, or town, and of all officers and officials thereof authorizing the issuance of or pertaining to refunding bonds for the purpose of refunding scrip or time warrants issued by any county or city, including home-rule cities, or town and all such warrants and all refunding bonds, heretofore issued for such purpose, and each of these are hereby in all things validated, ratified, approved, and confirmed. Such refunding bonds now in process of being issued and authorized by proceedings, ordinances, and resolutions heretofore adopted may be issued, irrespective of the fact that the commissioners court or governing body in giving the notice of intention to issue refunding bonds may not have in all respects complied with statutory provisions. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify, or confirm any proceedings, governmental acts, orders, resolutions, or other instruments, or bonds executed, adopted, or issued by any county with a population in excess of 350,000, according to the last preceding federal census, or any proceedings, governmental acts, orders, ordinances, resolutions, or other instruments, or bonds, the validity of which is involved in litigation at the time this Act becomes effective if the question is ultimately determined against the validity thereof; nor shall this Act be construed as validating any proceedings which may have been nullified by a final judgment of a court of competent jurisdiction.

Sec. 3. If any section, subsection, paragraph, sentence, clause, phrase, or word in this Act or application thereof to any person or circumstance is held invalid such holding shall not affect the validity of the remaining portions of this Act, and the legislature hereby declares it would have passed such remaining portions despite such invalidity.

[Acts 1975, 64th Leg., p. 1195, ch. 452, §§ 1 to 3, eff. June 19, 1975.]

Art. 717k-6. Bond Procedures Act of 1981

Definitions; Short Title

Sec. 1. (a) The term "issuer" as used in this Act means and includes any department, board, authority, agency, subdivision, municipal corporation, district, public corporation, political subdivision, body politic, or instrumentality of the State of Texas of every kind or type whatsoever, and any nonprofit corporation acting for or on behalf of any of the foregoing.

(b) The term "bonds" as used in this Act means and includes all bonds, certificates, notes, and other obligations authorized to be issued by any issuer by any statute, city home-rule charter, or the Texas Constitution.

(c) This Act may be cited as the "Bond Procedures Act of 1981."

Construction; Effect of Approval and Registration

Sec. 2. This Act shall not be construed as granting any original or independent power to any issuer to issue any bonds, but shall be applicable and available to any issuer and the governing body thereof with respect to certain terms, provisions, and details of the issuance of any bonds authorized by any other statute, city home-rule charter, or the Texas Constitution, including either original bonds, refunding bonds, exchanged or converted bonds, or any combination of the foregoing, and in fixing the terms, conditions, and details of any bonds otherwise authorized to be issued. If any statutory, charter, or constitutional provisions authorizing any bonds provide for the approval thereof by the attorney general of Texas and the registration thereof by the comptroller of public accounts of the State of Texas, then any such bonds shall be submitted to the attorney general for approval, and if the attorney general determines that they have been issued in accordance with law, he shall approve them and thereafter they shall be registered by the comptroller of public accounts, and after such approval and registration such bonds and any contracts, proceeds from which are pledged to the payment thereof, shall be incontestable in any court or other forum for any reason, and shall be binding obligations in accordance with their terms for all purposes.

Issuance and Execution

Sec. 3. The governing body of any issuer is authorized to issue bonds with or without interest coupons, in any denomination, payable at such time or times, in such amount or amounts or installments, at such place or places, in such form, under such terms, conditions, and details, in such manner, redeemable prior to maturity at any time or times, bearing no interest, or bearing interest at any rate or rates (either fixed, variable, floating, adjustable, or otherwise, all as determined by the governing body or by a formula or contractual arrangement for the periodic determination of interest rates, such determination, formula, or arrangement to be set forth in the instrument providing for the issuance of the bonds) not to exceed the maximum net effective interest rate allowed by law, and the bonds and interest coupons, if any, may be signed or otherwise executed in such manner, with manual or facsimile signatures, and with or without a seal, all of the foregoing as shall be specified by the governing body of the issuer in the resolution, order, ordinance, or other proceedings authorizing the issuance of the bonds. In the event any officer or officers whose signatures are on any bonds or interest coupons appertaining thereto cease to be such officer or officers before the delivery thereof to the purchaser, such signature or signatures shall nevertheless be valid and sufficient for all purposes and the successor or successors in office of any such officer or officers shall be fully authorized to complete the execution, authentication, and/or delivery

of said bonds and interest coupons to the purchaser or the purchasers thereof.

Form; Registration

Sec. 4. The governing body of any issuer is authorized to issue bonds and the interest coupons appertaining thereto, if any, in such form or forms, with provision for registering such bonds as to principal or as to principal and interest, or with provision for changing the form or forms of such bonds and interest coupons, if any, in such manner as shall be specified by the governing body of the issuer in the resolution, order, ordinance, or other proceedings authorizing the bonds.

Series or Single; Terms and Conditions

Sec. 5. The governing body of any issuer is authorized to issue bonds constituting a series of any number of bonds, or a single bond, payable in one stated amount or in stated installments to the bearer, or to a registered or a named payee, or to the order of, or to the successors or assigns of, such registered or named payee, and provision may be made for the conversion of any bond or interest coupon, upon the request or demand of the bearer or owner, into coupon bonds, payable to the bearer, registrable as to principal or as to principal and interest, or into fully registered bonds without interest coupons, or into any other form, in any denomination, in an aggregate principal amount equal to the unpaid principal amount of the bond or bonds being converted, bearing interest, if any, at the same rate or rates as the bond or bonds being converted, and having such other characteristics, and upon further terms and conditions, and in such manner as may be specified by the governing body of the issuer in the resolution, order, ordinance, or other proceedings authorizing the bonds.

Change or Conversion

Sec. 6. (a) When the procedures for changing or converting any bond or bonds are set forth in the resolution, order, ordinance, or other proceedings authorizing the issuance thereof, no additional resolutions, orders, or ordinances need be adopted or passed by the governing body of the issuer so as to accomplish such change or conversion, and the appropriate officials of such issuer, upon the request or demand of the bearer or owner of such bond or bonds as provided therein, if required or necessary, shall have the appropriate new bonds and interest coupons, if any, printed, executed, and exchanged for the bond or bonds being changed or converted, in the manner prescribed in such proceedings. Except as provided in Section 6(b) hereof, in the event that any bond or bonds being changed or converted was or were approved by the attorney general of the State of Texas and registered by the comptroller of public accounts of the State of Texas, then any bond or bonds to be exchanged for any such bond or bonds being changed or converted shall be submitted to the attorney general of the State of Texas

for examination, and if he finds that it or they have been printed, executed, and issued as provided by law and by the resolution, order, ordinance, or other proceedings authorizing the issuance of such bond or bonds being changed or converted, then he shall approve them, and thereupon they shall be registered by the comptroller of public accounts, and after such approval and registration they shall be valid and incontestable for all purposes. However, the comptroller of public accounts shall not register any such new bond or bonds until any bond or bonds being changed or converted shall have been surrendered to and canceled by the comptroller of public accounts, and upon such surrender and cancellation, the comptroller of public accounts shall register and deliver the new bond or bonds in exchange for the bond or bonds being changed or converted.

(b) The governing body of any issuer may provide and covenant for the conversion of any form of bond or interest coupon into any other form or forms of bond or interest coupon, and for reconversion of bonds and interest coupons into any other form, and may provide procedures for the replacement of lost, stolen, destroyed, or mutilated bonds or interest coupons or for the transfer or exchange of bonds for previously issued bonds, all in such manner as may be prescribed by the governing body of the issuer in the resolution, order, ordinance, or other proceedings authorizing the issuance of the bonds. Notwithstanding the foregoing provisions of Section 6(a) of this Act, if the duty of replacement, conversion, or reconversion of any bonds or interest coupons or of the transfer or exchange of previously issued bonds, is imposed upon a corporate trustee under a trust agreement or trust indenture securing the bonds, or upon a paying agent for any such bonds, the replacement, converted, or reconverted bonds or interest coupons, or the bonds delivered on transfer or exchange of previously issued bonds need not be reapproved by the attorney general or reregistered by the comptroller of public accounts as provided in Section 6(a), and all such replacement, converted, or reconverted bonds and interest coupons and such transferred or exchanged bonds shall be valid, incontestable, and enforceable in the same manner and with the same effect as the bonds originally issued.

Use of Proceeds

Sec. 7. An issuer may use the proceeds of bonds which, in whole or part, are payable from and secured by the revenues derived from the operation or ownership of any project or facilities, if the issuer is otherwise authorized by law to secure and pay such bonds from such revenues, for paying interest thereon during the period of the acquisition or construction of any project or facilities to be provided through the issuance thereof, and for one year thereafter, for paying expenses of operation and maintenance of such project or facilities during the estimated period of the acquisition or construc-

tion of such project or facilities and for one year thereafter, for funding debt service reserve, contingency, and other funds relating to the bonds, and for paying the costs and expenses of the issuance of the bonds; and such proceeds may be placed on time deposit or invested in any obligations authorized by law for the investment of funds of such issuer until needed, all to the extent, and in the manner provided, in the resolution, order, or ordinance authorizing their issuance.

Validation of Prior Proceedings and Issuance

Sec. 8. All bonds heretofore issued and delivered by the governing body of any issuer and all proceedings authorizing same, are hereby validated, ratified, and confirmed in all respects.

Bonds as Negotiable Instruments, Investment Securities, and Security for Deposits

Sec. 9. All bonds issued by an issuer shall constitute negotiable instruments, and are investment securities governed by Chapter 8, Texas Uniform Commercial Code,¹ notwithstanding any provisions of law or court decision to the contrary, and are legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, and trustees, and for the sinking fund of cities, towns, villages, school districts, and other political subdivisions or public agencies of the State of Texas. Said bonds also are eligible to secure deposits of any public funds of the state or any political subdivision or public agency of the state, and are lawful and sufficient security for the deposits to the extent of their market value, when accompanied by any unmatured coupons attached to the bonds.

¹ Business and Commerce Code, § 8.101 et seq.

Liberal Construction

Sec. 10. This Act shall be construed liberally to effectuate the legislative intent and the purposes of the Act, and all powers herein granted shall be broadly interpreted to effectuate such intent and purposes and not as a limitation of powers.

Severability

Sec. 11. In case any one or more of the sections, provisions, clauses, or words of this Act or the application of such sections, provisions, clauses, or words to any situation or circumstance shall for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other sections, provisions, clauses, or words of the Act or the application of such sections, provisions, clauses, or words to any other situation or circumstance, and it is intended that the Act shall be severable and shall be construed and applied as if any such invalid or unconstitutional section, provision, clause, or word had not been included herein.

Pledge or Lien on Resources, Assets or Fund of Issuer

Sec. 12. When the governing body of any issuer provides in the resolution, order, ordinance, or other proceedings authorizing the issuance of any bond or bonds for a pledge or lien on revenues, income, or other resources of the issuer, or the assets of the issuer, or any fund maintained by the issuer, such pledge or lien shall be valid and binding in accordance with its terms without further action on the part of the issuer and without any filing or recording with respect thereto except in the records of the issuer. All such liens and pledges shall be effective from the time of payment for and delivery of the bonds until the bonds have been paid or payment of the bonds has been provided for and shall be fully effective as to items then on hand and thereafter received, and said items shall be subject to such liens or pledges without any physical delivery thereof or further act. Nothing contained in this section shall relieve any issuer of any obligation to file or record any lien on realty or to submit any bond issue for approval by the attorney general and registration by the comptroller of public accounts. [Acts 1981, 67th Leg., p. 3217, ch. 845, eff. June 17, 1981. Amended by Acts 1983, 68th Leg., p. 2493, ch. 435, §§ 6 to 8, eff. Aug. 29, 1983.]

Art. 717l. County Bonds; Taxation to Pay; Surveys, Maps and Plats

Sec. 1. The Commissioners Court of any county in the State of Texas having a population of five hundred thousand (500,000) inhabitants, or more, according to the last preceding or any future federal census, is authorized to issue negotiable bonds of the county and to levy and collect taxes in payment thereof, for the purpose of paying for the cost of making any survey and of acquiring any maps and plats which said Commissioners Court is authorized to cause to be made, and is authorized to acquire under the provisions of Article 7344 of the 1925 Revised Civil Statutes of Texas.

Sec. 2. The Commissioners Court of any such county may also cause to be furnished to the assessor and collector of taxes of such county, block books showing the description of each block and subdivision, and the names of the record owners of each parcel of property therein, where known, and such other information relative thereto as will be of assistance to the assessor and collector of taxes of such county in the performance of his duties; and such Commissioners Court is authorized to issue negotiable bonds of the county and to levy and collect taxes in payment thereof to pay for the cost of such block books and the compilation of such information.

Sec. 3. The Commissioners Court may submit at any bond election one proposition for the issuance of such bonds, which proposition may include all the purposes authorized herein for which such bonds may be issued; or it may, at its option, submit at any bond election one or more separate propositions for the issuance of such bonds, each of which sepa-

rate propositions may include any one or more of the purposes authorized herein for which such bonds may be issued.

Sec. 4. Such bonds under and pursuant to the provisions of this Act shall be an obligation of and a charge against the county; and it shall be the duty of such Commissioners Court to have assessed and collected a tax sufficient to pay the principal of and interest on such bonds as such principal and interest become due, which tax shall be levied pursuant to the authority of Article 8, Section 9, of the Constitution of the State of Texas, as amended, for general fund purposes. Such bonds may mature serially or otherwise as may be determined by the Commissioners Court of such county, not exceeding forty (40) years from their date; and such bonds may contain such option or options of redemption, or no option of redemption, as may be determined by the Commissioners Court; and the issuance of such bonds and the levying and collection of such taxes shall otherwise be in accordance with the provisions of Chapters 1 and 2, Title 22, Revised Civil Statutes, 1925, as amended,¹ governing the issuance of bonds by cities, towns and counties of this state.

Sec. 5. The provisions of this Act are in addition to all the powers given by, and are cumulative of, all other provisions of the laws of the State of Texas on the same subject.

[Acts 1957, 55th Leg., p. 1371, ch. 467.]

¹ Articles 701 et seq. and 718 et seq.

Art. 717l-1. Contracts to Destroy Paid Certificates, Bonds, Interest Coupons, and Evidences of Indebtedness

The commissioners court of a county may contract with its depository or another entity that acts as the registrar or paying agent for the certificates, bonds, interest coupons, or other evidences of indebtedness issued by the county, for the destruction of any certificates, bonds, interest coupons, or other evidences of indebtedness that have been issued and paid by the county. The commissioners court may establish the terms of the contract as it considers appropriate. However, the contract may not authorize the destruction of a certificate, bond, interest coupon, or other evidence of indebtedness before the expiration of one year from the date of its payment or before the expiration of three months from the date the depository or other registrar or paying agent files with the commissioners court or county treasurer a list identifying the certificate, bond, interest coupon, or other evidence of indebtedness to be destroyed.

[Acts 1981, 67th Leg., p. 1815, ch. 405, § 1, eff. Aug. 31, 1981. Amended by Acts 1983, 68th Leg., p. 1735, ch. 333, § 1, eff. Aug. 29, 1983.]

Art. 717m. Repealed by Acts 1979, 66th Leg., p. 881, ch. 400, § 14(a), eff. June 6, 1979

Section 14(b) of the 1979 repealing act provided:

"Subsection (a) of this section does not affect any proceeding under the repealed law pending on the effective date of this Act. Such a proceeding is covered by the law under which it was instituted, and the repealed law is continued in effect for that purpose."

Art. 717m-1. Declaratory Judgment Concerning Validity of Securities

Definitions

Sec. 1. The following words, as used in this Act, shall have the following meanings unless the context clearly requires otherwise:

(1) "Public agency" means any board, authority, agency, department, commission, political subdivision, municipal corporation, district, public corporation, body politic, or instrumentality of the State of Texas including, without limitation, any county, home-rule charter city, general law city, town, or village, any state-supported educational institution of higher learning, any school, junior college, hospital, water, sewerage, waste disposal, pollution, road, navigation, levee, drainage, conservation, reclamation, or other district or authority, and any other type of political or governmental entity of the State of Texas.

(2) "Securities" means all interest-bearing obligations, including, without limitation, any bonds, notes, bond anticipation notes, warrants, certificates, or other evidences of indebtedness, whether general or special, whether negotiable or nonnegotiable in form, whether in bearer or registered form, whether in temporary or permanent form, whether with or without interest coupons, and regardless of the source of payment, whether from taxes, revenues, or both, or otherwise.

Declaratory Judgment

Sec. 2. Any public agency may, prior to or after the issuance and delivery of any securities, institute a proceeding in rem in district court by filing a petition as provided by this Act, for the purpose of obtaining a declaratory judgment as to the authority of the public agency to issue and deliver the securities and as to the legality and validity of all proceedings, including all actions and expenditures of funds, taken or made and/or proposed to be taken or made in connection with or affecting any securities, including, in appropriate cases, the validity of the election, if any, at which the securities were authorized, and the organization or boundaries, if any, of the public agency, any assessments or taxes levied or to be levied, and the lien of the taxes, the validity of any contract or contracts executed or proposed to be executed with respect to the securities, the levy of rates, fees, charges, or tolls, and of proceedings or other remedies for the collection of such taxes, rates, fees, charges, or tolls, the legality and validity of the pledge of any taxes, revenues, receipts, or property, or encumbrance thereon to secure said securities, and as to the legality and validity of the securities and proceedings. The petition may be filed in any district court

of Travis County, Texas, or, at the option of the public agency, in any district court of the county in which the public agency maintains its principal office, as a class action against the taxpayers, property owners, and residents, if any, of the public agency, and all nonresidents, if any, owning property therein, and/or all others having or claiming any right, title, or interest in any property or funds to be affected by the proceedings and/or the issuance of the securities, or interested or affected in any way thereby, or by the proceedings, including all actions and expenditures of funds, taken or made and/or proposed to be taken or made in connection with or affecting the securities.

Content of Petition

Sec. 3. The petition for declaratory judgment shall briefly set out, by proper allegations, references, or exhibits, the public agency's authority for issuing the securities, the holding of an election and the results of the election where an election is required, copies of or pertinent excerpts from any proceedings, including any essential actions and expenditure of funds, taken or made and/or proposed to be taken or made in connection with the securities, the amount or proposed maximum amount and purpose of the securities, the rate or rates of interest or proposed maximum rate of interest they are to bear, and, in case it is desired to adjudicate the organization or validity of the public agency, the authority for and proceedings had in the creation of the public agency, or in changing its boundaries, if any, or any other pertinent matters.

Notice to Taxpayers and Attorney General, etc.

Sec. 4. The judge of the district court where the petition is filed shall, on filing and presentation of the petition, immediately make and issue an order in general terms in the form of a notice directed to all taxpayers, property owners, and residents, if any, of the public agency, and all nonresidents, if any, owning property therein, and all others having or claiming any right, title, or interest in any property or funds to be affected by the proceedings and/or the issuance of the securities, or interested or affected in any way thereby, or by the proceedings, including all actions and expenditure of funds, taken or made and/or proposed to be taken or made in connection with or affecting the securities, requiring, in general terms and without naming them, all the persons and the Attorney General of Texas to appear for hearing and trial at 10 a. m. on the first Monday after the expiration of 20 days from the date of issue of the order, and show cause why the prayers of the petition should not be granted and the proceedings and the securities validated and confirmed as therein prayed. The notice shall give a general description of the nature of the petition but need not set forth the entire petition or the attached exhibits. A copy of the petition, together with any exhibits attached, and a copy of said order, shall be served on the attorney general at least 20 days before the time fixed in the order for hearing

and trial as aforesaid; provided, that the attorney general may waive the service when he has been furnished a certified copy of the petition, order, and a transcript of all pertinent proceedings relating to the matters set forth in the petition. The attorney general shall carefully examine the petition, and if it appears or there is reason to believe that the petition is defective, insufficient, or untrue, or, if, in his opinion, the proceedings or the securities are or will be invalid or unauthorized, the defense shall be made thereto as he may deem proper. The records of the public agency pertaining to the proceedings or the securities shall be open to inspection at reasonable times to any party to the suit. Any officer, agent, or employee having charge, possession, custody, or control of any of the books, papers, or records of the public agency shall, on demand of the attorney general, exhibit for examination the books, papers, or records and shall, without cost, furnish duly authenticated copies which pertain to the proceedings or the securities, or which may affect the legality of the same, as may be demanded of him. It is specifically provided, however, that if the attorney general does not question the validity of the proceedings or the securities or the security or provisions for the payment thereof, the attorney general may so allege, and on a finding by the court to that effect, the attorney general may be dismissed as a party and the court shall proceed to a final determination of the cause. If the cause is filed in any court other than in Travis County, the public agency shall pay any mileage and travel expenses of the attorney general or his assistant in the same amount as is allowable by the state to officials for travel on other official business. The claim for the expenses shall be filed in duplicate with the clerk of the court in which the cause is pending and shall be taxed as costs against the public agency.

May Enjoin Other Proceedings

Sec. 5. On motion of the petitioner, whether before or after the date set for hearing as provided in Section 4 of this Act, the judge may enjoin the commencement, prosecution, or maintenance by any person or entity of any other action or proceeding contesting the validity of the organizational proceedings or boundary changes of the public agency, or the validity of the securities described in the petition or the validity of any proceedings, including all actions and expenditures of funds, taken or made and/or proposed to be taken or made in connection with or affecting the securities, or the validity of the taxes, assessments, tolls, fees, rates, or other levies authorized to be imposed or made for the payment of the securities or the interest on the securities, or the validity of any pledge of any revenues, receipts, or property, or encumbrances thereon, to secure payment, and may order a joint hearing or trial before him of all issues then pending in any other action, cause, or proceedings in any court in the State of Texas, and may order all actions or proceedings consolidated with the suit for

declaratory judgment pending before him as authorized by this Act, and may enter orders as are necessary or proper to effect the consolidation, and which will avoid unnecessary costs or delays or multiplicity of suits, and all interlocutory orders shall be final and not be appealable.

Published Notice

Sec. 6. Prior to the date set for hearing and trial as provided in Section 4 of this Act, the clerk of the court where the petition is filed shall give notice by causing a substantial copy of the order issued pursuant to Section 4 of this Act to be published in a newspaper of general circulation in Travis County, and in a newspaper of general circulation in the county where the public agency maintains its principal office, and if any public agency, other than the State of Texas, has defined boundaries, in a newspaper of general circulation in each county in which the public agency has territory. The notice shall be so published once in each of two consecutive calendar weeks, with the date of the first publication to be not less than 14 days prior to the date set for hearing and trial. On the giving of the notice and the publication of the order, all taxpayers, property owners, and residents, if any, of the public agency, and all nonresidents, if any, owning property therein, and all others having or claiming any right, title, or interest in any property or funds to be affected in any way by the securities, or the proceedings, including all actions and expenditures of funds, taken or made and/or proposed to be taken or made in connection with or affecting the securities, shall be considered as and are thereby made parties defendant to the proceedings, and the court shall have jurisdiction of them to the same extent as if individually named as defendants in the petition and personally served with process in the cause.

Admission of Parties

Sec. 7. Any property owner, taxpayer, citizen, or person affected by or interested in the proceedings or the issuance of the securities may become a named party to the proceedings by pleading to the petition on or before the time set for hearing and trial as provided in Section 4 of this Act, or thereafter by intervention on leave of court. At or after the time and at the place designated in the order for hearing and trial, the judge shall proceed to hear and determine all questions of law and fact in the proceedings and may enter orders as to the proceedings, and as to any necessary adjournments as will enable him properly to try and determine the questions and to render a final judgment with the least possible delay. Any party to the proceedings shall be entitled to a jury trial on any issue of fact where required by the Texas Constitution. Rule 254 of the Texas Rules of Civil Procedure and Section 1, Chapter 7, Acts of the 41st Legislature, Regular Session, 1929, as amended (Article 2168a, Vernon's Texas Civil Statutes), shall not apply to any proceedings or appeals authorized by this Act. Except as otherwise provided in this Act, the applicable Texas

Rules of Civil Procedure and all applicable statutes shall govern the proceedings and appeals held and conducted pursuant to this Act.

Bond

Sec. 8. At any time prior to entry of final judgment in the proceedings, the public agency may ask the court for an order that any opposing party or intervenor, except the attorney general, be dismissed unless the opposing party or intervenor shall post a bond with sufficient surety, approved by the court, payable to the public agency for the payment of all damages and costs which may accrue by reason of the delay as will be occasioned by the continued participation of the opposing party or intervenor in the proceedings in the event that the public agency finally prevails and obtains substantially the judgment prayed for in its petition. The court shall then issue an order directed to the opposing party or intervenor, which order, together with a copy of the motion, shall be served on the opposing party or intervenor, or on his attorney of record, personally or by registered mail, requiring the opposing party or intervenor to appear at the time and place, not sooner than 5 nor later than 10 days after entry of the order, as the court may direct, and show cause why the motion should not be granted. Motions with respect to more than one opposing party or intervenor may be heard together if so directed by the court. Unless at the hearing on the motion the opposing party or intervenor establishes facts which, in the judgment of the court would entitle him to a temporary injunction against the issuance of the securities, the court shall grant the motion of the public agency and in its order the court shall fix the amount of the bond to be posted by the opposing party or intervenor in an amount found by the court to be sufficient to cover all damages and costs which may accrue by reason of the delay as will be occasioned by the continued participation of the opposing party or intervenor in the proceedings in the event that the public agency finally prevails and obtains substantially the judgment prayed for in its petition. The court in its discretion may receive evidence at the hearing or any adjournment with respect to the amount of the damages and costs, which shall include but not be limited to anticipated increases in interest rates and in construction and financing costs. If more than one opposing party or intervenor is a participant in the proceedings, the court in its discretion may allocate the amount of the bond among the opposing parties or intervenors according to the extent or degree of their participation in the proceedings, but may fix the amount of the bond to be posted by a particular opposing party or intervenor only if a motion as described in this section was made and granted as to the opposing party or intervenor. In the event a bond with sufficient surety is not filed by the opposing party or intervenor within 10 days after entry of the order of the court fixing the amount of the bond, the opposing party or intervenor shall be dismissed by

the court. The dismissal shall constitute a final judgment of the court, unless an appeal was taken as provided by this Act. No court shall have further jurisdiction of any action to the extent the action involves any issue which was or could have been raised in the proceedings, except to the extent that the issue may have been raised by an opposing party or intervenor as to whom no motion was made hereunder. An order of the court fixing the amount of the bond to be posted by an opposing party or intervenor or denying the motion of a public agency or dismissing a party for failure to file a bond may be appealed as provided in Section 9 of this Act. The court to which any appeal is taken may modify the order of the lower court and may enter the modified order as the final order. In the event no appeal is taken or if the appeal is taken and the order of the lower court is affirmed or affirmed as modified, and no bond is posted pursuant to this section within 10 days after entry of the appropriate order, no court shall have further jurisdiction of any action to the extent it shall involve any issue which was or could have been raised in the proceedings, except to the extent that the issue may have been raised in the proceedings by an opposing party or intervenor as to whom no motion was made hereunder. It is further provided that, on motion of the public agency, the court shall proceed without delay to hearing and trial on the merits of the public agency's petition, regardless of the pendency of an appeal from any order entered pursuant to this section.

Appeal

Sec. 9. Any party to the cause, whether the public agency, a defendant, intervenor, or otherwise, dissatisfied with any order entered paramount to Section 8 of this Act, or with the judgment in the declaratory judgment action, may appeal therefrom to the appropriate court of civil appeals after the entry of the order or judgment, or the order or judgment shall become final. The appeal shall take priority over all other cases, causes, or matters pending in the court of civil appeals, except habeas corpus, and it shall be mandatory that the court of civil appeals assure the priority and act thereon and render its final order or judgment therein with the least possible delay. The Supreme Court shall have authority to review, by writ of error or other authorized procedure, all questions of law arising out of the orders and judgments of the courts of civil appeals in the cases, in the manner, time, and form applicable in other civil causes where a decision of the court of civil appeals is not final, but any such review shall take priority over all other cases, causes, or matters pending in the Supreme Court, except habeas corpus, and it shall be mandatory that the Supreme Court assure the priority and review and act thereon and render its final order or judgment therein with the least possible delay. Also, Rule 499a, Texas Rules of Civil Procedure, shall apply to proceedings in the district court, but any direct appeal thereunder shall take priority over all others

cases, causes, and matters pending in the Supreme Court, except habeas corpus, and it shall be mandatory that the Supreme Court assure the priority and review and act thereon and render its final order or judgment with the least possible delay.

Effect of Judgment

Sec. 10. In the event the judgment of the district court determines that the public agency has or had authority to undertake the proceedings and/or to issue the securities upon the terms set forth in the petition for declaratory judgment hereunder, and adjudicates the legality of all proceedings, including all actions and expenditures of funds, taken or made and/or proposed to be taken or made in connection with or relating to the securities, and no appeal is taken within the time above prescribed, or if taken and the judgment of the district court is affirmed, the judgment shall, as to all matters adjudicated, or which could have been raised in the proceedings, be forever binding and conclusive against the public agency, the attorney general, the comptroller of public accounts, and all parties to the cause, whether mentioned in and served with the notice of the proceedings, or included in the description, "all taxpayers, property owners, and residents, if any, of the public agency, and all nonresidents, if any, owning property therein, and all others having or claiming any right, title, or interest in any properties or funds to be affected by the proceedings and/or the issuance of the securities, or interested or affected in any way thereby, or by the proceedings, including all actions and expenditures of funds, taken or made and/or proposed to be taken or made in connection with or affecting the securities," and shall constitute a permanent injunction against the institution by any person or entity of any action or proceedings contesting the validity of the proceedings and/or securities described in the petition, or the validity of provisions made for the payment of the same, or of interest thereon, or any matters adjudicated by the judgment, or which could have been raised in the proceedings.

Securities: Printed Statement

Sec. 11. Securities adjudged valid as provided by this Act may, at the option of the public agency, have stamped, printed, or written on the securities the following statement:

"This obligation was validated and confirmed by a judgment entered _____ (date when the judgment was entered and the court in which it was entered and the style and number of the cause in said court), which perpetually enjoins the institution of any suit, action, or proceeding involving the validity of this obligation, or the provision made for the payment of the principal thereof and interest thereon."

The certificate may be signed by the clerk, secretary, or other official of the public agency, and the signature may be by facsimile if authorized by the governing body of the public agency.

Costs

Sec. 12. The costs in each proceeding under this Act shall be paid by the public agency, except that in cases where a taxpayer, citizen, or other person or entity appears and contests the proceedings or intervenes therein, the court may tax the whole or any part of the costs against such party or parties as the court shall determine to be equitable and just; provided, that in no event shall any costs be taxed against the attorney general.

Cumulative Effect

Sec. 13. The procedure prescribed in this Act is cumulative of all other methods permitted under law for declaratory judgments and for approval and validation of proceedings and/or securities and shall not have the effect of repealing any such laws; but this Act shall be wholly sufficient authority within itself for the acts and procedures authorized in this Act, without reference to any other laws or any restrictions or limitations contained therein, except as specifically provided in this Act. To the extent of any conflict or inconsistency between any provisions of this Act and any provisions of any other law, the provisions of this Act shall prevail and control. The procedures authorized by this Act may be invoked only by a public agency, and when so invoked may be employed concurrently with, or after use of other means of declaratory judgment, approval, or validation, and may be invoked before or after the attorney general has approved the securities and/or before or after the securities are authorized or delivered and outstanding, and may be invoked regardless of the pendency of any other suit, action, cause, or proceeding in any court pertaining to the matters sought to be adjudicated. This Act shall not have the effect of repealing the existing right of a public agency to apply for, and of the Supreme Court to issue, writs of mandamus to the attorney general for the approval of bonds, in appropriate cases, and the Supreme Court is specifically authorized to consider and issue such writs when appropriate, and it is declared that the remedy is necessary and desirable in the public interest as a matter of public policy of the State of Texas.

[Acts 1979, 66th Leg., p. 874, ch. 400, §§ 1 to 13, eff. June 6, 1979. Amended by Acts 1981, 67th Leg., p. 2635, ch. 707, § 4(16), eff. Aug. 31, 1981.]

Art. 717n. Counties; Issuance of Certificates of Indebtedness

Adoption of Act; Eligible County Defined

Sec. 1. The provisions of this Act may be adopted by an order of the Commissioners Court of any eligible county within this state upon the unanimous vote of the members of such court. An eligible county is defined to mean any county whose total taxable valuations at the time of the adoption of the provisions of this Act, according to the last approved tax rolls of the county, decreased by as much as seven per centum (7%) from the year

preceding and which county will not have sufficient funds available within the current fiscal year to meet its general fund operating expenses as the same shall become due.

Issuance of Certificates; Purpose

Sec. 2. Subject to the limitations contained in this Act, an eligible county is authorized to issue certificates of indebtedness for the purpose of paying the operating expenses of the county to be legally incurred payable from the county's constitutional general fund as the same shall become due. Any such certificates shall be sold for cash at not less than par and accrued interest and the proceeds thereof, excluding accrued interest, shall be used for the purpose authorized in this Act, provided, however, no such certificates shall be issued, sold or delivered after two (2) years from the effective date of this Act.

Maturity; Interest; Form of Certificates and Coupons

Sec. 3. Such certificates shall be authorized by order of the Commissioners Court, shall mature in not exceeding fifteen (15) years from their date and bear interest at a rate not to exceed five per centum (5%) per annum. Interest may be evidenced by coupons and the certificates shall be fully negotiable. The certificates and coupons pertaining thereto shall be signed by the county judge and attested by the county clerk, or the signatures of such officials may be lithographed or printed on such certificates or coupons in accordance with the provisions of Article 717j, Revised Civil Statutes of Texas, 1925, as amended, or any other law as may then be applicable to the execution of obligations issued by a county.

Tax

Sec. 4. When such certificates are issued, it shall be the duty of the Commissioners Court to levy and have assessed and collected a tax (out of the constitutional general fund tax as provided by Article 8 Section 9 of the Constitution of Texas) sufficient to pay the principal of and the interest on the certificates as such principal and interest become due, not to exceed ten cents (10¢) on the One Hundred Dollars (\$100.00) valuation of taxable property in said county, nor may any eligible county issue any certificates under the provisions of this Act in the aggregate principal amount in excess of one-half (½) of one per centum (1%) of the valuation of taxable property in said county according to the last approved tax rolls of such county at the time of the adoption of this Act.

Examination and Approval of Certificates

Sec. 5. The certificates and the record relating to their issuance shall be submitted to the Attorney General of Texas for examination and if they have been issued in accordance with the Constitution and this Act, he shall approve them, and thereupon they shall be registered by the Comptroller of Public

Accounts of the State of Texas, and thereafter they shall be incontestable.

Legal and Authorized Investments

Sec. 6. The certificates of indebtedness shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, savings and loan associations, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, and other political corporations or subdivisions of the State of Texas. Such certificates shall be eligible to secure the deposit of any and all public funds of the State of Texas, and of any and all public funds of cities, towns, villages, counties, school districts, and other political subdivisions of the State of Texas; and such certificates shall be lawful and sufficient security for said deposits to the extent of their face value or to the extent of their market value, whichever value is the smaller, when accompanied by all unmatured coupons appurtenant thereto.

Refunding Bonds

Sec. 7. The Commissioners Court of an eligible county shall have the right at all times to issue refunding bonds for the refunding of certificates issued under the terms of this Act, subject to the General Laws applicable to the issuance of refunding bonds by counties and without the necessity of any notice or right to referendum vote.

[Acts 1961, 57th Leg., p. 651, ch. 301.]

Art. 717n-1. Counties over 1,000,000; Issuance of Certificates of Indebtedness for Certain Purposes

Authorization

Sec. 1. Any county having a population in excess of 1,000,000, according to the most recent Federal Census, is authorized, subject to the limitations contained in this Act, to issue certificates of indebtedness:

(1) in the amount of not more than \$2,000,000 for the purpose of constructing, enlarging, furnishing, equipping and repairing county buildings and other permanent improvements; and

(2) in the amount of not more than \$3,500,000 for the purchase of right-of-way in participation with the Texas Highway Department in connection with designated state highways and for the construction of curbs, gutters and drainage facilities for such designated highways.

(3) If bonds are not issued under this Act by January 1, 1980, this Act will no longer be in effect.

Maturity; Interest; Negotiability; County Registration; Amount

Sec. 2. Such certificates shall be authorized by order of the commissioners court and shall mature in not to exceed 35 years from their date. Interest

may be evidenced by coupons. Said certificates shall be sold for cash, and they shall be fully negotiable. Said certificates shall be signed by the county judge, attested by the county clerk, and registered by the county treasurer. Certificates shall not be issued under this Act in excess of \$5,500,000.

Tax Levy and Assessment

Sec. 3. When such certificates are issued, it shall be the duty of the commissioners court to levy and have assessed and collected a tax under Article VIII, Section 9 of the Constitution, sufficient to pay the principal of and the interest on the certificates as such principal and interest become due.

Approval by Attorney General; Registration

Sec. 4. The certificates and the record relating to their issuance shall be submitted to the Attorney General of Texas for examination, and if they have been issued in accordance with the constitution and this Act, he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas, who shall endorse his certificate of registration thereon, and thereafter they shall be incontestable.

Legal and Authorized Investments; Security for Deposits

Sec. 5. The certificates of indebtedness shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, savings and loan associations, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, and other political corporations or subdivisions of the State of Texas. Such certificates shall be eligible to secure the deposit of any and all public funds of the State of Texas, and of any and all public funds of cities, towns, villages, counties, school districts, and other political subdivisions of the State of Texas; and such certificates shall be lawful and sufficient security for said deposits to the extent of their face value or to the extent of their market value, whichever value is the smaller, when accompanied by all unmatured coupons appurtenant thereto.

[Acts 1975, 64th Leg., p. 1873, ch. 589, §§ 1 to 5, eff. Sept. 1, 1975.]

Art. 717o. Local Government Sport Centers

Definitions

Sec. 1. In this Act:

(1) "Local government" means a county, an incorporated city or town, or an independent school district.

(2) "Ordinance," in the case of an independent school district, means "resolution," and in the case of a county means "order."

(3) "Sport center" means a facility used for sporting activities and events, including auxiliary facilities such as parking areas and restaurants.

Application of Act

Sec. 2. A local government may take advantage of this Act only if all or most of its territory is located in a county that has a population of more than 650,000, according to the last preceding federal census.

General Authority

Sec. 3. (a) A local government may construct, acquire, lease, improve, enlarge, and operate one or more sport centers under this Act.

(b) Two or more local governments acting jointly may do anything authorized by this Act to be done by a single local government. When two or more local governments act jointly, joint action by all local governments involved is necessary to perform any official act. Two or more local governments may act jointly under this subsection only if each of them is authorized individually to take advantage of this Act and all or most of the territory of each of them is located in the same county or in adjacent counties.

(c) A local government or combination of them acting under this Act may contract with any public or private entity including a coliseum advisory board or similar body, for the performance of any function authorized under this Act other than the performance of an official governmental act that is required to be done by the governing body of a local government.

Issuance of Revenue Bonds

Sec. 4. For any purpose authorized under Section 3 of this Act, the governing body of a local government may issue revenue bonds from time to time in one or more series to be payable from and secured by liens on all or part of the revenue derived from a facility authorized under this Act.

Terms and Conditions of Bonds

Sec. 5. (a) The bonds may be issued to mature serially or otherwise within not to exceed 40 years from their date, and provision may be made for the subsequent issuance of additional parity bonds, or subordinate lien bonds, under any terms or conditions that may be set forth in the resolution authorizing the issuance of the bonds.

(b) The bonds, and any interest coupons appertaining thereto, are negotiable instruments within the meaning and for all purposes of the Texas Uniform Commercial Code. The bonds may be issued registrable as to principal alone or as to both principal and interest, and shall be executed, and may be made redeemable prior to maturity, and may be issued in such form, denominations, and manner, and under such terms, conditions, and details, and may be sold in such manner, at such price,

and under such terms, and said bonds shall bear interest at such rates, all as shall be determined and provided in the ordinance authorizing the issuance of the bonds.

(c) If so provided in the bond ordinance, the proceeds from the sale of the bonds may be used for paying interest on the bonds during and after the period of the acquisition or construction of any facilities to be provided through the issuance of the bonds, for paying expenses of operation and maintenance of facilities authorized under this Act, for creating a reserve fund for the payment of the principal of and interest on the bonds, and for creating any other funds. The proceeds of the bonds may be placed on time deposit or invested, until needed, all to the extent, and in the manner provided, in the bond ordinance.

Rentals, Rates, and Charges

Sec. 6. The local government is authorized to fix and collect fees, rentals, rates, and charges for the occupancy, use, or availability of all or any of its property, buildings, structures, or other facilities authorized under this Act in such amounts and in such manner as may be determined by the governing body of the local government.

Pledges

Sec. 7. (a) The local government may pledge all or any part of the revenues, income, or receipts from such fees, rentals, rates, and charges to the payment of the bonds, including the payment of principal, interest, and any other amounts required or permitted in connection with the bonds. The pledged fees, rentals, rates, and charges shall be fixed and collected in amounts that will be at least sufficient, together with any other pledged resources, to provide for all payments of principal, interest, and any other amounts required in connection with the bonds, and, to the extent required by the ordinance authorizing the issuance of the bonds, to provide for the payment of expenses in connection with the bonds, and for the payment of operation, maintenance, and other expenses in connection with the facilities authorized under this Act.

(b) The bonds may be additionally secured by mortgages or deeds of trust on any real property relating to the facilities authorized under this Act owned or to be acquired by the local government, and by chattel mortgages, liens, or security interests on any personal property appurtenant to that real property. The governing body of the local government may authorize the execution of trust indentures, mortgages, deeds of trust, or other forms of encumbrances to evidence the indebtedness.

(c) The local government may also pledge to the payment of the bonds all or any part of any grant, donation, revenues, or income received or to be received from the United States government or any

other public or private source, whether pursuant to an agreement or otherwise.

(d) No holder of any bond or bonds issued under this Act shall ever have the right to demand payment thereof out of any funds raised or to be raised by taxation.

Public Purpose

Sec. 8. The acquisition, purchase, construction, improvement, enlargement, equipment, operation, and maintenance of any property, buildings, structures, or other facilities authorized under this Act are public purposes and proper functions of local governments.

Refunding Bonds

Sec. 9. (a) Any bonds issued pursuant to this Act may be refunded or otherwise refinanced by the issuance of refunding bonds for that purpose, under any terms or conditions, as are determined by ordinance of the governing body of the local government. All appropriate provisions of this Act are applicable to refunding bonds, and the refunding bonds shall be issued in the manner provided in this Act for other bonds. The refunding bonds may be sold and delivered in amounts necessary to pay the principal, interest, and redemption premium, if any, of bonds to be refunded, at maturity or on any redemption date.

(b) The refunding bonds may be issued to be exchanged for the bonds being refunded by them. In that case, the comptroller of public accounts shall register the refunding bonds and deliver them to the holder or holders of the bonds being refunded in accordance with the provisions of the ordinance authorizing the refunding bonds. The exchange may be made in one delivery or in several installment deliveries.

(c) Bonds issued at any time by a local government under this Act also may be refunded in the manner provided by any other applicable law.

Approval and Registration of Bonds

Sec. 10. All bonds issued under this Act and the appropriate proceedings authorizing their issuance shall be submitted to the attorney general for examination. If the bonds recite that they are secured by a pledge of revenues or rentals from a contract or lease, a copy of the contract or lease and the proceedings relating to it shall be submitted to the attorney general also. If he finds that the bonds have been authorized and any contract or lease has been made in accordance with law, he shall approve the bonds and the contract or lease, and thereupon the bonds shall be registered by the comptroller of public accounts. After approval and registration the bonds and any contract or lease relating to them are incontestable in any court or other forum for any reason, and are valid and binding obligations for all purposes in accordance with their terms.

Authorized Investments and Security for Deposits

Sec. 11. All bonds issued under this Act are legal and authorized investments for all banks, trust companies, building and loan associations, savings and loan associations, insurance companies of all kinds and types, fiduciaries, trustees, and guardians, and for all interest and sinking funds and other public funds of the state and all agencies, subdivisions, and instrumentalities of the state, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic. The bonds also are eligible and lawful security for all deposits of public funds of the state and all agencies, subdivisions, and instrumentalities of it, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of the bonds, when accompanied by any unmatured interest coupons appurtenant thereto.

Cumulative Effect

Sec. 12. This Act is cumulative of all other law on the subject, but this Act shall be wholly sufficient authority within itself for the issuance of the bonds and the performance of the other acts and procedures authorized by it without reference to any other law or any restrictions or limitations contained therein, except as herein specifically provided. When any bonds are issued under this Act, then to the extent of any conflict or inconsistency between any provisions of this Act and any provision of any other law, the provisions of this Act shall prevail and control. A local government has the right to use the provisions of any other laws, not in conflict with the provisions of this Act, to the extent convenient or necessary to carry out any power or authority, express or implied, granted by this Act.

[Acts 1975, 64th Leg., p. 1198, ch. 454, §§ 1 to 12, eff. June 19, 1975.]

Art. 717p. River Authorities Engaged in Distribution and Sale of Electrical Energy

Sec. 1. Any river authority which is engaged in the distribution and sale of electric energy to the public shall have the power and is hereby authorized to issue from time to time revenue bonds, notes, or other obligations for any purpose or purposes authorized by law relating to the generation, transmission, or distribution of electricity. Such revenue bonds, notes, or other obligations may either be (1) sold for cash, at public or private sale, at such price or prices as the board of directors of the river authority shall determine; provided that the net effective interest rate shall not exceed the maximum from time to time authorized by law, or (2) issued on such terms as the board of directors shall determine in exchange for property of any kind, real, personal, mixed, or any interests therein which the board shall deem necessary or convenient for

any such lawful purpose or purposes; provided that any property acquired through the exchange of revenue bonds, notes, or other obligations shall be certified in writing prior to such exchange as being for value equal to or in excess of the par value of the bonds, notes, or other obligations by an independent appraisal which is kept on file by the river authority as a public record and a copy filed with the auditor of the State of Texas, or (3) issued in exchange for like principal amounts of other obligations of the river authority, matured or unmatured, or (4) sold to the State of Texas or any agency thereof, the United States of America, or any agency or corporation created or designated by the State of Texas or United States of America in exchange for cash equal in amount to the principal amount of the bonds so sold.

Sec. 2. This Act is cumulative of the other acts governing river authorities relating to the issuance of revenue bonds and, this Act is full authority for any such river authority to issue and sell bonds or other debt instruments under its provisions without reference to the provisions of any other law, and no other general or special law or specific act or provision thereof which limits, restricts, or imposes additional requirements on the matters authorized by this Act shall apply to any action or proceeding unless expressly provided to the contrary herein.

Sec. 3. This Act does not apply to or affect any litigation instituted prior to the effective date of this Act which questions the legality of any acts taken or proceedings had by any such river authority prior to said effective date.

[Acts 1981, 67th Leg., p. 621, ch. 245, eff. May 28, 1981.]

Art. 717q. Short Term Obligations for Public Utility**Definitions**

Sec. 1. As used in this Act, the following terms shall mean:

(1) "Issuer" means (A) any incorporated city operating under a home-rule charter adopted pursuant to Article XI, Section 5, of the Constitution of Texas; (B) any conservation and reclamation district created and organized as a river authority under and pursuant to Article III, Section 52, or Article XVI, Section 59, of the Constitution of Texas and by an act of the legislature of the State of Texas; (C) any joint powers agency organized and operating pursuant to Chapter 166, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1435a, Revised Statutes); (D) any metropolitan rapid transit authority or regional transportation authority created, organized, and operating pursuant to Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Revised Statutes) or Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Revised Statutes); and (E) any conservation and reclamation district organized or operating as a navigation district under and

pursuant to Article III, Section 52, or Article XVI, Section 59, of the Constitution of Texas.

(2) "Public utility" means properties and facilities for (A) the conservation, storage, supply, treatment, or transmission of water; (B) the treatment, collection, or disposal of water-carried wastes or solid wastes; (C) the generation, transmission, or distribution of electric power and energy; (D) the acquisition, distribution, or storage of gas; (E) a "public transportation system" as defined in Chapter 683, Acts of the 66th Legislature, 1979 (Article 1118y, Revised Statutes); (F) an "airport" as defined in the Municipal Airports Act (Article 46d-1 et seq., Revised Statutes); or (G) a port facility, including facilities for the operation or development of ports and waterways or in aid of navigation and navigation-related commerce in the ports and on the waterways.

(3) "Eligible project" means the acquisition or construction of improvements, additions, or extensions for a public utility, one or more, including capital assets and facilities incident and related to the operation, maintenance, and administration thereof, and, with respect to properties and facilities for (A) the generation of electric power and energy, fuel acquisition, or development or facilities for the transportation thereof; (B) a public transportation system, buildings, structures, terminals, rolling stock, garages, shops, equipment, and other facilities (including vehicle parking areas and facilities necessary or convenient for the beneficial use and access of persons and vehicles to stations, terminals, yards, cars, and buses or for the protection and environmental enhancement of such facilities) for mass public transportation; and (C) a port facility, wharves, docks, warehouses, grain elevators, other storage facilities, bunkering facilities, port-related railroads and bridges, floating plants and facilities, lightering facilities, cargo handling facilities, towing facilities, and all other facilities or aids incident to or useful in the operation of a port facility.

(4) "Project costs" means all costs and expenses incurred in relation to an eligible project, one or more, including without limitation design, planning, engineering and legal costs, acquisition costs of land, interests in land, right-of-way and easements, construction costs, costs of machinery, equipment, and other capital assets incident and related to the operation, maintenance, and administration of an eligible project, and financing costs, including interest during construction, underwriter's discount and/or fees, legal, financial, and other professional services. Project costs attributable to an eligible project and incurred prior to the issuance of any obligations issued to finance an eligible project may be reimbursed from the proceeds of sale of short term obligations.

(5) "Short term obligations" means notes, warrants, or other special obligations authorized to be issued by an issuer under the provisions of this Act, which, at the time of issuance, have been rated at

least "investment grade" by a nationally recognized rating agency for municipal securities.

(6) "Credit agreement" means loan agreement, revolving credit agreement, agreement establishing a line of credit, letter of credit, reimbursement agreement, insurance contract, commitments to purchase short term obligations, purchase or sale agreements, or commitments or other contracts or agreements authorized and approved by the governing body of an issuer in connection with the authorization, issuance, security, or payment of short term obligations.

(7) "Governing body" means the board, council, commission, or other designated body (acting either individually or jointly, when authorized by law) authorized by law to issue bonds for or on behalf of an issuer.

Authority to Issue, Sell and Deliver; Execution of Credit Agreements; Security; Repayment

Sec. 2. The governing body of an issuer is hereby authorized and empowered to issue, sell, and deliver short term obligations and execute credit agreements in relation thereto to finance project costs of an eligible project, subject to the limitations contained herein. Short term obligations shall be secured solely by (A) the proceeds of sale of short term obligations; (B) the proceeds of sale of revenue bonds payable from the revenues of a public utility, one or more, operated and maintained by an issuer; or (C) any one or more of such sources, including credit agreements, all as the governing body of the issuer shall provide in the resolution, order, or ordinance authorizing the issuance of the short term obligations. Short term obligations shall be repaid from the source or sources securing the payment thereof, funds received from a credit agreement, or from any other revenues otherwise legally available for the payment thereof, except funds derived from ad valorem taxation.

Resolution, Order or Ordinance; Contents; Validity of Signatures

Sec. 3. The issuance of short term obligations shall be authorized by resolution, order, or ordinance of the governing body of an issuer, which resolution, order, or ordinance shall fix the maximum amount of short term obligations to be issued or, if applicable, the maximum principal amount which may be outstanding at any time, the maximum term short term obligations issued and delivered pursuant to such authorization shall be outstanding, the maximum interest rate to be borne by the short term obligations, the manner of sale, price, form, terms, conditions, and the covenants thereof. The resolution, order, or ordinance authorizing the issuance of short term obligations may provide for the designation of a paying agent for the short term obligations and may authorize one or more designated officers or employees of the issuer to act on behalf of the issuer in the selling and delivering of short term obligations authorized and

fixing the dates, price, interest rates, and other procedures as may be specified in the resolution, order, or ordinance. Short term obligations may be issued in such form or such denomination, payable at such time or times, in such amount or amounts or installments, at such place or places, in such form, under such terms, conditions, and details, in such manner, redeemable prior to maturity at any time or times, bearing no interest, or bearing interest at any rate or rates (either fixed, or variable, or floating according to any clearly stated formula, calculation, or method) not to exceed the maximum net effective interest rate allowed by law and may be signed or otherwise executed in such manner, with manual or facsimile signatures, and with or without a seal, all as shall be specified by the governing body of the issuer in the resolution, order, or ordinance authorizing the issuance of the short term obligations. In the event any officer or officers whose signatures are on any short term obligations cease to be such officer or officers before the delivery thereof to the purchaser, such signature or signatures shall nevertheless be valid and sufficient for all purposes and the successor or successors in office of any such officer or officers shall be fully authorized to complete the execution, authentication, or delivery of said short term obligations to the purchaser or purchasers thereof.

Contracts for Future Sale

Sec. 4. The governing body of an issuer may contract for the future sale of short term obligations pursuant to which the purchasers are committed to purchase the short term obligations from time to time on the terms and conditions stated in the contract, including any credit agreement executed in connection therewith, and may pay such consideration as it considers proper for the commitments. Notwithstanding any law to the contrary, including any procedural requirements with respect thereto, an issuer shall be authorized and empowered to pledge or encumber the revenues of a public utility, one or more, subject to applicable statutory liens and liens securing indebtedness payable therefrom, as security for the repayment of a credit agreement. Short term obligations issued pursuant to such a contract shall mature within five years from the date of the contract.

Refinancing, Renewal, or Refunding

Sec. 5. Short term obligations (including accrued interest) may from time to time be refinanced, renewed, or refunded by the issuance of short term obligations and may be funded by the issuance of revenue bonds payable solely from the revenues of a public utility, one or more. Short term obligations, refunding short term obligations, renewals of short term obligations, or short term obligations issued to refinance short term obligations shall not be outstanding for a total elapsed time of more than five years from the date of the passage of the resolution, order, or ordinance authorizing the issuance thereof.

Resolution, Order, Ordinance, and Credit Agreements; Review and Approval by Attorney General

Sec. 6. Preliminary to the issuance and delivery of short term obligations, the resolution, order, or ordinance authorizing the issuance thereof, together with any credit agreements, shall be submitted to the attorney general for his review. If the attorney general shall find that such credit agreement and other authorizing proceedings conform to the requirements of this Act, the same shall be approved. Thereafter, the short term obligations authorized therein may be executed and delivered, exchanged, or refinanced from time to time in accordance with the authorizing proceedings. Upon approval by the attorney general and initial delivery of short term obligations, the credit agreements and short term obligations issued pursuant thereto and secured thereby shall be incontestable for any cause. Registration of short term obligations by the comptroller of public accounts shall not be required.

Negotiable Instruments; Legal and Authorized Investments; Security for Deposits

Sec. 7. All short term obligations issued by an issuer shall constitute negotiable instruments and are investment securities governed by Chapter 8, Business & Commerce Code, notwithstanding any provisions of law or court decision to the contrary and are legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, and trustees and for the sinking fund of cities, towns, villages, school districts, and other political subdivisions or public agencies of the State of Texas. Said short term obligations also are eligible to secure deposits of any public funds of the state or any political subdivision or public agency of the state and are lawful and sufficient security for the deposits to the extent of their market value.

Liberal Construction; Interpretation of Powers

Sec. 8. This Act shall be construed liberally to effectuate the legislative intent and purposes of this Act, and all powers herein granted shall be broadly interpreted to effectuate such intent and purposes and not as a limitation of powers.

Severability

Sec. 9. In case any one or more of the sections, provisions, clauses, or words of this Act or the application of such sections, provisions, clauses, or words to any situation or circumstance shall for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other sections, provisions, clauses, or words of the Act or the applications of such sections, provisions, clauses, or words to any other situation or circumstance, and it is intended that this Act shall be severable and shall be construed and applied as if any such invalid or unconstitutional section, provision, clause, or word had not been included herein.

Cumulative Effect

Sec. 10. This Act shall be cumulative of all other laws on the subject, but this Act shall be wholly sufficient authority within itself for the issuance of the short term obligations and the performance of the other acts and procedures authorized hereby, or under any agreement, without reference to any other laws of any restrictions or limitations contained therein; that to the extent of any conflict or inconsistency between any provisions of this Act and any provisions of any other law or home-rule charter, the provisions of this Act shall prevail and control; provided, however, that any issuer shall have the right to use the provisions of any other laws not in conflict with the provisions hereof to the extent convenient or necessary to carry out any power or authority, express or implied, granted by this Act.

[Acts 1983, 68th Leg., p. 4166, ch. 656, § 1, eff. Aug. 29, 1983.]

Art. 717r. Metropolitan Water Control and Improvement Districts and Subdistricts; Issuance of Bonds and Refunding Bonds

Definitions

Sec. 1. In this Act:

(1) "Refunding bonds" means refunding bonds issued by a metropolitan water control and improvement district.

(2) "Residential neighborhoods" means an area that, as it develops, will consist of detached single-family residences on no less than 79 percent of its net residential acreage, and no more than an additional 10 percent of its net residential acreage will consist of condominiums or multifamily rental units with a density greater than 15 units per net residential acre. Notwithstanding the foregoing, "residential neighborhoods" means an area that, as it develops, will consist of detached single-family residences on no less than 87½ percent of its net residential acreage if the preliminary engineering report adopted by the board of directors of the metropolitan water control and improvement district before the authorization of bonds stipulated that approximately 87½ percent of the net residential acreage would consist of single-family residences; provided, however, that on the full utilization of all facilities constructed with the proceeds of the bonds so authorized, the definition of "residential neighborhoods" stated in the first sentence of this subdivision shall thereafter apply. Variance of as much as three percent from the percentages set forth above shall be permissible during development so long as the percentages are met on completion of development.

(3) "Subdistrict" means a conservation and reclamation district created pursuant to Article XVI, Section 59, of the Texas Constitution and this Act to provide freshwater supply and distribution, sanitary

sewage collection and treatment and storm sewer and drainage facilities and services to residential neighborhoods.

(4) "Metropolitan water control and improvement district" means each conservation and reclamation district containing at least 10,000 acres after all exclusions of land have occurred, created pursuant to Article XVI, Section 59, of the Texas Constitution whether by general law or special Act that is governed by Chapter 51, Water Code, as amended, to the extent those provisions are not inconsistent with the provisions of any special Act creating the district.

Refunding Bonds

Sec. 2. (a) A metropolitan water control and improvement district may issue bonds to refund all or part of its outstanding bonds, notes, or other obligations including matured but unpaid interest.

(b) Refunding bonds shall mature serially or otherwise not more than 40 years from their date and shall bear interest at any rate or rates permitted by the constitution and laws of this state.

(c) Refunding bonds may be payable from the same source as the bonds, notes, or other obligations being refunded or from other additional sources or from other different sources.

(d) The refunding bonds shall be approved by the attorney general and shall be registered by the comptroller of public accounts. After that approval and registration, the refunding bonds shall be valid and incontestable for all purposes.

(e) The orders or resolutions authorizing the issuance of the refunding bonds may provide that they shall be sold and the proceeds deposited in the place or places at which the bonds being refunded are payable, in which case the refunding bonds may be issued before the cancellation of the bonds being refunded, provided an amount sufficient to pay the principal of and interest on the bonds being refunded to their maturity dates, or to their option dates if the bonds have been duly called for payment prior to maturity according to their terms, has been deposited in the place or places at which the bonds being refunded are payable. The comptroller of public accounts shall register these refunding bonds without the surrender and cancellation of the bonds being refunded. All resolutions previously adopted by metropolitan water control and improvement districts authorizing the issuance of refunding bonds are ratified and confirmed in all respects.

(f) A refunding may be accomplished in one or in several installment deliveries. Refunding bonds constitute negotiable instruments and are investment securities governed by the Uniform Commercial Code (Chapter 8, Business & Commerce Code) notwithstanding any provisions of law or court decision to the contrary and are legal and authorized investments for banks, savings banks, trust companies, savings and loan associations, insurance com-

panies, fiduciaries, trustees, and guardians, and for the sinking funds of cities, counties, school districts, and other political subdivisions or public agencies of this state. Refunding bonds are eligible to secure deposits of any public funds of the state and of any city, county, school district, and any other political subdivision or public agency of the state and are lawful and sufficient security for the deposits to the extent of their market value.

(g) In lieu of the methods set forth in this Act, a metropolitan water control and improvement district may refund bonds, notes, or other obligations in the manner provided by other general laws of this state.

(h) Notice of intention to issue refunding bonds shall be published by the metropolitan water control and improvement district at least once a week for two consecutive weeks in a newspaper of general circulation within the metropolitan water control and improvement district at least 15 days before the meeting of the governing body at which it is proposed to issue such bonds. At any time prior to the issuance of the bonds, if a petition signed by not less than 10 percent of the qualified voters of the metropolitan water control and improvement district is filed with the metropolitan water control and improvement district calling for a referendum on the refunding bond issue, the governing body shall, at its next meeting, order an election to be held within the metropolitan water control and improvement district to determine whether or not the bonds shall be issued. The election shall be held in the manner prescribed by Section 7, Bond and Warrant Law of 1931 (Article 2368a, Vernon's Texas Civil Statutes).

Creation of Subdistricts

Sec. 3. (a) The Texas Water Commission may create subdistricts over designated territory within the boundaries of metropolitan water control and improvement districts as provided by this section.

(b) A petition that contains the substance of the requirements of Sections 51.013 and 51.014, Water Code, shall be filed with the Texas Water Commission.

(c) The Texas Water Commission shall have notice of the hearing given in the manner required by Section 51.018, Water Code.

(d) The hearing shall be conducted in the manner provided by Section 51.020, Water Code; and the Texas Water Commission shall grant or refuse the petition in the manner provided by Section 51.021, Water Code, and the appeal from the decision of the Texas Water Commission shall be made in the manner provided by Sections 51.022 through 51.025, Water Code, as amended. The Texas Water Commission shall appoint five directors to serve as the governing body of the subdistrict, each of whom shall meet the qualifications provided by Section 51.072, Water Code.

(e) Within 60 days after a petition for the creation of a subdistrict is granted by the Texas Water Commission, the board of directors of the subdistrict shall adopt an order calling elections within the boundaries of the subdistrict in the manner provided by Sections 51.221 through 51.224, Water Code, for the following purposes:

(1) to confirm the creation of the subdistrict in the manner provided by Sections 51.033 and 51.034, Water Code;

(2) to authorize the issuance of bonds by the subdistrict or by the metropolitan water control and improvement district on behalf of the subdistrict to be repaid by ad valorem taxes, revenues, or ad valorem taxes and revenues derived by the subdistrict;

(3) to authorize a tax within the boundaries of the subdistrict to make payments under a contract with the metropolitan water control and improvement district to support refunding bonds of the metropolitan water control and improvement district in accordance with the exclusions procedure provided by Section 5 of this Act;

(4) to authorize a maintenance tax within the boundaries of the subdistrict in the manner provided by Sections 51.360 and 51.361, Water Code; and

(5) to elect a permanent board of directors for the subdistrict in the manner provided by Sections 51.074 and 51.075, Water Code.

(f) The subdistrict shall sue and be sued in its own name and shall, until excluded from the boundaries of the metropolitan water control and improvement district in accordance with the provisions of Section 5 of this Act, have concurrent jurisdiction with the metropolitan water control and improvement district that is in the territory within the boundaries of the subdistrict and may exercise any of the rights, powers, and authority of the metropolitan water control and improvement district within the boundaries of the subdistrict.

(g) The ad valorem plan of taxation shall apply to each subdistrict, and there shall be no hearing for exclusions of land from the subdistrict necessary prior to the elections provided in this section.

(h) The subdistrict may be dissolved in the same manner as the metropolitan water control and improvement district.

(i) The subdistrict shall be governed by Chapter 51, Water Code, as amended, and all other general laws of this state to the extent those laws are not inconsistent with this Act.

Bonds of the Subdistrict

Sec. 4. (a) Before adopting the order calling elections provided by Subsection (e) of Section 3 of this Act, the engineers for the subdistrict shall present a report to the governing body of the subdistrict that conforms to Section 51.410, Water Code, with regard to the bonds to be issued by the

subdistrict or by the metropolitan water control and improvement district on behalf of the subdistrict.

(b) After the engineer's report is filed and approved, the governing body of the subdistrict shall order an election within the boundaries of the subdistrict to authorize the issuance of bonds by the subdistrict or by the metropolitan water control and improvement district on behalf of the subdistrict in accordance with the provisions of this Act and Sections 51.411 and 51.412, Water Code.

(c) Bonds authorized at an election within the subdistrict may only be repaid from ad valorem taxes imposed on all taxable property within the boundaries of the subdistrict or income, increment, and revenue derived from the ownership or operation of any part of the assets of the subdistrict or any combination of the foregoing, and the metropolitan water control and improvement district is not liable for the repayment of those bonds other than specifically set forth in this subsection.

(d) Bonds issued by a subdistrict or by the metropolitan water control and improvement district on behalf of the subdistrict shall be submitted to the attorney general for approval and to the comptroller of public accounts for registration in the method specified by Sections 51.416 through 51.418, Water Code, and shall be subject to the provisions of Sections 51.419 through 51.438, Water Code, as amended. Refunding bonds may be issued by a subdistrict as provided by Section 2 of this Act.

(e) Bonds issued by a subdistrict or by the metropolitan water control and improvement district on behalf of the subdistrict are investment securities under Chapter 726, Acts of the 67th Legislature, Regular Session, 1981 (Article 2529b-1, Vernon's Texas Civil Statutes), and are bonds under Chapter 845, Acts of the 67th Legislature, Regular Session, 1981 (Article 717k-6, Vernon's Texas Civil Statutes), and are otherwise subject to the provisions of general laws of this state relating to bonds of a water control and improvement district to the extent that those general laws are not inconsistent with this Act.

Exclusion of Territory Within Subdistrict

Sec. 5. (a) Under Subsection (e) of Section 3 of this Act, the governing body of the subdistrict shall call an election within the subdistrict to coincide with the confirmation election, at which election a proposition shall be submitted to the qualified voters that would authorize the subdistrict to enter into a contract with the metropolitan water control and improvement district under which the subdistrict would levy an unlimited ad valorem tax on all taxable property within the subdistrict to repay to the metropolitan water control and improvement district a portion of the metropolitan water control and improvement district's total outstanding indebtedness, that portion to be calculated by multiplying the total outstanding indebtedness of the metropolitan water control and improvement district on the

date of the first payment under the contract by a percentage equal to the proportion of the total taxable property within the metropolitan water control and improvement district borne by the total taxable property within the subdistrict, as of the date of the next preceding tax roll.

(b) The ballots in the election under Subsection (a) of this section shall be printed to provide for voting for or against the following proposition: "The execution of a contract and the levy of taxes to pay for the contract." A copy of the proposed contract shall be available at the office of the metropolitan water control and improvement district for inspection before the election. The election shall otherwise be conducted in conformity with Chapter 51, Water Code, as amended, for elections to approve a tax-supported contract with the United States.

(c) If the proposition is approved at the election within a subdistrict, the governing board of the metropolitan water control and improvement district shall, on receipt of a petition that conforms substantially to Section 51.694, Water Code, and that describes all of the territory within the subdistrict, conduct a hearing within 30 days after receipt of the petition on the exclusion of the subdistrict from the boundaries of the metropolitan water control and improvement district.

(d) If the governing body of the subdistrict establishes at the hearing that the subdistrict has been created, has authorized issuance of bonds by the subdistrict or by the metropolitan water control and improvement district on behalf of the subdistrict, has authorized the tax-supported contract payment, and has elected a permanent board of directors, the governing board of the metropolitan water control and improvement district shall, at the conclusion of the hearing, enter an order approving the contract supported by a tax within the subdistrict, and excluding all land within the subdistrict from the boundaries of the metropolitan water control and improvement district contingent only on the completion of the refunding bond issue.

(e) Refunding bonds may be issued by a metropolitan water control and improvement district to implement the exclusion of land within a subdistrict under any terms and conditions that are deemed advisable by the governing body of the metropolitan water control and improvement district and shall only be subject to the interest rate limitations imposed by the constitution and laws of this state. In the event refunding bonds are not issued by a metropolitan water control and improvement district within 30 days after the hearing at which the subdistrict establishes all items in Subsection (d) of this section, all property within the subdistrict shall be deemed to be excluded from the boundaries of the metropolitan water control and improvement district on the expiration of the 30th day.

(f) Any subdistrict located within a service area as defined by an Environmental Protection Agency grant utilized by a metropolitan water control and

improvement district to expand its wastewater treatment plant shall obtain wastewater treatment services to the extent of capacity provided with Environmental Protection Agency funds from the wastewater treatment plant constructed with the prior proceeds of the Environmental Protection Agency grant in accordance with the terms of a contract approved by the governing bodies of the subdistrict and the metropolitan water control and improvement district.

(g) To reduce the cost of services to its residents and taxpayers, the subdistrict shall utilize the employees, consultants, staff, and services of the metropolitan water control and improvement district and shall reimburse the metropolitan water control and improvement district for all costs of furnishing those services. The services could be terminated for good cause. In the event of dispute, the subdistrict and metropolitan water control and improvement district will obtain arbitration of the dispute.

Water and Sewer Rates

Sec. 6. The metropolitan water control and improvement district shall establish rates for all services to subdistricts after their exclusion from the boundaries of the metropolitan water control and improvement district that shall not exceed 150 percent of the rates for similar service for residents of the metropolitan water control and improvement district.

Election Dates

Sec. 7. All of the elections authorized by this Act may be held on any day of the year other than a general election date and shall not be limited to the uniform election dates established by Section 9b, Texas Election Code, as amended (Article 2.01b, Vernon's Texas Election Code).

Public Purpose

Sec. 8. The legislature finds and determines that this Act will facilitate and advance the conservation and reclamation of the natural resources of this state by permitting certain water control and improvement districts to extend freshwater supply and distribution facilities, storm water and flood control facilities, and sanitary sewage collection and treatment facilities into areas that have previously not received such facilities. The reclamation of land for development and use as residential neighborhoods will be implemented and the health, welfare, and safety of residents of those neighborhoods will be additionally protected.

Construction

Sec. 9. The powers granted by this Act to metropolitan water control and improvement districts shall be construed liberally to effectuate the legislative intent and the purposes of this Act, and all those powers shall be broadly interpreted to effectuate that intent and those purposes and not as a limitation of powers.

Severability

Sec. 10. If one or more of the sections, provisions, clauses, or words of this Act or the application of those sections, provisions, clauses, or words to any situation or circumstance shall for any reason be held to be invalid or unconstitutional, the invalidity or unconstitutionality shall not affect any other sections, provisions, clauses, or words of this Act or the application of those sections, provisions, clauses, or words to any other situation or circumstance, and it is intended that this Act shall be severable and shall be construed and applied as if the invalid or unconstitutional section, provision, clause, or word had not been included in this Act.

[Acts 1983, 68th Leg., p. 4371, ch. 702, §§ 1 to 10, eff. June 19, 1983.]

CHAPTER TWO. COURTHOUSE, JAIL AND OTHER BONDS

- Art.
718. County Issues Authorized.
719. Requisite Vote.
720. Term of Bonds.
721. Interest on Bonds.
722. Limit of Issue.
723. Interest and Sinking Fund; Disposition of Surplus.
724. Bonds to be Signed, Etc.
725. Substitution of Bonds.
725a. The 1935 Validating Act.
725b. Counties of Over 900,000; Bond Issue Authorized; Referendum.
725c. Validation of Proceedings in Connection with Bonds for Courthouse and Jail Buildings.

Art. 718. County Issues Authorized

After having been authorized as provided in Chapter One of this title, the Commissioners Court of a county may lawfully issue the bonds of said county for the following purposes:

1. To erect the county courthouse and jail, or either;
2. To purchase suitable sites within the county and construct buildings thereon to provide homes or schools for dependent and delinquent boys and girls or for either;
3. To establish county poor houses, farms, and homes for the needy or indigent in the county;
4. To purchase and construct bridges for public purposes within the county or across a stream that constitutes a boundary line of the county; or
5. To improve and maintain the public roads in the county.

When the Commissioners Court shall deem it advisable to issue bonds for both the purchase or construction of bridges and improvement and maintenance of the public roads, both questions may be submitted and voted on as one proposition.

[Acts 1925, S.B. 84. Amended by Acts 1963, 58th Leg., p. 329, ch. 124, § 1.]

Art. 719. Requisite Vote

If a majority of the property tax paying voters voting at such election shall vote in favor of the proposition, then such bonds shall be thereby authorized and shall be issued by the commissioners court.

[Acts 1925, S.B. 84.]

Art. 720. Term of Bonds

All bonds issued under this chapter shall run not exceeding forty years, and may be redeemable at the pleasure of the county at any time after five years after the issuance of the bonds, or after any period not exceeding ten years, which may be fixed by the commissioners court.

[Acts 1925, S.B. 84.]

Art. 721. Interest on Bonds

Such bonds shall draw interest at a rate not exceeding six per cent. per annum, payable annually or semi-annually within the discretion of the governing body. Interest shall be evidenced by attached coupons.

[Acts 1925, S.B. 84.]

Art. 722. Limit of Issue

The issue of bonds under this Chapter shall be based upon the taxable values of the County according to the last approved assessment, and shall be limited as follows: Courthouse Bonds shall be limited to an amount not exceeding two per cent of said taxable values; Jail Bonds shall be limited to an amount not exceeding one and one-half per cent of said taxable values; Joint Courthouse and Jail Bonds shall be limited to an amount not exceeding three and one-half per cent of said taxable values; Bridge Bonds shall be limited to an amount not exceeding one and one-half per cent of said taxable values. In determining the amount of the bonds of the respective kinds to be issued, previous indebtedness for said several purposes shall be considered. The total indebtedness of any County for the purposes provided in this Chapter, shall not be increased by any issue of bonds to a sum exceeding five per cent of its said taxable values.

[Acts 1925, S.B. 84. Amended by Acts 1931, 42nd Leg., p. 77, ch. 50, § 1; Acts 1931, 42nd Leg., p. 336, ch. 203, § 1.]

Art. 723. Interest and Sinking Fund; Disposition of Surplus

The commissioners court shall levy annual ad valorem taxes sufficient to pay the interest on said bonds and create a sinking fund for their redemption; which shall not exceed for courthouse and jail bonds, one-fourth of one per cent; for bridge or road and bridge bonds, fifteen cents on each one hundred dollars.

Provided that when the principal and all interest on said bonds are fully paid, in the event there is any surplus remaining in the Sinking Fund, not in

excess of One Thousand (\$1,000.00) Dollars, said remaining surplus not used in the full payment of the principal and interest on said bond or bonds may be used by the county for maintaining and repairing the courthouse and jail and the roads and bridges of said county, as may be determined by the Commissioners Court.

[Acts 1925, S.B. 84. Amended by Acts 1947, 50th Leg., p. 436, ch. 241, § 1.]

Art. 724. Bonds to be Signed, Etc.

The bonds shall be signed by the county judge and countersigned by the county clerk and registered by the county treasurer before delivery. The county treasurer shall keep an account of the amount of principal and interest paid on each, and no bond shall be sold at less than its par value and accrued interest, exclusive of commissions.

[Acts 1925, S.B. 84.]

Art. 725. Substitution of Bonds

Where bonds have been legally issued, or may be hereafter issued for any purpose authorized in this chapter, new bonds in lieu thereof bearing the same or a lower rate of interest may be issued, in conformity with existing law, and the commissioners court may issue such bonds to mature serially or otherwise, not to exceed forty years from their date.

[Acts 1925, S.B. 84.]

Art. 725a. The 1935 Validating Act

Sec. 1. This Act may be cited as "The 1935 Validating Act."

Sec. 2. The following terms, wherever used or referred to in this Act, shall have the following meaning:

(a) The term "public body" means any county within the State of Texas.

(b) The term "bonds" includes bonds, notes, warrants, debentures, certificates of indebtedness, temporary bonds, temporary notes, interim receipts, interim certificates and all instruments or obligations evidencing or representing indebtedness, or evidencing or representing the borrowing of money, or evidencing or representing a charge, lien or encumbrance on specific revenues, income or property of a public body, or including all instruments or obligations payable from a special fund.

Sec. 3. All bonds heretofore issued for the purpose of financing or aiding in the financing of any work, undertaking or project by any public body to which any loan or grant has heretofore been made by the United States of America through the Federal Emergency Administrator of Public Works for the purpose of financing or aiding in the financing of such work, undertaking or project, including all proceedings for the authorization and issuance of such bonds, and the sale, execution and delivery thereof, are hereby validated, ratified, approved and confirmed, notwithstanding any lack of power (oth-

er than Constitutional) of such public body, or the governing board or commission or officers thereof, to authorize and issue such bonds, or to sell, execute or deliver the same, and notwithstanding any defects or irregularities (other than Constitutional) in such proceedings, or in such sale, execution or delivery; and such bonds are and shall be binding, legal, valid and enforceable obligations of such public body.

[Acts 1935, 44th Leg., p. 534, ch. 224.]

Art. 725b. Counties of Over 900,000; Bond Issue Authorized; Referendum

Any county having in excess of nine hundred thousand (900,000) population according to the last preceding Federal Census is authorized to issue bonds for the purposes of erecting and equipping a courthouse and jail and county branch office buildings, and acquiring sites therefor, provided such bonds are voted and issued as required by Chapter 1, Title 22, Revised Civil Statutes, as amended.¹ Bonds for any or all of said purposes may be submitted to the voters in a single proposition. The bonds, in the discretion of the Commissioners Court, may be made optional for redemption prior to maturity on any date specified by the court in the bonds. The bonds may be executed with the facsimile signatures as provided by law, and a facsimile seal of the Commissioners Court may be printed or lithographed thereon. The bonds shall be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts in accordance with, and with the effect provided in said Chapter 1, Title 22. If any election is held prior to the effective date of this Act for the purposes herein authorized, the county is authorized to proceed with the issuance of such bonds in the manner herein provided.

[Acts 1961, 57th Leg., p. 1015, ch. 442, § 1.]

¹ Article 701 et seq.

Art. 725c. Validation of Proceedings in Connection with Bonds for Courthouse and Jail Buildings

Sec. 1. All proceedings in connection with any county bonds heretofore favorably voted by a majority of the participating resident qualified electors of the county who owned taxable property and who had duly rendered the same for taxation on the tax rolls of such county, for the purpose of erecting, repairing and equipping courthouse and jail buildings and county branch office buildings, are hereby in all things validated, regardless of whether or not any such bonds so voted were submitted in only one proposition and regardless of the language appearing on the ballot concerning any proposition so submitted. Said bonds may be issued and delivered by the Commissioners Court for the purpose or purposes so voted, may mature serially or otherwise and may contain such option or options of redemption or no option of redemption, as may be determined by the Commissioners Court of the county.

The issuance of such bonds and the levy and collection of taxes for the payment of principal and interest thereon shall otherwise be in accordance with the provisions of Chapters 1 and 2, Title 22, Revised Civil Statutes of Texas, 1925, as amended,¹ and when so issued shall constitute valid and enforceable obligations of the issuer in accordance with the terms and provisions thereof.

Sec. 2. The provisions of this Act shall not apply to any such proceedings the validity of which has been or is being questioned in litigation pending in any court of competent jurisdiction on the effective date of this Act if such litigation is ultimately determined against the validity of the same.

[Acts 1962, 57th Leg., 3rd C.S., p. 15, ch. 5.]

¹ Articles 701 et seq. and 718 et seq.

CHAPTER THREE. PUBLIC ROAD BONDS

1. COUNTY AND DISTRICT BONDS

Art. 726 to 752y-6. Repealed.

2. COMPENSATION BONDS

753 to 767g. Repealed.

3. CONSOLIDATED DISTRICTS

768 to 778. Repealed.

3a. DISTRICTS IN ADJOINING COUNTIES

778a to 778p. Repealed.

4. GENERAL PROVISIONS

779 to 784b. Repealed.

1. COUNTY AND DISTRICT BONDS

Arts. 726 to 752. Repealed by Acts 1926, 39th Leg., 1st C.S., p. 23, ch. 16, § 30

Section 31 of the repealing act contained a saving clause, as follows:

"Nothing in this Act shall be construed as invalidating any bond elections previously ordered or held within and for any county in this state or any political subdivision or defined district of any county under the provisions of Chapter 2, Title 18, Revised Statutes of 1911, and amendments thereto, or Chapter 3, Title 22, Revised Statutes, 1925, or under authority of any special county road law."

Arts. 752a to 752y-6. Repealed by Acts 1983, 68th Leg., p. 1526, ch. 288, § 2, eff. Sept. 1, 1983

See, now, art. 6702-1, §§ 4.411 to 4.445.

2. COMPENSATION BONDS

Arts. 753 to 767. Repealed by Acts 1926, 39th Leg., 1st C.S., p. 23, ch. 16, § 30

Arts. 767a to 767g. Repealed by Acts 1983, 67th Leg., p. 1526, ch. 288, § 2, eff. Sept. 1, 1983

See, now, art. 6702-1, §§ 4.451 to 4.457.

3. CONSOLIDATED DISTRICTS

Arts. 768 to 778. Repealed by Acts 1926, 39th Leg., 1st C.S., p. 23, ch. 16, § 30

3a. DISTRICTS IN ADJOINING COUNTIES

Arts. 778a to 778p. Repealed by Acts 1983, 68th Leg., p. 1526, ch. 288, § 2, eff. Sept. 1, 1983

See, now, art. 6702-1, §§ 4.461 to 4.476.

4. GENERAL PROVISIONS

Arts. 779, 780. Repealed by Acts 1983, 68th Leg., p. 1526, ch. 288, § 2, eff. Sept. 1, 1983

See, now, art. 6702-1, §§ 4.401 and 4.402.

Arts. 781 to 784. Repealed by Acts 1926, 39th Leg., 1st C.S., p. 23, ch. 16, § 30

Arts. 784a, 784b. Repealed by Acts 1983, 68th Leg., p. 1526, ch. 288, § 2, eff. Sept. 1, 1983

See, now, art. 6702-1, §§ 4.403 and 4.404.

CHAPTER FOUR. VIADUCTS, BRIDGES, ETC.

Art.

- 785. May Order Election.
- 786. Survey and Estimate.
- 787. Submission of Resolution.
- 788. Conduct of Election.
- 789. Ballot.
- 790. Issue of Bonds.
- 791. Limit of Issue.
- 792. Tax Levy.
- 793. Court May Contract.
- 794. Maintenance Fund.
- 795. Rules and Regulations.
- 795a. Bond Issue to Refund Outstanding Causeway Revenue Bonds.

Art. 785. May Order Election.

The county commissioners court of any county having a population in excess of fifty thousand inhabitants according to the last United States census, may in their discretion, order an election to determine the propriety of a bond issue to provide for the construction and maintenance of causeways, viaducts, bridges and approaches across any river and bottoms within the limits of such county, irrespective of any municipal boundaries.

[Acts 1925, S.B. 84.]

Art. 786. Survey and Estimate

The commissioners court of such county shall, prior to ordering any such election, provide for preliminary surveys and estimates for such work, and shall prescribe in the election order the amount and terms of such bond issue.

[Acts 1925, S.B. 84.]

Art. 787. Submission of Resolution

The resolution providing for such election shall be recorded in the minutes of the commissioners court and shall be submitted to the property owning quali-

fied voters of said county as a proposition at a regular or special election which may be ordered by said court for that purpose. If a majority of the votes cast shall be for such resolution, the same shall be deemed to be adopted.

[Acts 1925, S.B. 84.]

Art. 788. Conduct of Election

Such election shall be governed in all respects by the laws governing elections in this State, and the returns made and canvassed in the same manner, and the results declared by proclamation of the county judge of said county. Such proclamation shall be posted in at least three public places in said county, and at the option of the county judge, published in some newspaper in said county.

[Acts 1925, S.B. 84.]

Art. 789. Ballot

Those desiring to vote for the resolution shall have written or printed on their ballots the words "For the Resolution to Issue Bonds to ..." (here insert purpose of the proposed bond issue as set forth in said resolution), and those desiring to vote against the resolution shall have written or printed on their ballots the words "Against the Resolution to Issue Bonds to ..." (here insert such purpose of the proposed bond issue, as set forth in said resolution). Such ballots shall be written or printed on plain white paper, with black ink or pencil, and shall contain no distinguishing mark or device, except as above provided.

[Acts 1925, S.B. 84.]

Art. 790. Issue of Bonds

If the resolution be voted, the commissioners court, under the supervision and direction of the Comptroller, shall prepare and execute the bonds of the county accordingly. They shall bear interest not exceeding five per cent payable annually, and be redeemable in not less than five nor more than forty years from the date thereof. The time of maturity shall be expressed on the face of the bonds. Such bonds shall be registered or enrolled as other county bonds, and shall not be sold or negotiated at less than their par value.

[Acts 1925, S.B. 84.]

Art. 791. Limit of Issue

In no case shall bonds be issued under this chapter for a greater sum than that a levy of five cents of the one hundred dollars property valuation of said county will yield sufficient revenue to pay the interest as it accrues, and create a sinking fund sufficient to pay the principal of such bonds at maturity.

[Acts 1925, S.B. 84.]

Art. 792. Tax Levy

When bonds are issued under the provisions of this chapter, the commissioners court shall levy an

annual ad valorem tax on all property of the county, which shall be used only for the purpose of paying interest on said bonds and creating a sinking fund to pay the principal.

[Acts 1925, S.B. 84.]

Art. 793. Court May Contract

The commissioners court may contract with individuals, firms or corporations for the use of such causeways, viaducts, bridges and approaches, or constructing and maintaining and using tracks, telegraph lines or other such privileges, but shall make no exclusive nor preferential contracts, and before executing any such contracts, shall give notice by posting at the courthouse door and in three other public places in said county the full terms and nature of such proposed contracts.

[Acts 1925, S.B. 84.]

Art. 794. Maintenance Fund

Revenues that may accrue from any contract or contracts so made may be applied to the maintenance and repair of such structure or structures; and such court may make adequate provision for such maintenance and repair. In the event the revenues accruing from the use of any such structure shall exceed the expenditures for its maintenance and repair, such excess shall be applied to the road and bridge fund of the county.

[Acts 1925, S.B. 84.]

Art. 795. Rules and Regulations

The commissioners court may make rules for the use of any structure erected under the provisions of this chapter, and provide for the enforcement thereof.

[Acts 1925, S.B. 84.]

Art. 795a. Bond Issue to Refund Outstanding Causeway Revenue Bonds

Authority to Issue Bonds; Ad Valorem Taxes

Sec. 1. That the Commissioners Court of any county in the State of Texas which has heretofore or shall hereafter issue bonds, to construct, acquire, improve, operate or maintain a causeway, and the interest on such bonds and the principal thereof are payable from revenues derived from the operation of such causeway, is hereby authorized to issue bonds for the purpose of refunding such outstanding revenue bonds and to levy and collect ad valorem taxes to pay the interest on such refunding bonds and to provide a sinking fund for the redemption thereof.

Aggregate Principal Amount

Sec. 2. That the aggregate principal amount of bonds issued from time to time pursuant to this Act and at any time outstanding, shall not exceed a principal amount which will permit the interest on and the principal of such bonds to be paid from a

tax levied within the eighty cent (80¢) limitation provided by Article 8, Section 9 of the Texas Constitution, and provided that the Commissioners Court shall not authorize the issuance of bonds under authority of Section 1 hereof unless authorized at an election at which only the qualified voters who reside in the county and who own taxable property therein and who have duly rendered the same for taxation shall be allowed to vote, and unless the majority of the votes cast thereat are in favor of issuing the bonds. Said election shall be conducted in accordance with the terms of Title 22 of Vernon's Revised Civil Statutes of Texas, as amended.¹

¹ Article 701 et seq.

Detail of Bonds; Manner of Sale; Redemption; Exchange; Use of Accumulated Monies

Sec. 3. That the Commissioners Court shall have full discretion in fixing the details of the bonds and in determining the manner of sale thereof, providing that the bonds shall not mature later than forty (40) years after their date, and no such sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than six per cent (6%) per annum, computed with relationship to the absolute maturity of the bonds in accordance with standard tables of bond values, excluding from such computations the amount of any premium to be paid on redemption of any bonds prior to maturity. The bonds may be redeemable prior to maturity in such manner and at such prices as may be determined by the Commissioners Court prior to the issuance of the bonds. All bonds issued hereunder shall and are hereby declared to have all of the qualifications and incidents of negotiable instruments under the Negotiable Instrument Law of Texas. Provision may be made for registration of such bonds as to principal only. The bonds issued hereunder may be exchanged for the revenue bonds being refunded or the proceeds of the bonds issued hereunder may be used to pay the principal amount of the bonds being refunded and any premium required by the terms thereof to be payable on redemption prior to maturity. Any monies accumulated in the funds established by the resolution or order authorizing the issuance of the bonds to be refunded may be used by the Commissioners Court, upon cancellation of such bonds to be refunded, to pay accrued interest on and the principal of any such bonds to be refunded, to pay any premium required to be paid thereon in event of redemption prior to maturity, to pay into the road and bridge fund of the county, or may be used for any other lawful purpose.

Taxes to Pay Interest; Sinking Fund for Redemption of Bonds

Sec. 4. That any county issuing bonds pursuant to this Act shall continue to levy ad valorem taxes to pay the interest on such bonds and to provide a sinking fund for the redemption thereof even though the facilities constructed with the proceeds of the bonds to be refunded by the bonds issued

pursuant to this Act shall become a part of the State Highway System.

Refunds; Terms and Conditions

Sec. 5. Any bonds issued pursuant to this Act may be refunded by the Commissioners Court upon such terms and conditions, including interest rates and maturity, as may be determined by the Commissioners Court, provided that such terms and conditions shall not be inconsistent with the application of the constitutional provision to which reference is herein made. Any such bonds may be so refunded by issuance of refunding bonds, either to be exchanged for the bonds being refunded, or to be sold, with the proceeds thereof to be used for the redemption and cancellation of the bonds being refunded.

Legal and Authorized Investments

Sec. 6. All bonds, whether original or refunding, heretofore or hereafter issued pursuant to this Act, shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts and all other political corporations or subdivisions of the State of Texas; and all said bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts and all other political corporations or subdivisions of the State of Texas; and all said bonds shall be lawful and sufficient security for said deposits to the extent of their par value when accompanied by all unmatured coupons appurtenant thereto.

Approval of Attorney General; Registration

Sec. 7. Prior to the delivery thereof to the purchasers, all bonds authorized to be issued hereunder and the records related to the issuance shall be submitted to the Attorney General of Texas for his examination and if he finds they have been issued in accordance with the Constitution and this Act, he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas, and upon such approval and registration they shall be uncontestable.

[Acts 1963, 58th Leg., p. 441, ch. 156.]

CHAPTER FIVE. FUNDING, REFUNDING AND COMPROMISES

Art.	
796.	In Case of Storms, Etc.
797.	Regulation of Bonds.
798.	Order of Commissioners Court.
799.	Classification of Issues.
800.	Apportionment of Taxes.
801.	Requisites of Bonds.
802.	Registration and Sale.

Art.	
802a.	Funding Indebtedness Representing Difference Between Wages Paid and Wages Required to be Paid to Firemen and Policemen by Cities of Over 75,000 Population.
802b-1.	Home Rule Cities Without Specified Utilities Authorized to Issue Funding Bonds or Warrants.
802b-2.	Refunding Bonds Supported by Ad Valorem Tax or by Pledge of Income of Specified Utilities; Issuance by Cities Operating Under Charters Authorized.
802b-3.	Cities of 35,000 to 45,000 Under Special or Home Rule Charters May Issue Notes to Fund or Refund Warrants.
802b-4.	Exposition and Convention Hall or Coliseum Bonds, Refunding; Cities Over 100,000.
802b-5.	Home Rule or Special Charter Cities and Towns; Bonds to Pay Existing Judgments Authorized.
802c.	Refunding Bonds of Certain Cities Operating Utilities.
802d.	Refunding Bonds of Cities Whose Streets Link State Highways.
802e.	Validation of Refunding Bonds of Cities and Proceedings Therefor.
802f.	Wharf and Terminal Facility Bonds of Cities or Towns, Bonds to Redeem; Subrogation.
802g.	Refunding Bonds Due Serially Issued Under Composition Plan Approved Under Bankruptcy Act.
802h.	Refunding Bonds Adjudicated to be Valid by Federal Court or Issued Pursuant to Plan of Composition Under Bankruptcy Laws.

Art. 796. In Case of Storms, Etc.

Any county or any city incorporated under the general laws which may suffer great destruction or damage of property or depreciation of the value of taxable property from storms, floods or other disasters, may fund, refund, compromise or settle its valid outstanding bonded and floating indebtedness.

[Acts 1925, S.B. 84.]

Art. 797. Regulation of Bonds

For such purpose, the bonds of the county or city may be issued by the governing body without a vote of the tax payers in denominations of not less than one hundred, nor more than one thousand dollars each, for an amount sufficient to consummate such compromise or settlement, not to exceed the amount unpaid on the outstanding indebtedness. Such bonds may be exchanged for bonds or other evidences of outstanding indebtedness of such county or city, or may be sold and the proceeds applied in the purchase of outstanding bonds or the payment of outstanding floating indebtedness, and may be exchanged or sold from time to time in such amounts as may be required for refunding said outstanding bonds and funding or settling said floating debts.

[Acts 1925, S.B. 84.]

Art. 798. Order of Commissioners Court

Before issuing such bonds, and not later than two years after the disaster, the governing body of the county or city shall, by an order or ordinance,

entered on the minutes, recite the nature and date of such disaster, the taxable value of the remaining property subject to taxation in said city or county as shown by the first approved assessment roll of such county or city made after such disaster, and the amount of bonds that will be sufficient to fund, refund or settle the outstanding bonded and floating indebtedness of such county or city, stating also, the amount of new bonds that will be required for refunding or settling each outstanding issue of bonds, and the amount of new bonds necessary to fund or settle the outstanding indebtedness charged against each particular fund.

[Acts 1925, S.B. 84.]

Art. 799. Classification of Issues

Separate classes of bonds shall be issued to refund or settle, respectively, each separate issue of outstanding bonds, and to fund or settle, respectively, the indebtedness against each particular fund.

[Acts 1925, S.B. 84.]

Art. 800. Apportionment of Taxes

The court or council shall determine and record in the minutes the proportion of the several annual ad valorem taxes authorized by law that can be applied, respectively, in payment of the interest and sinking funds of the several classes of bonds without depriving the city or county of the funds which will be required to meet the necessary current annual expenses of such county or city. A levy in proportion to such excess or excesses beyond the amount required for current annual expenses may be made to pay the interest and sinking fund, respectively, of the said several classes of bonds. The constitutional limitation as to the rates and purposes of the several taxes shall not be exceeded nor disregarded.

[Acts 1925, S.B. 84.]

Art. 801. Requisites of Bonds

The court, or city council, shall also by order or ordinance, prescribe the form and the classes of said bonds, and provide for the issuance thereof, at such dates as may be expedient. Such bonds may be made payable at any date deemed expedient by the commissioners court or city council, not later than forty years from the date of the execution, and provision may be made for their redemption after five years, or after such longer period as may be deemed expedient. Said bonds shall bear interest as stipulated and specified in coupons attached thereto, not to exceed four per cent per annum. Said bonds shall be issued under and subject to all requirements of chapter one of this title, which are not in conflict with the requirements and provisions of this chapter, and shall be signed by the county judge or mayor, and attested by the county or city clerk, as the case may be.

[Acts 1925, S.B. 84.]

Art. 802. Registration and Sale

When examined and certified by the Attorney General, said bonds shall be registered by the Comptroller without requiring the old bonds, warrants or other evidence of indebtedness to be presented to him for cancellation. Said bonds shall be delivered to the county or city treasurer, and said officer shall register said bonds in a book kept for that purpose, and said bonds may thereafter be sold or exchanged for not less than their face value and accrued interest. Before delivery of the bonds, the date of the sale or exchange thereof shall be indorsed and certified on the bonds by the county judge or mayor, whose signature shall be attested by the county or city clerk.

[Acts 1925, S.B. 84.]

Art. 802a. Funding Indebtedness Representing Difference Between Wages Paid and Wages Required to be Paid to Firemen and Policemen by Cities of Over 75,000 Population

Sec. 1. All cities within the State of Texas, whether incorporated under General Law or Special Law or operating under charters adopted under the provisions of Article XI, Section 5, of the Constitution of Texas, with a population of more than seventy-five thousand (75,000) enumerated by the preceding United States Census, shall have the power to fund by ordinance enacted by the governing body the whole or any part of the legal debt of said city, which debt is the difference between the wages paid or to be paid the firemen and the policemen, and the wages required to be paid the firemen and the policemen by the terms of Senate Bill No. 89, passed and approved the 19th day of April, A.D. 1937, by the Forty-fifth Legislature of Texas, at the Regular Session,¹ and which debt accrued or will have accrued before the 31st of May, A.D. 1939, and to issue negotiable bonds with or without coupons, bearing interest at an annual rate as provided by the Charter of the City which issues the said obligations. The proceeds from the sale of such bonds shall be used exclusively for the purpose of paying the debt which may be legally due such firemen and policemen.

Sec. 2. Articles 709 to 715 and Article 4398 of the Revised Statutes of Texas for 1925 shall apply to all bonds issued under this Act.

Sec. 3. The provisions of this Act shall be cumulative of all laws on this subject, and wherever the provisions of this Act are in conflict with any existing law or laws on this subject, the provisions hereof, in so far as same are in conflict with any existing law or laws, shall govern and control.

[Acts 1939, 46th Leg., p. 98.]

¹ Vernon's Ann.P.C. (1925) art. 1583 (repealed).

Sec. 1. The governing body of any city or town operating under its special charter adopted under the Home Rule Amendment to the Constitution, having outstanding as of January 1, 1939, unpaid and delinquent indebtedness against its General Fund, whether in the form of scrip warrants, warrants or notes, or in either or all of such forms, in an amount exceeding thirty-three and one-third (33 $\frac{1}{3}$ %) per cent of its current tax levy for General Fund purposes, and which did not, on said date, own any one of the following utilities from which it could derive revenues: water system, sanitary sewer system, electric lighting system, or natural gas distribution system, is hereby authorized to issue funding bonds or funding warrants for the purpose of funding any such items which constitute legal indebtedness of such city. No election nor notice of intention to issue such funding bonds or warrants shall be required. If funding bonds are issued they shall be issued in the manner prescribed by Article 717 of the Revised Civil Statutes for the issuance of refunding bonds.

Sec. 2. Such funding bonds or warrants shall mature serially, or otherwise, not to exceed thirty (30) years from their date and shall bear a rate of interest not to exceed five (5%) per cent per annum, payable annually or semi-annually.

Sec. 3. When said funding bonds or warrants are issued it shall be the duty of the governing body of such city to levy a tax sufficient to pay the principal and interest thereon as such principal and interest mature.

Sec. 4. If funding bonds are issued they shall be submitted to the Attorney General of the State of Texas for his examination and approval in the same manner and with the same effect as is provided in Articles 709 to 715, both inclusive, of the Revised Civil Statutes of 1925, and shall be registered by the Comptroller of Public Accounts as is provided in said Articles.

Sec. 5. All such outstanding indebtedness is hereby validated, provided that the provisions of this section shall not be applicable to any such items of indebtedness which may be in litigation at the time this Act becomes effective.

Sec. 6. This Act shall be cumulative of all other laws on the subject, but in the event any of its provisions are in conflict with any existing laws the provisions hereof shall prevail and be effective to the extent of such conflict.

[Acts 1939, 46th Leg., p. 103.]

Art. 802b-2. Refunding Bonds Supported by Ad Valorem Tax or by Pledge of Income of Specified Utilities; Issuance by Cities Operating Under Charters Authorized

Eligible Cities

Sec. 1. This Act shall be applicable to any city operating under a charter either adopted or amend-

ed by vote of the people which owns and operates its waterworks and sanitary sewer systems, and the principal amount of whose bond and time warrant indebtedness is in an aggregate amount exceeding forty (40) per cent of the assessed valuation of the property in such city according to the latest approved official tax rolls. Any such city, for the purposes of this Act, shall be an eligible city.

Classes of Refunding Bonds Authorized; Prerequisites

Sec. 2. Any eligible city is authorized to issue refunding bonds of two classes. One class of its refunding bonds, which may be in one or more series, shall not be supported by an ad valorem tax but by a pledge to the payment of the principal and interest thereof of all or a stipulated part of the net income from the operation of its waterworks system or its sewer system, or both, and by a deed of trust or a mortgage upon such systems, and by a grant to the purchaser under sale or foreclosure thereunder, a franchise to operate the systems and property so purchased for a term of not over twenty (20) years after purchase, subject to all laws regulating same then in force. The other class, which may be in one or more series, shall be supported by an ad valorem tax levied at a rate or in an amount sufficient to pay the interest thereon and the principal at maturity. Such city shall designate the several issues or parts of issues of outstanding bonds or time warrants, or both, eligible to be refunded by the issuance of the respective classes of its refunding bonds, provided, however, that bonds and warrants which were issued for waterworks or sewer purposes shall be refunded into the class which is secured by the revenues from, and deed of trust or mortgage upon such systems, and all other bonds and warrants shall be refunded in the class of bonds payable from ad valorem taxes. No such city shall be authorized to exercise the additional powers conferred by this Act unless it obtains a reduction in the principal amount of its indebtedness to the extent of not less than fifteen (15) per cent, and unless it obtains a reduction in the average interest rate of its refunded indebtedness so that the average interest rate borne by its two classes of refunding bonds shall be not more than three (3) per cent per annum. Such city shall not be permitted to deliver refunding bonds of said two classes unless and until it shall have obtained consent to such refunding by the holders of at least sixty-six and two-thirds (66 $\frac{2}{3}$ %) per cent of aggregate principal amount of its outstanding indebtedness, which sixty-six and two-thirds (66 $\frac{2}{3}$ %) per cent shall include not less than one hundred (100) per cent of the revenue bonds outstanding against said system or systems, or unless such refinancing plan shall have been made effective in composition proceedings instituted by such city under Title 11, Chapter 9, of the United States Code and amendments thereto.¹

Before any income from such utility or utilities shall be used to pay the principal and interest of said refunding bonds, the expenses of operation and

maintenance shall have first been provided substantially in accordance with the provisions of Article 1113 of the Revised Civil Statutes of Texas of 1925, as amended, which is applicable to the income of an encumbered utility system or encumbered utility systems. When such city issues refunding bonds under the provisions of this law, it shall be the duty of the city, after making said pledge of such utility income, to establish and maintain utility rates adequate to yield revenues sufficient to operate and maintain said utility system or systems and to fulfill the city's pledge of such income.

¹ 11 U.S.C.A. §§ 401 to 404.

Revenue Bonds, Refund of

Sec. 3. Such city also shall refund, par for par, all of its outstanding revenue bonds which are secured by a pledge of the revenues of either or both of such systems, and bonds issued to refund such revenue bonds may be included in any refunding issues under the class secured by the pledge of utility revenues authorized by this Act.

Form; Registration; Procedure

Sec. 4. The refunding bonds issued under this Act shall be fully negotiable and shall be issued in the same manner as refunding bonds for the purpose of taking up outstanding bonds issued under the provisions of Title 22 and Title 28 of the 1925 Revised Civil Statutes of Texas and amendments thereto;¹ no notice of intention to issue refunding bonds and no election for the issuance of such bonds shall be required. No such refunding bonds shall be registered in the office of the Comptroller and delivered by him unless and until he shall have received and cancelled in lieu thereof bonds or time warrants in the proportion prescribed in the ordinances authorizing the issuance of such refunding bonds, and in accordance with this Act. The procedure prescribed in Articles 709 to 715 of the Revised Civil Statutes of Texas, 1925, in reference to examination and approval of the bonds by the Attorney General, their registration by the Comptroller, and the effect of approval by the Attorney General shall be applicable to bonds issued under this law.

¹ Civil Statutes, arts. 701 et seq. and 961 et seq.

Law as Cumulative; Conflicting Laws

Sec. 5. This law shall be cumulative of all other laws on the subject. In the event that any provisions of this Act conflict with or are inconsistent with the provisions of any other law, general or special, or with the provisions of the charter of any such eligible city, the provisions of this Act shall take precedence over such conflicting or inconsistent provisions and shall prevail.

[Acts 1941, 47th Leg., p. 43, ch. 32.]

Art. 802b-3. Cities of 35,000 to 45,000 Under Special or Home Rule Charters May Issue Notes to Fund or Refund Warrants

Sec. 1. All cities in this State, operating under a Special or Home Rule Charter and having a population of not less than thirty-five thousand (35,000) nor more than forty-five thousand (45,000), according to the last preceding Federal Census, are hereby authorized and empowered to issue notes for the purpose of funding or refunding outstanding and unpaid warrants drawn against the General Fund for general operating expenses, subject to the limitations and provisions contained hereinafter in this Act.

Sec. 2. Before any city of the classification prescribed in Section 1 hereof may avail itself of the provisions of said Section, the governing body of such city shall order an election on the question of whether or not the governing body shall be authorized to issue notes for the purpose of funding or refunding outstanding and unpaid warrants drawn against its General Fund. Such election shall be held, and notice thereof given, and the results thereof declared, in the same manner as prescribed by General Law on the question of the issuance of municipal bonds. Only qualified electors, who own taxable property in such city and who have duly rendered same for taxation, shall be allowed to vote at such election.

Sec. 3. In the event such election results favorably to the issuance of such notes, the governing body of such city shall have the authority to pass all appropriate ordinances and resolutions to effect their issuance. The notes so authorized shall mature serially over a period not exceeding ten years from their date, and may bear interest not exceeding five (5) per cent per annum and may be redeemable at the pleasure of the governing body. The full faith and credit of such city may be pledged to the payment of such notes and the interest thereon. Provided, however, that only such general fund warrants issued during the calendar year prior to the calendar year in which such funding or refunding operation is performed may be funded or refunded by the issuance of such notes; and provided further, that all warrants drawn against the General Fund during the calendar year in which such funding or refunding operation takes place and all warrants drawn against the General Fund in subsequent years in which such funding or refunding takes place shall be paid out of current funds appropriated for that purpose and shall never be funded or refunded.

[Acts 1941, 47th Leg., p. 163, ch. 120.]

Art. 802b-4. Exposition and Convention Hall or Coliseum Bonds, Refunding; Cities Over 100,000

Eligible Cities; Issuance of Refunding Bonds

Sec. 1. This Act shall be applicable to any city of over one hundred thousand (100,000) population ac-

ording to the last preceding Federal Census, which owns and operates an Exposition and Convention Hall or Coliseum against which there are outstanding revenue bonds issued for the construction thereof, and which owns and operates an unencumbered natural gas distribution system which serves the inhabitants of all or a part of such city. Any such city, for the purposes of this Act, shall be an "eligible" city.

Any eligible city is authorized, without an election and without notice of intention to issue such bonds, to issue refunding bonds for the purpose of taking up and in lieu of its outstanding revenue bonds issued for the purpose of financing the Construction of its Exposition and Convention Hall or Coliseum, and may secure said refunding bonds by a pledge of the net revenues from the operation of such Exposition and Convention Hall or Coliseum, and by the net revenues from the operation of its natural gas distribution system; provided that the revenues from its natural gas distribution system shall not be pledged as security for such refunding bonds unless such refunding bonds are issued to bear an interest rate lower than the rate borne by said outstanding revenue bonds.

**Maturity; Interest; Options; Bonds as
Special Obligations**

Sec. 2. The bonds issued under this Act shall mature serially within a period of time not exceeding thirty (30) years from their date. The governing body of such city shall prescribe the interest rates, maturities and any options of redemption prior to maturity of such bonds. Such bonds which constitute special obligations of the issuing city, shall never be considered indebtedness of such city or town, but solely a charge upon the revenues pledged for the payment of such bonds, and shall never be reckoned in determining the power of such city to issue tax supported bonds for any purpose authorized by law.

**Books and Accounts; "Net Revenues"; Rates; Rentals;
Charges; Reserve; Lien**

Sec. 3. Whenever the income of such Exposition and Convention Hall or Coliseum and of such natural gas distribution system shall be encumbered as authorized in this Act it shall be the duty of the city to establish and maintain separate books and accounts for each of the properties whose income shall have been pledged. The total revenues remaining after providing for payment of reasonable operating, maintenance, depreciation, replacement, improvement, necessary expansion and repair charges, resulting from the operation of the encumbered Exposition and Convention Hall or Coliseum shall constitute "net revenues." The total revenues remaining after providing for payment of reasonable operating, maintenance, depreciation, replacement, improvement, necessary expansion and repair charges, resulting from the operation of the encumbered natural gas distribution system shall consti-

tute "net revenues." The ordinance authorizing such revenue bonds shall prescribe the conditions under which such revenues may be used to pay depreciation, replacement, improvement and necessary expansion charges. It shall be the duty of any city issuing bonds under the provision of this Act to fix and maintain rates, rentals, and charges in the instance of each such encumbered property to assure receipt of income sufficient to pay reasonable operating, maintenance, improvement, necessary expansion and repair charges in connection with the proper operation of such property and to assure net revenues from the property or properties encumbered sufficient to pay the principal and interest of such bonds according to their tenor and effect, and to establish and maintain a reasonable reserve in the interest and sinking fund to be provided for such bonds. The requirement for a "reasonable reserve" shall be satisfied by establishing and maintaining in the Interest and Sinking Fund, in addition to requirements for a given calendar year, money sufficient to pay the principal and interest scheduled to mature and accrue during the succeeding calendar year. After such reserve account shall have been established and so long as it shall remain intact and while there are no delinquencies of principal or interest on any of the outstanding bonds, such city may use the pledged revenues in excess of such requirements for any other lawful purpose. The pledging of the revenues as authorized herein shall not constitute a lien on the physical properties of the Exposition and Convention Hall or Coliseum or of the Natural Gas Distribution System.

Required Clause; Transcript of Proceedings

Sec. 4. Every contract and bond, or other evidence of indebtedness, issued pursuant to this Act shall contain substantially the following clause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation." It shall be the duty of the officials of any such city to file with the Attorney General of the State of Texas a proper transcript of proceedings authorizing the issuance of such refunding bonds and evidencing the pledge of revenues from which the principal and interest of said bonds are to be paid, and to deliver to the Attorney General the executed refunding bonds. It shall be the duty of the Attorney General to approve such record and said bonds when issued in accordance with this law.

Registration of Bonds; Defenses

Sec. 5. After said bonds have been examined and approved by the Attorney General they shall be registered by the Comptroller and delivered in exchange for a like principal amount of said original revenue bonds. After receiving the approval by the Attorney General and having been registered in the office of the Comptroller of Public Accounts, said bonds shall be held in every action, suit or proceeding in which their validity is or may be brought into question, valid and binding obligations. In every

action brought to enforce collection of such bonds the certificate of approval by the Attorney General or a duly certified copy thereof shall be received in evidence of the validity of such bonds. The only defense which can be offered against the validity of such bonds shall be forgery or fraud.

Law as Cumulative; Conflicting Laws

Sec. 6. This law shall be cumulative of all other laws on the subject. In the event that any provisions of this Act conflict with or are inconsistent with the provisions of any other law, general or special, or with the provisions of the charter of any such eligible city, the provisions of this Act shall take precedence over any such conflicting or inconsistent provisions.

[Acts 1941, 47th Leg., p. 652, ch. 395.]

Art. 802b-5. Home Rule or Special Charter Cities and Towns; Bonds to Pay Existing Judgments Authorized

Sec. 1. The governing body of any city or town operating under a special charter granted by the Legislature or adopted or amended pursuant to the Home Rule Amendment to the Constitution, having outstanding as of January 1, 1943, against its General Fund unpaid judgments or judgment in an amount exceeding fifty (50) per cent of its general fund revenue derivable from ad valorem taxes levied for the fiscal year within which the bonds hereinafter authorized are directed to be issued, bearing interest at a rate of five (5) per cent or more per annum, shall be authorized to order an election for the purpose of submitting to the resident qualified property taxpaying voters thereof the proposition of the issuance and sale of its bonds to provide funds for the payment of such judgment or judgments and the levy of a tax sufficient to pay the principal and interest as it matures.

Sec. 2. Such bonds shall be authorized, issued and sold in the manner prescribed in the General Law relating to the issuance and sale of bonds by cities and towns, shall mature serially or otherwise in not to exceed twenty (20) years from their date and shall bear interest not to exceed four (4) per cent per annum, payable annually or semiannually.

Sec. 3. When said bonds are issued it shall be the duty of the governing body of such city to levy a tax sufficient to pay the principal and interest thereon as such principal and interest mature.

Sec. 4. Before such bonds are sold they shall be submitted to the Attorney General of the State of Texas for his examination and approval in the same manner and with the same effect as is provided in Articles 709 to 715, both inclusive, of the Revised Civil Statutes of Texas of 1925, and shall be registered by the Comptroller of Public Accounts as provided in said Articles.

Sec. 5. No bonds shall be delivered until the judgment or judgments for the payment of which such bonds are authorized has or have been re-

leased and such release of judgment is delivered to the city.

Sec. 6. All such judgments are hereby declared to be final and conclusive, and the evidences of obligations upon which such judgments were obtained are hereby validated and declared to be general obligations of such city, provided that this Section shall not be applicable to any such judgments from which an appeal is now pending or to obligations which may be in litigation at the time this Act becomes effective.

Sec. 7. No provision in the charter of any such issuing city relating to the authorization, issuance and sale of bonds shall be applicable to the bonds issued hereunder but the provisions of this Act shall prevail.

Sec. 8. This law shall be cumulative of all other laws on the subject. In the event any of the provisions of this Act conflict with, or are inconsistent with, the provisions of any other law, general or special, or with a provision of the charter of any such city, the provisions of this Act take precedence over such conflicting or inconsistent provisions and shall prevail.

[Acts 1943, 48th Leg., p. 26, ch. 23.]

Art. 802c. Refunding Bonds of Certain Cities Operating Utilities

Eligible Cities

Sec. 1. This Act shall be applicable to cities operating under charters either adopted or amended by vote of the people, which own and operate waterworks, electric light and sanitary sewer systems, and whose outstanding bond and time warrant indebtedness, including accrued and unpaid interest thereon, exists in an aggregate amount of not less than thirty-five (35) per cent of the assessed valuation of the property in such city according to the latest approved official tax rolls. Any such city for the purposes of this Act shall be an "eligible" city.

Refunding Bonds Authorized; Proceedings under Municipal Bankruptcy Act Authorized; Pledge of Revenues from Utilities

Sec. 2. Any eligible city is authorized to issue refunding bonds for the purpose of taking up all or any part of its outstanding indebtedness evidenced by bonds or interest-bearing time warrants, or both, regardless of whether such indebtedness is in its original form or has been funded, or refunded, in whole or in part, such refunding bonds to bear interest at a rate or rates to be determined by the governing body of said city, not exceeding the average rate or rates of interest borne by the indebtedness to be refunded, and no election shall be required as a condition precedent to the issuance of the said refunding securities. In the event not less than seventy-five (75) per cent of the total amount of its outstanding indebtedness is refunded in accordance with the provisions of this Act, by consent of the holders of such portion of such indebtedness,

or under a plan of composition confirmed or to be confirmed by the Court in proceedings instituted by such city under Title 11, Chapter 9, of the United States Code,¹ and amendment thereto, which proceedings by any such city are hereby expressly authorized, the governing body of such eligible city, in addition to the levying of a tax to pay the principal and interest of said refunding bonds, is authorized to pledge to the payment of such principal and interest, a designated annual amount or a designated proportion of the net revenues from the operation of any one or more of the utility systems owned and operated by said city, which pledge shall remain in full force and effect so long as any part of the principal or interest of said refunding bonds is outstanding and unpaid. For the purposes of this Act the expression "net revenues" shall mean the gross revenues of such system or systems after the payment of the reasonable and necessary expenses of operation, maintenance, and collection of income, including salaries and wages of employees of such utility or utilities, the setting aside of a five (5) per cent (of such gross income) reserve for replacements, depreciations, and obsolescence, and for the construction of such extensions and additions as may be determined by the governing body to be reasonably necessary and economically justified. When such city issues refunding bonds under the provisions of this law it shall be the duty of the city, after making said pledge of such utility revenues, to establish and maintain utility rates adequate to yield revenues sufficient to operate and maintain said utility systems and to fulfill the city's pledge of said utility revenues.

¹ 11 U.S.C.A. §§ 401 to 404.

Amount of Bonds; Procedure; Registration

Sec. 3. The refunding bonds authorized in this Act may be issued in an amount not exceeding the combined amount of outstanding principal, matured interest coupons, and accrued interest on said original securities and shall mature at such time or times as the governing body may prescribe. The procedure of the issuance of said refunding bonds shall be that which is prescribed in the Statutes for the issuance of refunding bonds to take up outstanding bonds.

Such refunding bonds shall be registered by the Comptroller of Public Accounts in exchange for and upon cancellation of such original indebtedness after they shall have been approved by the Attorney General, and when so registered shall have all of the elements of protections of bonds approved by the Attorney General of Texas under the provisions of Articles 709 to 715, both inclusive, of the Revised Civil Statutes of 1925.

Form of Bonds; Exemptions From Certain Charter Provisions

Sec. 4. Refunding Bonds issued under this Act shall be fully negotiable coupon bonds payable to bearer, constituting general obligations of the issu-

ing city, and the holders thereof shall succeed to all the privileges of the holders of the indebtedness constituting the basis of the Refunding Bonds except as modified and changed by the express terms of the proceedings employed in the refunding operation. No provisions in the charter of any such issuing city shall be applicable to the Refunding Bonds thus to be issued but the provisions of this Act and other General Laws shall prevail as to said Refunding Bonds. Particularly, and without limiting the generality of the foregoing, said Refunding Bonds shall be exempt from any charter provision restricting the interest rate to be borne by said bonds, limiting the maximum tax rate which may be levied to pay the principal and interest thereof, restricting the place of payment, restricting the recovery of interest upon defaulted principal and interest coupons, requiring the registration of said bonds, requiring notice of intention as a condition precedent to the right to bring suit on said bonds or coupons, or requiring an election thereon.

Law Cumulative; Conflicting Provisions

Text of section as enacted by Acts 1941, 47th Leg., p. 132, ch. 103

Sec. 5. This law shall be cumulative of all other laws on the subject. In the event that any provisions of this Act conflict with, or are inconsistent with, the provisions of any other law, general or special, or with the provision of the charter of any such eligible city, the provisions of this Act shall take precedence over such conflicting or inconsistent provisions and shall prevail.

Utility Improvement Revenue Bonds

Text of section as added by Acts 1947, 50th Leg., p. 78, ch. 54, § 1

Sec. 5. (a) Whenever a city shall have issued refunding bonds under the provisions of this law as passed originally or under any amendments thereof supported by a tax levy and by a pledge of a designated portion of the net revenues from the operation of one or more of its utility systems and so long as any part of such indebtedness is outstanding either as refunded originally or as again subsequently refunded, it may refund such indebtedness and it is further authorized and empowered to issue its fully negotiable coupon bonds, hereinafter called "Utility Improvement Revenue Bonds," from time to time, to finance repairs, replacements, extensions and improvements of and to one or more of its utility systems, payable from and secured as to principal and interest by a pledge of the net revenues only of any or all of said utility systems, provided that so long as any refunding bonds issued under the provisions of Chapter 103, Acts of the Regular Session of the Forty-seventh Legislature of Texas remain outstanding and unpaid, either as refunded originally or as again subsequently refunded, the pledge of the net revenues securing such Utility Improvement Revenue Bonds shall be of equal dignity with the pledge securing such re-

funding bonds, provided further, that while any of such refunding bonds are outstanding no Utility Improvement Revenue Bonds shall be issued except to the extent expressly permitted by the ordinance authorizing such outstanding refunding bonds and in no event shall Utility Improvement Revenue Bonds be issued in an amount and under terms which would cause the aggregate amount of all annual pledges, securing the refunding bonds and Utility Improvement Revenue Bonds to exceed sixty-six and two-thirds per cent (66 $\frac{2}{3}$ %) of the average net revenues of such utility systems for the three (3) completed fiscal years next preceding.

(b) Such Utility Improvement Revenue Bonds may be issued to mature serially or otherwise not more than forty (40) years from their date, with or without option of prior redemption as may be determined by the governing body, the terms of which option, if any, shall be prescribed in the authorizing ordinance and in the bonds, bearing interest at not exceeding five per cent (5%) per annum. No such Utility Improvement Revenue Bonds shall be issued until authorized at an election for such purpose called and held in the manner provided in Chapter 1, Title 22, Revised Civil Statutes of Texas, 1925, as amended,¹ for the issuance of bonds by cities.

(c) When Utility Improvement Revenue Bonds shall have been issued hereunder they shall constitute special obligations of such city and such bonds shall never be a debt of the city, but solely a charge upon the pledged revenues and shall never be reckoned in determining the power of the city to incur obligations payable from taxation. The bonds hereby authorized shall contain substantially the following provision:

The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation.

(d) The term "net revenues" as used herein shall mean the amount of gross revenues of the city's utility systems remaining after deducting:

(1) Expense of operation of said systems and collection of the income, including salaries and wages of employees thereof;

(2) Maintenance and repair of same;

(3) Five per cent (5%) of gross income therefrom as a reserve for depreciation and obsolescence, which sum may be invested in bonds of such city, the State of Texas, or the United States of America, and which reserve may be used for repairing damage caused by wars, riots, floods, hurricanes, fires, or acts of God or other causes not within the control of the governing body of the city;

(4) Cost of such extensions and repairs, as in the judgment of the governing body are necessary to keep the utility systems in operation and render adequate service to the city and its inhabitants or such as may be necessary to meet some physical accident or condition which would otherwise impair the efficient operation of the utility system;

(e) When any such bonds shall have been authorized and issued as herein permitted it shall be the duty of the governing body of the city, enforceable by any bondholder through mandamus or through any other method, to fix and maintain rates for services rendered by any and all of the city's utility systems sufficient to pay all operating and maintenance expenses, depreciation, replacement and betterment charges and to assure payment of the interest and principal of all such Refunding Bonds and Utility Improvement Revenue Bonds;

(f) Before any such Utility Improvement Revenue Bonds are sold they shall be submitted to and approved by the Attorney General in the manner and with the effect provided in Articles 709 to 715, both inclusive, Revised Civil Statutes of Texas, 1925, as amended and except as prescribed in this Act said bonds shall be executed and issued in the manner provided by the charter of the city.

[Acts 1941, 47th Leg., p. 132, ch. 103. Amended by Acts 1947, 50th Leg., p. 78, ch. 54, § 1.]

¹ Article 701 et seq.

Acts 1947, 50th Leg., p. 78, ch. 54, added a new § 5, without mentioning or affecting a former § 5, which appeared in the original act, and which is entitled "Law cumulative; conflicting provisions".

Art. 802d. Refunding Bonds of Cities Whose Streets Link State Highways

Issuance

Sec. 1. The governing body of any city or town in this State whose street or streets form a connecting link between State Highways, having outstanding as of the effective date of this Act, unpaid and delinquent indebtedness against its general fund, whether in the form of scrip warrants, warrants or notes, or in either or all of such forms, and which cannot derive revenues for general fund operating purposes from any publicly owned utilities at this time, is hereby authorized to issue funding or refunding bonds for the purpose of funding any such items which constitute legal indebtedness of such city or town. No election nor notice of intention to issue such funding or refunding bonds shall be required. If funding or refunding bonds are issued they shall be issued in the manner prescribed by Article 717 of the Revised Civil Statutes of Texas, 1925, for the issuance of refunding bonds.

Maturity; Interest Rate

Sec. 2. Such funding or refunding bonds shall mature serially or otherwise, not to exceed thirty (30) years from their date and shall bear a rate of interest not to exceed five (5) per cent per annum, payable annually or semiannually.

Tax Levy to Pay Bonds and Interest

Sec. 3. When said funding or refunding bonds are issued it shall be the duty of the governing body of such city or town to levy a tax sufficient to pay

the principal and interest thereon as such principal and interest mature.

Approval and Registration

Sec. 4. If funding or refunding bonds are issued they shall be submitted to the Attorney General of the State of Texas for his examination and approval in the same manner and with the same effect as is provided in Articles 709 to 715, both inclusive, of the Revised Civil Statutes of Texas, 1925, and shall be registered by the Comptroller of Public Accounts as is provided in said Articles.

Outstanding Indebtedness Validated

Sec. 5. All such outstanding indebtedness is hereby validated, provided that the provisions of this Section shall not be applicable to any such items of indebtedness which may be in litigation at the time this Act becomes effective.

Debt Burden Not Increased

Sec. 6. This Act shall not be interpreted so as to authorize an increase in the debt burden of any such city or town.

Act Cumulative; Conflicting Provisions

Sec. 7. This Act shall be cumulative of all other laws on the subject, but in the event any of its provisions are in conflict with any existing laws the provisions hereof shall prevail and be effective to the extent of such conflict.

Certificate of Necessity of Improvement

Sec. 8. If funding or refunding bonds are issued such city or town shall furnish to the Attorney General, at the time of submission of the bond transcript, a certificate of the necessity of such street improvement by the State Highway Department.

[Acts 1941, 47th Leg., p. 937, ch. 566.]

Art. 802e. Validation of Refunding Bonds of Cities and Proceedings Therefor

Wherever any city, pursuant to election and to ordinance adopted by the governing body thereof, has heretofore issued bonds of the city for any corporate purpose and where such bonds have been purchased from the holders thereof for the bond and sinking funds of such city and have been paid for with money taken from such funds, and where such bonds have been cancelled, through error or otherwise, and where the governing body of such city has heretofore adopted an ordinance authorizing the issuance of the refunding bonds of such city for the purpose of refunding the indebtedness so represented, the proceedings authorizing such refunding bonds are hereby validated and confirmed and the bonds to be issued pursuant to such proceedings are validated and confirmed and shall, when duly issued, constitute the valid and legally binding obligations of such city in accordance with their terms. Each such city is authorized to do all

things necessary to complete the issuance of such bonds and, within constitutional limitations, is hereby required to levy such taxes as may be necessary and fully sufficient to assure the prompt payment of principal of and interest on such bonds.

[Acts 1947, 50th Leg., p. 227, ch. 131, § 1.]

Art. 802f. Wharf and Terminal Facility Bonds of Cities or Towns, Bonds to Redeem; Subrogation

Sec. 1. Whenever any city or town in this state incorporated under general law or having a special charter, has outstanding unpaid revenue bonds issued for the purchase price, in whole or in part, of the wharf and terminal facilities, or an interest therein, theretofore purchased by such city or town, which bonds are subject to call and redemption prior to their maturity and are secured by an encumbrance on such wharf and terminal facilities, or an interest therein, and a pledge of the revenues thereof, such city or town, subject to the below prescribed requirements, conditions and restrictions, through its governing body, may, for the purpose of redeeming such revenue bonds, issue negotiable bonds of such city or town in an aggregate principal amount not greater than the aggregate principal amount of the revenue bonds redeemed and the interest thereon accrued to the date of redemption and having an interest rate less than the interest rate of the revenue bonds redeemed, and may make provision for the payment of the bonds issued under authority of this Act, by annual levies of taxes to pay the interest thereon and provide a sinking fund to pay them at maturity; provided, however, that no such bonds shall be issued under authority of this Act unless the issuance thereof, and the levy of annual taxes to provide for the payment of the interest thereon and create a sinking fund with which to pay them at maturity, shall have been authorized at an election called and conducted under the provisions of Chapter 1, Title 22 of the Revised Civil Statutes of the State of Texas¹ and laws amendatory thereof and supplementary thereto which shall govern the issuance of all bonds issued under the authority herein given.

Sec. 2. Any city or town which may redeem its outstanding revenue bonds in the manner prescribed in Section 1 hereof, shall thereupon become subrogated to the rights of the holders of the bonds so redeemed insofar as payments from the revenues of the wharf and terminal facilities are concerned, and be entitled to have paid into its general fund from such revenues like amounts as would have been payable on the bonds redeemed had the same remained outstanding; but such rights on the part of such city or town shall in no wise limit any encumbrance on the properties securing any other outstanding revenue bonds secured by such encumbrance, nor shall such encumbrance in anywise inure to the benefit of such city or town, or in anywise be enforceable by it, but shall remain in full force for the sole benefit of the holders of any

unpaid revenue bonds whose rights to enforce such encumbrance shall remain superior to the right of such city or town to payments from the revenues of the wharf and terminal facilities properties above prescribed. Nor shall anything herein contained be deemed as affecting the right of any such city or town to payments from such revenues provided to be made by the terms of any contract under which its revenue bonds may have been issued, but such contract right on the part of such city or town shall remain unaffected, and payments to which such city or town is entitled thereunder shall be made in addition to the payments above prescribed in this section.

[Acts 1947, 50th Leg., p. 683, ch. 345.]

¹ Article 701 et seq.

Art. 802g. Refunding Bonds Due Serially Issued Under Composition Plan Approved Under Bankruptcy Act

Eligible Cities

Sec. 1. This Act shall be applicable to any city which has outstanding refunding bonds, whether revenue bonds or tax supported bonds, or both, issued pursuant to a plan of composition confirmed by a United States District Court under the National Bankruptcy Laws, which do not mature in annual installments, hereinafter called "Term Bonds".

Maturities; Interest Rate; Pledge of Revenues

Sec. 2. Any such city is hereby authorized to issue refunding bonds (hereinafter called "Serial Refunding Bonds") having serial maturities and bearing interest at a rate to be determined by the governing body of the city provided that the interest cost to the city, calculated by the use of standard interest tables currently in use by insurance companies and investment houses, does not exceed an average rate of four (4%) per cent per annum, for the purpose of refunding such outstanding term bonds, in the manner provided by law for the issuance of city refunding bonds. Where serial refunding bonds are issued to refund outstanding revenue bonds, the governing body of the city is authorized to secure the serial refunding bonds by a deed of trust upon the utility system as well as by a pledge of the net revenues of the system if the bonds being refunded so provide.

Sale of Refunding Bonds in Lieu of Exchange for Term Bonds

Sec. 3. In lieu of exchanging the serial refunding bonds for the term bonds in the manner otherwise provided by law, the city may, at any time after calling the outstanding term bonds for redemption in the manner provided in said bonds, sell the serial refunding bonds (or the unexchanged portion of them) at not less than par and accrued interest and deposit the principal amount received from such sale together with the additional amount necessary to pay the interest to the call date, with

the bank where the term bonds are payable, in which event, a certified copy of the ordinance or resolution so providing shall be transmitted to the Comptroller of Public Accounts and he shall register the serial refunding bonds without cancellation of the underlying term bonds and deliver them as provided in said ordinance or resolution. No city charter provision relating to the terms, issuance, sale and delivery of bonds shall be applicable to bonds issued under this law.

Existing Ordinances Relating to Bonds Validated

Sec. 4. If, prior to the effective date of this Act, any such city has passed an ordinance or ordinances authorizing the issuance of serial refunding bonds and making provisions for the payment and security thereof, including, in the case of revenue bonds, the pledge of revenues and the encumbrance on the properties of the utility system or systems, such ordinance or ordinances and the provisions for the payment and security of the serial refunding bonds, are hereby validated and ratified.

Incontestability of Bonds

Sec. 5. When such serial refunding bonds shall have been authorized by ordinance of the governing body of the city, signed by the Mayor and City Secretary or Clerk of said city, approved by the Attorney General of Texas, and registered by the Comptroller of Public Accounts, they shall be incontestable and shall constitute valid and binding obligations of such city.

[Acts 1955, 54th Leg., p. 665, ch. 236.]

Art. 802h. Refunding Bonds Adjudicated to be Valid by Federal Court or Issued Pursuant to Plan of Composition Under Bankruptcy Laws

Eligible Cities

Sec. 1. This Act shall be applicable to any city which has outstanding refunding bonds adjudicated to be valid by a decree of the Federal Court, or issued pursuant to a plan of composition confirmed by a United States District Court under the National Bankruptcy Laws, where the ordinance authorizing the issuance of such refunding bonds provides that not less than a fixed rate of tax therein specified shall be levied, assessed and collected each year so long as any of such bonds or interest thereon are outstanding. Such bonds are herein called "Original Refunding Bonds."

Maturities; Interest Rate

Sec. 2. Any such city is hereby authorized to issue refunding bonds (hereinafter called "New Refunding Bonds") having serial maturities and bearing interest at a rate to be determined by the governing body of the city, not to exceed six percent (6%) per annum, for the purpose of refunding such Original Refunding Bonds, in the manner provided by law for the issuance of city refunding bonds.

Sale of New Refunding Bonds in Lieu of Exchange for Original Refunding Bonds

Sec. 3. In lieu of exchanging the New Refunding Bonds for the Original Refunding Bonds in the manner otherwise provided by law, the city may sell the New Refunding Bonds (or the unexchanged portion of them) at not less than par and accrued interest and deposit the principal amount received from such sale, together with the additional amount necessary to pay the interest to the call date, or maturity dates, with the bank where the Original Refunding Bonds are payable, in which event, a certified copy of the ordinance or resolution so providing shall be transmitted to the Comptroller of Public Accounts and he shall register the New Refunding Bonds without cancellation of the Original Refunding Bonds and deliver them as provided in said ordinance or resolution. No city charter provision relating to the terms, issuance, sale and delivery of bonds shall be applicable to bonds issued under this law.

Incontestability of Bonds

Sec. 4. When such New Refunding Bonds shall have been authorized by ordinance of the governing body of the city, signed by the Mayor and city secretary or clerk of said city, approved by the Attorney General of Texas, and registered by the Comptroller of Public Accounts, they shall be incontestable and shall constitute valid and binding obligations of such city.

[Acts 1961, 57th Leg., 1st C.S., p. 130, ch. 27. Amended by Acts 1967, 60th Leg., p. 307, ch. 149, § 1, eff. Aug. 28, 1967.]

CHAPTER SIX. RECLAMATION AND IRRIGATION BONDS

Art.

- 803. Power to Issue.
- 804. Order for Election.
- 805. Amount of Bonds, etc.
- 806. Limit of Indebtedness.
- 807. Election.
- 808. Order of Issuance.
- 809. Additional Bond Issue.
- 810. May Issue Notes.
- 811. Shall Order Election.
- 812. Ballot, etc.
- 813. Requisites of Issuance.
- 814. Issuance of Bonds and Notes.
- 815. May Exchange Bonds.
- 816. Sale of Bonds and Notes.
- 817. Other Counties May Avail.
- 818. Special Powers.
- 819. Special Fund.
- 820. Control of System.
- 821. Other Improvements.
- 822. Repealed.

Art. 803. Power to Issue

For the purpose of constructing and maintaining pools, lakes, reservoirs, dams, canals and waterways for irrigation purposes or in aid thereof, or purchasing any such improvements already existing

and adding thereto and paying incidental expenses connected therewith, counties may issue bonds not to exceed one fourth of the assessed valuation of its real property and levy and collect necessary taxes to pay the interest and provide a sinking fund for the redemption thereof.

[Acts 1925, S.B. 84.]

Art. 804. Order for Election

Upon the petition of fifty or more resident property taxpaying voters of a county for an election upon the question of issuing bonds under the provisions of Section 52, Article 3, or Section 59 of Article 16 of the State Constitution, the commissioners court shall at a regular or special session thereof, order an election to determine whether or not the bonds of such county shall be issued in an amount not to exceed one fourth of the assessed valuation of the real property of such county for the purposes stated in the preceding article, and whether or not a tax shall be levied upon the property of said county for the purpose of paying the interest on such bonds and providing a sinking fund for the redemption thereof.

[Acts 1925, S.B. 84.]

Art. 805. Amount of Bonds, etc.

The amount of bonds proposed to be issued, with the rate of interest thereon not to exceed six per cent per annum, payable annually or semi-annually, and the date of maturity, shall be stated in the petition, in the order for the election, and in the notice therefor; or such order and notice may provide that the bonds may bear interest at a rate to be fixed by the commissioners court, not to exceed six per cent per annum, payable annually or semi-annually, and that the bonds may mature at such times as may be fixed by the commissioners court, serially or otherwise, not to exceed forty years from their date.

[Acts 1925, S.B. 84.]

Art. 806. Limit of Indebtedness

Where such county contains any district or districts organized under Section 52 of Article 3, or Section 59 of Article 16 of the State Constitution, the percentage of indebtedness of any such district based upon its assessed valuation of real property in the district, together with the percentage of the proposed county indebtedness based upon the assessed valuation of the real property of the county as shown by the last approved assessment rolls of such district and of the county, shall never exceed in any one or more of such districts, or in the county, twenty-five per cent of the assessed valuation of real property of such district or districts, or of such county.

[Acts 1925, S.B. 84.]

Art. 807. Election

These rules shall govern the conduct and holding of such election:

1. Only resident property taxpayers who are qualified electors of the county shall be allowed to vote in such election, and a two-thirds vote shall be necessary to carry the proposition submitted thereat.

2. The ballots to be used at such election shall have written or printed thereon the words "For the issuance of the bonds and levy of tax in payment thereof," and "Against the issuance of the bonds and levy of tax in payment thereof." The commissioners court shall furnish the ballots for each of the polling places.

3. The election order shall fix the time of holding said election and shall designate the polling place or places in each voting precinct in the county where said election shall be held, and shall name a presiding judge, a judge and two clerks for each polling place, or may name more election officers for any polling place if the court considers it necessary.

4. A copy of the election order signed by the county judge shall serve as proper notice of said election, and one copy shall be posted at each polling place and one at the courthouse door for at least full twenty days prior to the date of the election, and shall also be published in a newspaper published in said county for three consecutive weeks prior to the date of said election, the first publication to be full twenty-one days before the date of the election.

5. The manner of conducting said election shall be governed by the election laws of this State, except as otherwise herein provided.

6. Immediately after the election the presiding judge at each polling place shall make returns of the result of the election showing the total number of votes cast, the number cast for and against the proposition, and he shall deliver such returns to the county clerk who shall keep them in a safe place and deliver them to the commissioners court, who shall at a regular or special session, canvass said returns and declare the result of said election by order entered upon the minutes of the court.

[Acts 1925, S.B. 84.]

Art. 808. Order of Issuance

If the issuance of the bonds and levy of the tax have been so adopted, the commissioners court, at a regular term thereof, shall make and enter an order directing the issuance of the bonds authorized, and in said order shall provide for the levy and collection of a tax annually sufficient to pay the annual interest thereon, payable at such place or places as provided in said order, and to redeem such bonds at maturity.

[Acts 1925, S.B. 84.]

Art. 809. Additional Bond Issue

If bonds have been authorized to be issued, or have been issued as herein provided, and if the commissioners court of such county shall consider it necessary to make any modifications in any of the proposed improvements, or shall determine to purchase or construct further or additional improvements and issue additional bonds, or purchase additional property in order to carry out the purposes of the project, or to best serve the interests of the county, such findings shall be entered of record, and an order for an election shall be entered and notice thereof given, and such election shall be held and the result thereof declared, in accordance with the provisions of this chapter, and if the result of such election be in favor of the issuance of such additional bonds, the commissioners court may order such additional bonds to be issued in the manner herein provided.

[Acts 1925, S.B. 84.]

Art. 810. May Issue Notes

Whenever a county shall have constructed or purchased improvements and the same shall be damaged so that it may be necessary to raise funds to repair such damage, the county may issue bonds to raise such funds in the manner provided in this chapter, or may issue its notes therefor. Such notes shall run not to exceed twenty years and bear interest not to exceed six per cent per annum payable annually or semi-annually.

[Acts 1925, S.B. 84.]

Art. 811. Shall Order Election

Before such notes are issued, the commissioners court shall order an election and give notice thereof, as required for elections upon bond issues, stating the purpose for which they are to be issued, the time they are to run, the rate of interest, and the time and place or places of election.

[Acts 1925, S.B. 84.]

Art. 812. Ballot, etc.

The ballots for such election shall have written or printed thereon "For the issuance of notes," and "Against the issuance of notes." Such election shall be held and returns made and canvassed as provided herein for bond elections. If a two-thirds majority of those voting at such election voted in favor of the issuance of such notes, the commissioners court may issue and sell same for the benefit of said county and the purpose or purposes for which authorized.

[Acts 1925, S.B. 84.]

Art. 813. Requisites of Issuance

The commissioners court shall pass and enter an order directing and authorizing the issuance of the notes, and in said order provisions shall be made for the levy and collection of a tax annually sufficient to pay the current interest and provide a sinking

fund for the payment of the principal at maturity. Said notes may be issued to mature serially or otherwise, as may be provided in the election order and notice of election. The limitation of indebtedness hereinbefore provided shall also apply to the issuance of such additional bonds and such notes.

[Acts 1925, S.B. 84.]

Art. 814. Issuance of Bonds and Notes

All bonds and notes issued under the provisions of this chapter shall be issued in the name of the county, and such bonds shall be designated "... County Water Improvement Bonds," and such notes shall be designated "... County Water Improvement Notes," and shall be signed by the county judge, countersigned by the county clerk and registered by the county treasurer, and the seal of the commissioners court shall be impressed thereon, and may be in such denominations as may be fixed by the commissioners court.

[Acts 1925, S.B. 84.]

Art. 815. May Exchange Bonds

The commissioners court may exchange bonds for property or in payment of the contract price for work to be done in the construction of said improvements.

[Acts 1925, S.B. 84.]

Art. 816. Sale of Bonds and Notes

The commissioners court shall sell or exchange such bonds and notes on the best terms and for the best obtainable price, not less than their par value. When the bonds or notes are sold, the proceeds shall immediately be delivered to the county treasurer.

[Acts 1925, S.B. 84.]

Art. 817. Other Counties May Avail

Any county desiring to issue bonds in accordance with the provisions of this chapter, shall bring an action in the district court of such county, or in the district court of Travis County, to determine the validity of such bonds in the manner provided for the validation of Water Improvement District Bonds in Chapter 2 of the Title "Water"¹ and each provision of said chapter relative to such suit, the duties of the Attorney General and Comptroller, the judgment to be rendered, the effect of such judgment, and other matters connected therewith, shall apply to the validation of such county bonds.

[Acts 1925, S.B. 84.]

¹ Article 7622 et seq. (repealed; see, now, Water Code).

Art. 818. Special Powers

Counties operating under the provisions of this chapter are hereby empowered to own and construct reservoirs, dams, levees, wells, canals and other improvements, and to acquire the necessary rights-of-way and other lands by purchase or by

condemnation in the manner provided for the condemnation of right-of-way by railroad companies, and to do, construct, purchase and acquire all other works and improvements required for the proper and efficient irrigation of the lands in such county.

[Acts 1925, S.B. 84.]

Art. 819. Special Fund

The commissioners court shall annually levy a tax sufficient to pay the current interest on such bonds and to pay the principal thereof as the same becomes due, and said tax shall be assessed and collected as other county taxes, and when collected shall constitute a special fund and shall not be diverted or used for any other purpose than in this article provided.

[Acts 1925, S.B. 84.]

Art. 820. Control of System

The commissioners court shall have and exercise the control and management of the affairs and operation of the irrigation system of such county to the same extent and in the manner provided in Chapter 2 of the Title "Water,"¹ as conferred upon the directors of Water Improvement Districts, and said court shall exercise all of the powers relative to the control, management, affairs and operation of such county irrigation system as such directors have under the provisions of said chapter, and all the provisions of said chapter relative to the control management, affairs and operation of Water Improvement Districts shall apply to the control, management, affairs and operation of such county irrigation system.

[Acts 1925, S.B. 84.]

¹ Article 7622 et seq. (repealed; see, now, Water Code).

Art. 821. Other Improvements

Any county authorized under the provisions of this chapter, may issue bonds for the improvement of rivers, creeks and streams to prevent overflow and for all necessary drainage purposes in connection therewith, and bonds proposed to be issued for the combined purposes stated in this chapter, or for any two of said purposes, shall be treated and deemed as for one purpose and may be voted upon as one proposition.

[Acts 1925, S.B. 84.]

Art. 822. Repealed by Acts 1953, 53rd Leg., p. 962, ch. 406, § 5.

CHAPTER SIX A. NAVIGATION AID BONDS

Art.

- 822a. Power to Issue.
- 822b. Eminent Domain.
- 822c. Elections and Order for Issuance.
- 822d. Bonds and Warrants.
- 822e. Right of Way and Conveyance to United States.
- 822f. Bonds by Coastal Counties for Canal Purposes.

Art. 822a. Power to Issue

Any county in this State may, upon a vote of a two-thirds majority of the resident property tax payers voting thereon, who are qualified electors of such county, at an election held hereunder as hereinafter provided, in addition to all other debts, issue bonds or warrants or otherwise lend its credit in any amount not to exceed one-fourth of the assessed valuation of the real property of such county, and levy and collect such taxes to pay the interest thereon, and provide a sinking fund for the redemption thereof, as herein provided, for the purpose of navigation, or in aid of navigation, by securing right-of-way and necessary dumping privileges for any canal or water-way, authorized to be constructed under any Act of the United States Congress now in force, or hereafter enacted, and shall have the power, after any right-of-way and necessary dumping privileges have been secured, to convey same to the Government of the United States, if necessary to do so to aid in any navigation by waterways, or canals.

[Acts 1927, 40th Leg., p. 129, ch. 84, § 1.]

Art. 822b. Eminent Domain

Sec. 2. Any county in this State shall have the right of eminent domain for the purpose of carrying out the authority granted in Section 1 of this Act.¹

Sec. 3. Said county shall have the right in lieu of exercising its right to eminent domain, as hereinbefore provided, to permit the Government of the United States to exercise its right of eminent domain, and lend its credit in guaranteeing the Government of the United States to pay such judgment or assessment of damages, as may be entered against said Government of the United States, for the value of such property as it may condemn for such right-of-way and necessary dumping privileges.

[Acts 1927, 40th Leg., p. 129, ch. 84.]

¹ Article 822a.

Art. 822c. Elections and Order for Issuance

Sec. 4. The commissioners' court of any county in this State may, upon its own motion, and shall, upon a petition presented to it by twenty-five of the resident property tax payers therein, at a regular or special term of said court, order an election for the purpose of determining as to whether or not said county shall issue bonds or warrants, or otherwise lend its credit for the purpose of navigation or in aid thereof, by securing the necessary right-of-way for the purposes indicated in Section 1 hereof;¹ said election order shall describe as near as may be, the navigation purposes, or the aid thereto proposed, or the right-of-way and necessary dumping privileges, necessary to be secured and the amount of bonds or warrants, or extent of credit proposed to be authorized for such purposes; and if bonds or warrants are to be issued, their maturity dates and the rate of interest; and if it is proposed to lend the credit of

the county in lieu of the issuance of bonds or warrants, said election order shall state the manner in which said credit is proposed to be used, and the extent thereof, and the terms and conditions thereof. Twenty days notice of the holding of said election shall be given by publication in some newspaper published at the county seat of said county, and by posting in three public places in the county, one of which, shall be at the county seat.

Sec. 5. The ballots for said election shall have printed thereon, the words and none other: "For the issuance of bonds (or warrants) or (loaning of credit) and levy of a tax in payment thereof," and "Against the issuance of bonds (or warrants) or (loaning of credit) and the levy of a tax in payment thereof."

Sec. 6. If the proposition submitted to the voters of said county is at said election, adopted by them, the commissioners' court shall enter the same in the minutes of said court, setting out the date of election, the notice of election, the result of the election, together with an order providing for the issuance of such bonds, or warrants, stating the amount thereof, the maturities thereof, and the rate of interest, and at the same time levy a tax sufficient to pay the interest of said bonds or warrants, and providing a sinking fund sufficient to liquidate same at maturity, or as the case may be, setting out the mode and manner and conditions under which it is determined at said election to lend its credit and the extent thereof.

Sec. 7. If, at said election, the credit of the county is to be used otherwise than by the issuance of bonds or warrants, and in such manner as that its use creates a debt against the county, the commissioners' court shall, at a regular or special term thereof, at the time of the entering of said order, authorizing the use of said credit and the creation of said debt, levy a tax sufficient to pay said debt, or such amount thereof, as may mature during the current year, and shall from year to year, levy a tax sufficient to liquidate same as it accrues.

[Acts 1927, 40th Leg., p. 129, ch. 84.]

¹ Article 822a.

Art. 822d. Bonds and Warrants

Sec. 8. All bonds or warrants issued under the provisions of this Act¹ shall be issued in the name of the county; shall be signed by the county judge and attested by the county clerk under the seal of the commissioners' court; they shall be issued in such denominations and payable at such time, or times, not to exceed forty years from their date as may be deemed most expedient by the court, and shall bear interest not to exceed 6% per annum. All bonds shall be approved by the attorney general and registered by the comptroller as other county bonds are approved and registered; all bonds or warrants shall be sold by the commissioners' court on the best terms and for the best price possible, but for not less than face par value and accrued interest,

and all moneys received therefor, shall be paid to the county treasurer, and by him placed to the credit of the navigation fund of such county, and paid out on warrants, as other county funds are disbursed.

Sec. 9. When bonds or warrants have been voted, the commissioners' court shall levy and cause to be assessed and collected annually, taxes sufficient to pay the interest on such bonds, and to provide a sinking fund to redeem the same at maturity, and if the credit of the county is used otherwise than by the issuance of bonds and warrants, in such a way as that a debt against the county is created, said court shall levy and cause to be assessed and collected annually a tax sufficient to pay said indebtedness as and when it accrues. The sinking fund of said bonds or warrants, shall be invested as the sinking fund of other county bonds are invested.

[Acts 1927, 40th Leg., p. 129, ch. 84.]

¹Articles 822a to 822e.

Art. 822e. Right of Way and Conveyance to United States

Sec. 10. When right-of-way and necessary dumping privileges have been secured by such county under the provisions hereof, either by purchase, condemnation, or donation, such county shall have the right, and is hereby authorized to convey said right-of-way and necessary dumping privileges to the Government of the United States by deed executed as other deeds by counties are required to be executed.

Sec. 11. The purpose of this Act being to grant authority to the counties of Texas to issue bonds, warrants or otherwise lend their credit to acquire and convey to the United States Government, the necessary right-of-way for waterways or navigable canals, the construction of which has been, or may be, authorized by the Government of the United States; the cost of construction and maintenance of which, is to be borne by the Government of the United States, and for no other purpose, and the provisions of this Act shall be liberally construed for the purpose of carrying out such intent.

[Acts 1927, 40th Leg., p. 129, ch. 84.]

Art. 822f. Bonds by Coastal Counties for Canal Purposes

The right of eminent domain is hereby conferred upon all counties adjacent to the Gulf of Mexico of the State of Texas, for the purpose of condemning and acquiring land, right of way or easement or dumping ground privileges in land, private or public, except property used for cemetery purposes, where said land, right of way, easement or dumping ground privilege is necessary in the construction of an intra-coastal canal.

All such condemnation proceedings shall be instituted under the direction of the Commissioners' Court, and in the name of the county, and the assessing of damages shall be in conformity to the

Statutes of the State of Texas for condemning and acquiring of right of way by railroads. Provided, that no appeal from the finding and assessment of damages by the Commissioners appointed for that purpose shall have the effect of causing the suspension of work by the county or the Government of the United States, in connection with which the land, right of way, easement, etc., is sought to be acquired; and provided, further, that in case of appeal counties shall not be required to give bond, nor shall they be required to give bond for costs.

In all of the counties of this State adjacent to the Gulf of Mexico, the Commissioners' Courts are authorized to issue time warrants bearing interest at a rate not exceeding six per cent (6%) per annum, to be used for the purpose of purchasing or paying for lands for right of way and easement and dumping ground purposes for an intracoastal canal. The lands needed may be acquired by direct purchase or by payment after condemnation proceedings.

[Acts 1931, 42nd Leg., p. 834, ch. 347, § 1. Amended by Acts 1931, 42nd Leg., 1st C.S., p. 7, ch. 4, § 1.]

CHAPTER SEVEN. MUNICIPAL BONDS

- Art.
823. May Issue Bonds.
824. Limitations.
825. Signature.
826. Shall Provide for Tax.
827. Funding of Debt.
827a. Payment of Warrants and Vouchers Previously Issued.
828. May Compromise Debts.
829. Exceptions.
830. Liquidation Board.
831. Liquidation.
832. State Tax Laws.
833. Payment of Taxes With Bonds.
834. Further Compromise.
835. Harbor Bonds.
835a, 835b. Repealed.
835c. Hospital Sites in Cities and Counties.
835d. Unconstitutional.
835e. Bonds Validated.
835e-1. Refunding Bonds of Home Rule Cities Validated.
835e-2. Fire-Fighting Equipment Bonds Validated.
835f. Sale of Bonds or Obligations by Municipal or Political Subdivisions to Reconstruction Finance Corporation or Federal Agency.
835g. Use for Other Purposes of Bond Monies Dedicated to Specific Public Improvement in Certain Cities and Towns; Election Authorizing Transfer.
835h. Bonds for Improvement of Parking Lots.
835i. Bonds for Fire Truck and Fire Equipment; Validation.
835j. Revenue Bonds for Air Conditioning Equipment in Municipal Auditorium or Theatre.
835k. Bonds for Municipal Garage or Park Band Shell Validated.
835k-1. Bonds for Public Recreation Tower Structure; Validation.
835l. Harbor, Wharf and Dock Facilities; Cities and Towns of 5,000 or Less on Gulf or Connecting Waters.

- Art.**
 835m. Municipal Libraries; Fire Stations; Validation of Bonds.
 835n. Issuance of Bonds for Fire Fighting Equipment in Cities of Less Than 5,000 Population.
 835o. Home Rule Cities; Street and Drainage Improvements; Fire Stations; Validation of Bonds.
 835p. Cities of 600,000 or More; Limitation on Bonded Indebtedness.
 835q. Revenue Bonds and Ad Valorem Tax Bonds; Validation of Proceedings.
 835r. Bonds for Payment of Judgments; Election.

Art. 823. May Issue Bonds

Any city or town may issue its coupon bonds for such sum as it may deem expedient for the purpose of the construction or purchase of public buildings, waterworks, sewers, and other permanent improvements within the city limits, and for the construction and improvement of the roads, bridges, and streets of such city or town. This article includes building sites and buildings for the public free schools and institutions of learning within such cities and towns which assume the exclusive control of their public free schools and institutions of learning. Such bonds shall bear interest not to exceed six per cent per annum and shall become due and payable serially or otherwise not to exceed forty years from their date and may be payable at such place as may be fixed by ordinance.

[Acts 1925, S.B. 84.]

Art. 824. Limitations

The limitations now provided by law upon the bonds that such cities may issue shall not apply to bonds issued under this law.

[Acts 1925, S.B. 84.]

Art. 825. Signature

All bonds issued by a city or town shall be signed by the mayor and countersigned by the city secretary.

[Acts 1925, S.B. 84.]

Art. 826. Shall Provide for Tax

The governing body, when the issuance of bonds has been authorized, shall provide for the levy and collection of a tax annually sufficient to pay the annual interest and provide a sinking fund for the payment of such bonds and all other outstanding bonds of such city or town issued since September 25, 1883.

[Acts 1925, S.B. 84.]

Art. 827. Funding of Debt

The governing body shall pass all necessary ordinances to provide for funding the whole or any part of the existing debt of the city or any future debt by cancelling the evidences thereof, and issuing to the holders or creditors, notes, bonds or treasury

warrants, with or without coupons, bearing interest at any annual rate not to exceed six per cent. [Acts 1925, S.B. 84.]

Art. 827a. Payment of Warrants and Vouchers Previously Issued

The towns and cities, organized under and governed by the General Laws of the State of Texas, may renew, extend and pay warrants and vouchers executed and delivered for the purpose of securing funds and for the purpose of borrowing funds for the use of such towns and cities prior to June 1, 1932, and all extensions and renewals thereof; provided that the provisions hereof shall apply only where such funds received and borrowed, and used by such towns and cities prior to June 1, 1932, do not exceed the total sum of Eight Thousand (\$8,000.00) Dollars. Such warrants and vouchers may be so issued to bear interest at the rate of not to exceed six per cent (6%) per annum and may be so issued without the necessity of the approval thereof by the Attorney General and without the necessity of a registration thereof by the Comptroller, and may be made payable within one year from date of the issuance or more than one year; taxes may be levied and used to provide for the payment thereof; providing, however, that nothing herein shall affect any pending litigation.

[Acts 1937, 45th Leg., p. 304, ch. 159, § 1.]

Art. 828. May Compromise Debts

The governing body, by their resolution or ordinance, by referring to this law and adopting the same, are authorized to compromise and fund any existing valid indebtedness issued by the city or town, whether bonded or floating, and the coupons due upon the bonded debt. For such purpose, they are authorized to issue new bonds in denominations of not less than fifty nor more than one thousand dollars, in their discretion, with interest coupons payable annually, to become due and payable in not exceeding thirty years, and to bear interest not to exceed six per cent per annum.

[Acts 1925, S.B. 84.]

Art. 829. Exceptions

No compromise shall be made by which any debt shall be funded when such debt is barred by the statutes of limitations.

[Acts 1925, S.B. 84.]

Art. 830. Liquidation Board

Whenever a compromise of the debt of any city or town shall be so affected, and the bonds are delivered to the creditors, a board of liquidation consisting of five reputable citizens of such city or town shall forthwith be appointed and organized in the manner following:

1. One each shall be appointed by the mayor of the city or town, the city council, the Governor, any district judge of the district in which such city or

town is situated, and the holders of said indebtedness or a majority of them, and each shall fill vacancies in the office of their respective appointee in said board.

2. In case of failure, neglect or refusal of any or all of said officers to appoint a member of said board or to fill vacancies therein, then the holders of said bonds or any one or more of them may apply to any district court of the district in which such town or city is situated, or to the judge thereof in vacation, for the appointment of the members necessary to complete said board, and said court or judge shall make such appointment.

3. The members of said board shall serve without compensation, and shall hold office for four years. Each member of said board shall take an oath to faithfully perform the duties of his office. A majority of said board shall be a quorum to transact business.

[Acts 1925, S.B. 84.]

Art. 831. Liquidation

These rules shall govern the handling and disposition of all moneys coming under the control of the board as herein provided:

1. Said board shall select some solvent depository for such moneys, for whose acts they shall be responsible, and shall, in writing, signed by them, notify the tax collector of said city or town, of said selection.

2. Said collector shall thereupon deposit at the close of business of each day one-half of all moneys collected by him for the twenty-four hours next preceding, on account of all the taxes of whatever nature levied by said city or town, with the said depository, whose receipt therefor shall be an acquittance of said collector.

3. The collector shall be liable on his official bond for any failure to promptly make such deposits and for ten per cent per month of such amounts in addition thereto as penalty, which sums may be recovered by said board in a suit therefor, which they shall promptly institute.

4. Whenever the total of said deposits shall equal the annual interest on said bonds, it shall be lawful for the collector to discontinue said deposits until he shall be notified in writing by said board that said deposits are reduced below that sum.

5. Said funds shall be subject to said board and shall be applied by it to the payment, first of the interest on the said bonds as they mature, secondly, to the payment of the principal thereof, and thirdly, to the payment of interest of any valid bonds issued by such city and not embraced in any issue of bonds issued under the provisions of this law, and fourthly, to the payment of the principal of bonds of the character last referred to on the maturity of the same.

6. The members of said board shall be liable for the prompt payment of interest out of said funds, and in case of failure or refusal, they shall in addition be liable to ten per cent of the amount of such interest as damages to be recovered by any person aggrieved thereby.

7. Whenever there shall be in the hands of such depository a sufficient sum to pay two per cent of the principal of said bonds in addition to one year's interest, said board shall use the same in the purchase of outstanding bonds as provided by law, and such bonds when so purchased shall be returned to the city council together with all coupons which have been paid.

8. Expenses incurred by the board in advertising for purchasers of bonds shall be paid out of said funds.

9. Said board shall make semi-annual reports to the city council of its acts and of all receipts and disbursements of money coming under their control.

[Acts 1925, S.B. 84.]

Art. 832. State Tax Laws

Whenever such compromise shall be entered into and accepted in good faith, either by the holders of the present bonds or by any persons purchasing new bonds, as herein provided, all laws now or hereafter in force for the assessment and collection of State taxes shall also be in force and apply to the assessment and collection of taxes levied to meet the interest and sinking fund of said new bonds; and in any suit instituted to enforce the payment of said bonds or coupons against any such city or town, no defense either in law or equity, shall be admitted in any court of this State, except such as originated upon, or subsequent to, the issuance of such new bonds.

[Acts 1925, S.B. 84.]

Art. 833. Payment of Taxes With Bonds

The new bonds thus issued by a city or town shall be exempt from the payment of all taxes levied by such city or town. The taxes levied to pay such new bonds may be paid with the bonds or coupons thereof if matured. Said coupons and bonds shall only be received in payment of taxes which have been levied for the purpose of paying such bonds and coupons.

[Acts 1925, S.B. 84.]

Art. 834. Further Compromise

Cities and towns may compromise and liquidate their indebtedness and issue bonds therefor under such conditions as are prescribed in this title conferring such authority on counties, cities and towns, and as may be otherwise provided by law.

[Acts 1925, S.B. 84.]

Art. 835. Harbor Bonds

When necessary therefor, cities which border on the Gulf of Mexico may issue the coupon bonds of such cities to bear interest at not exceeding five per cent per annum for the purpose of improving or aiding the improvement of their harbors and the bars at the entrance thereof in such amounts as may be deemed necessary not to exceed the limit of indebtedness fixed by their respective charters, and may appropriate for such purpose money out of any surplus fund which may be on hand at any time, and when any bonds may be on hand, the issuance of which has been made for other purposes and may not be needed for such purpose. Such surplus bonds may be sold and the proceeds used for such improvements.

[Acts 1925, S.B. 84.]

Arts. 835a, 835b. Repealed by Acts 1931, 42nd Leg., p. 33, ch. 26, § 1; Acts 1931, 42nd Leg., p. 771, ch. 309, § 8

Art. 835c. Hospital Sites in Cities and Counties

Any city or county in this State, acting by or through the governing body of such city or Commissioners Court of such county, may issue negotiable bonds of the city or county, as the case may be, and levy taxes for the sinking fund of such bonds, and the levying of such taxes being in accordance with Chapter 1, Title 22, of the Revised Civil Statutes, of 1925,¹ which bonds may be sold and the proceeds thereof shall be applied to condemnation or purchase, either or both, of lands to be used for hospital purposes; and which lands when so acquired, or if such city or county shall already own land or sites that are suitable and adequate for hospital purposes, then such lands so owned, may be by such city or county donated to the State of Texas or the United States of America for hospital purposes, where the State of Texas or United States of America has or may agree to erect and maintain hospitals thereon; or if any such city or county has in its general fund sufficient funds for the acquisition of such property, same may be diverted and applied for such use; provided also that such city or county may stipulate for and agree to accept a nominal award as full compensation for such lands in any condemnation proceeding, including proceedings pending when this Act becomes effective, instituted by the State of Texas or the United States of America for the acquisition of such lands for hospital purposes; provided further that all such donations or contracts to make such donations made or entered into by and between any city or county in this State and the United States of America prior to the date of the approval of this Act, whether consummated by voluntary conveyance, condemnation proceedings, or otherwise, be and the same are fully and completely validated, ratified, and confirmed; and provided further that nothing in this Act shall be construed by any city or county to exceed the

limits of indebtedness placed upon it under the Constitution.

[Acts 1930, 41st Leg., 5th C.S., p. 125, ch. 10, § 1. Amended by Acts 1939, 46th Leg., p. 381, § 1.]

¹ Article 701 et seq.

Art. 835d. Unconstitutional

This article, derived from Acts 1931, 42nd Leg., p. 771, ch. 309, was held invalid as creating "debt" against city in violation of Const. Art. 11, §§ 5 and 7. *City of Fort Worth v. Bobbitt*, 121 T. 14, 41 S.W.2d 228.

Art. 835e. Bonds Validated

That all proceedings had prior to March 1, 1935, by the governing bodies of all independent school districts, cities and towns, including home rule cities, in the State of Texas in the issuance and sale of bonds, to aid in financing any undertaking for which a loan or grant has been made by the United States through the Federal Emergency Administration of Public Works, or any other agency, department or division of the Government of the United States of America are hereby in all things fully validated, confirmed, approved and legalized and all bonds issued thereunder are hereby declared to be the valid and binding obligations of such independent school districts, cities or towns, and all bonds which were prior to March 1, 1935, authorized but not yet issued shall, when delivered and paid for, constitute valid and binding obligations of such independent school district, city or town. All tax levies made by such governing bodies for the purpose of paying the principal of and interest on such bonds, notes or warrants are hereby in all things validated, confirmed, approved and legalized. Provided that this Act shall not validate any bonds now in litigation.

[Acts 1935, 44th Leg., p. 147, ch. 60, § 1.]

Art. 835e-1. Refunding Bonds of Home Rule Cities Validated

Sec. 1. In each instance wherein any city operating under a special charter, either adopted by vote of the people or granted by the Legislature and thereafter amended by vote of the people, which allocates its permitted taxing power to specified purposes at fixed rates for each such purpose, has passed an ordinance or ordinances authorizing the issuance of refunding bonds to refund all of the outstanding bonds of such city, and said refunding bonds and bonds to be refunded thereby have been approved by the Attorney General of the State of Texas, the proceedings had by such city in authorizing the issuance of said refunding bonds and the tax levied to pay the principal and interest thereof are hereby validated, and said refunding bonds, when registered by the Comptroller of Public Accounts in exchange for the bonds to be refunded thereby are hereby validated, notwithstanding the fact that one or more issues of such refunding bonds or of the bonds refunded thereby may have been authorized and issued for the purpose of refunding bonds originally payable from such separate tax allocations,

and the taxes levied to pay the principal and interest of such refunding bonds are hereby validated and shall not be affected by any provisions of such charter requiring allocation of such taxes to such specific purposes.

Sec. 2. The provisions of this Act shall not be construed as validating any bonds, the validity of which is being questioned in litigation pending at the time this Act becomes effective.

[Acts 1939, 46th Leg., p. 699.]

Art. 835e-2. Fire-Fighting Equipment Bonds Validated

Sec. 1. All bonds heretofore voted and authorized by any city for the purpose of equipping fire stations or purchasing firefighting equipment, including all proceedings and the authorization and issuance thereof are hereby validated, ratified, approved, and confirmed notwithstanding the lack of charter or statutory power of such city or the governing body thereof to authorize and issue such bonds; and such bonds when approved by the Attorney General of the State of Texas, and sold and delivered for not less than par and accrued interest, shall be binding, legal, valid, and enforceable obligations of such cities.

Sec. 2. Provided, however, that the provisions of this Act shall not be construed as validating any such proceedings or bonds issued pursuant thereto the validity of which has been contested or attacked in any suit or litigation pending at the time this Act becomes effective.

[Acts 1947, 50th Leg., p. 250, ch. 146.]

Art. 835f. Sale of Bonds or Obligations by Municipal or Political Subdivisions to Reconstruction Finance Corporation or Federal Agency

That all counties, municipalities, and political subdivisions of this State, which may own bonds or any other obligations or evidences of indebtedness, of an irrigation, levee, drainage, or school district of this State, or of any County, Municipality, or other political subdivisions thereof, or that may own any other kind of municipal bonds or evidences of indebtedness, are hereby authorized to sell, compromise or exchange the same to, or with, the Reconstruction Finance Corporation or any other agency of the Federal Government, at less than par and/or at a price which may seem just and fair and agreed upon by the owners of such securities, provided, that in all such sales, exchanges or compromises, the bonds, obligations, securities, or evidences of debt so acquired by such Reconstruction Finance Corporation, or other agency of the Federal Government, shall never become a charge against the irrigation, levee, drainage, or school district, or the county or municipality issuing same, for more than the amount paid therefor by said Reconstruction Finance Corporation or other agency of the Federal Government, plus interest at the rate provided for

in such securities. The privilege of purchasing, compromising or exchanging such bonds, obligations, or evidences of indebtedness for less than par value, shall only apply to purchases, compromises, or exchanges made by the Reconstruction Finance Corporation, or by any other agency of the Federal Government, acting through its own representative or through the district, county, municipality or political subdivision obligated to pay such securities.

[Acts 1935, 44th Leg., p. 54, ch. 18, § 1.]

Art. 835g. Use for Other Purposes of Bond Monies Dedicated to Specific Public Improvement in Certain Cities and Towns; Election Authorizing Transfer

Sec. 1. All cities and towns in this State having a population of not less than 15,100 and not more than 15,250, according to the last preceding Federal Census, which have the exclusive control of the schools within its limits, are hereby expressly authorized to utilize bond monies on hand, which have heretofore been authorized by the Council of said City, for public improvements of whatsoever character within said city, for the use and benefit of the public schools within such city or any purpose authorized by City Commission. Provided that before any such transfer shall be authorized the question of the transfer shall be submitted to the property tax paying voters of said city at an election to be held in accordance with the provisions of the law which were followed in issuing the bonds originally. And no such transfer shall be made unless a majority of the legally qualified voters of said City vote in favor of such transfer. Provided further, that this law shall not apply in any case wherein the funds are being expended upon the public works for which they were voted. It is expressly provided that it shall only apply in case the public improvement for which the bonds were originally issued have never been commenced.

Sec. 2. The City Council, by following the procedure set out in Section 1, is hereby authorized to repurchase and cancel such bonds, if in their discretion the same is for the benefit of the property tax paying voters of the municipality.

[Acts 1937, 45th Leg., 2nd C.S., p. 1865, ch. 2.]

Art. 835h. Bonds for Improvement of Parking Lots

Bonds Authorized; Pledge of Revenues

Sec. 1. The governing body of any city in this State having less than sixty thousand (60,000) population which is operating under a home rule charter and which city on January 1, 1949, owned and was operating a public parking lot or lots is hereby authorized to issue negotiable revenue bonds of the city for the purpose of constructing, building, or erecting buildings and other permanent improvements on said public parking lot or lots then being used for the public parking or storage of motor

vehicles, such negotiable revenue bonds to be secured solely by a pledge of, and payable from, the net revenues derived from the operation of said parking lot or lots and the buildings and other permanent improvements thereon. "Net revenues" is defined as the gross revenues minus all operation and maintenance expenses. No such bonds shall ever be considered as a debt of the city, but solely a charge upon the pledged revenues, and such bonds shall never be reckoned in determining the power of the city to incur obligations payable from taxation. Such bonds shall contain on the face thereof the following provision:

"The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation."

Issuance, Maturity and Interest; Election; Incontestability

Sec. 2. Such bonds shall be payable serially in not more than forty (40) years from date and shall bear interest at not more than five per cent (5%) per annum. Such bonds shall be signed by the Mayor and countersigned by the City Secretary; provided, however, that the facsimile signatures of such officers may be printed or lithographed on the interest coupons attached thereto. Such bonds shall be sold for not less than par and accrued interest. Such bonds may be issued without the necessity of any election therefor; provided, however, that the governing body, if it so determines, may order an election to determine whether a majority of the legally qualified property taxpaying voters who have taxable property and who have duly rendered the same for taxation voting therein desire the issuance of such bonds, such election to be held in accordance with the provisions of Chapter One, Title 22, Revised Civil Statutes of Texas.¹ Any bonds issued under this Act shall be incontestable after issuance and delivery except for fraud and forgery. It shall not be necessary to submit any of such bonds or proceedings to the Attorney General, and the Attorney General shall have no power or authority to examine and approve or disapprove the same.

¹ Article 701 et seq.

Personnel; Fees and Tolls

Sec. 3. Such city is authorized to employ necessary personnel to operate the parking facilities authorized by this Act, and is authorized to prescribe and enforce the fees and tolls which are to be charged for the use of such parking lot or lots and buildings and other improvements thereon. The expense of operation and maintenance thereof shall always be a first lien and charge against the income thereof. So long as any of said bonds or any interest thereon remain outstanding, the city shall charge or require payment of fees and tolls which shall be equal and uniform within classes defined by the governing body of such city, and which shall be sufficient to pay expenses of operation and maintenance and to pay the principal of and interest on the

outstanding bonds as such principal matures and as such interest accrues, and to establish and maintain such reserve or reserves, if any, as may be prescribed in the ordinance authorizing the bonds.

Additional Bonds

Sec. 4. So long as any such revenue bonds are outstanding, no additional bonds of equal dignity shall be issued against the pledged revenues, except to the extent and in the manner expressly permitted in the ordinance authorizing the bonds.

Exemption From Taxation

Sec. 5. Any bond issued pursuant to the provisions of this Act shall be exempt from taxation by the State of Texas or by any municipal corporation, county or other political subdivision or taxing district of the State.

Partial Invalidity

Sec. 6. In case any one or more of the Sections or provisions of this Act shall for any reason be held to be unconstitutional, such unconstitutionality shall not affect any other Sections or provisions of this Act.

[Acts 1949, 51st Leg., p. 385, ch. 205.]

Art. 835i. Bonds for Fire Truck and Fire Equipment; Validation

Sec. 1. All bonds heretofore voted and authorized by any city for the purpose of purchasing a fire truck and fire equipment, including all proceedings and the authorization and issuance thereof are hereby validated, ratified, approved, and confirmed notwithstanding the lack of charter or statutory power of such city or the governing body thereof to authorize and issue such bonds; and such bonds when approved by the Attorney General of the State of Texas, and sold and delivered for not less than par and accrued interest, shall be binding, legal, valid, and enforceable obligations of such cities.

Sec. 2. Provided, however, that the provisions of this Act shall not be construed as validating any such proceedings or bonds issued pursuant thereto, the validity of which has been contested or attacked in any suit or litigation pending at the time this Act becomes effective.

[Acts 1949, 51st Leg., p. 444, ch. 238.]

Art. 835j. Revenue Bonds for Air Conditioning Equipment in Municipal Auditorium or Theatre

Authority to Issue; Payable from Revenue

Sec. 1. The governing body of any city in this State which has a population of not less than one hundred and seventy-five thousand (175,000) inhabitants according to the last preceding United States Census is hereby authorized to issue negotiable revenue bonds of the city for the purpose of acquiring, purchasing and installing air conditioning

equipment in and for the municipal auditorium and/or municipal theatre owned and operated by said city, such negotiable revenue bonds to be secured solely by a pledge of, and payable from, the net revenues derived from the operation of said municipal auditorium and/or municipal theatre. "Net revenues" is defined as the gross revenues minus all operation and maintenance expenses. No such bonds shall ever be considered as a debt of the city, but solely a charge upon the pledged revenues, and such bonds shall never be reckoned in determining the power of the city to incur obligations payable from taxation. Such bonds shall contain on the face thereof the following provision:

"The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation."

Term; Interest; Signatures; Elections; Approval and Registration

Sec. 2. Such bonds shall be payable serially in not more than forty (40) years from date and shall bear interest at not more than five per cent (5%) per annum. Such bonds shall be signed by the Mayor and countersigned by the City Secretary; provided, however, that the facsimile signatures of such officers may be printed or lithographed on the interest coupons attached thereto. Such bonds may be issued without the necessity of any election therefor; provided, however, that the governing body, if it so determines, may order an election to determine whether a majority of the legally qualified property taxpaying voters who have taxable property and who have duly rendered the same for taxation voting therein desire the issuance of such bonds, such election to be held in accordance with the provisions of Chapter 1, Title 22, Revised Civil Statutes of Texas.¹ Such bonds may be presented to the Attorney General for his approval as is provided for the approval of municipal bonds issued by cities or towns. In such case, the bonds shall be registered by the State Comptroller as in the case of other municipal bonds. Any bonds issued under this Act shall be incontestable after issuance and delivery except for fraud, forgery, or unconstitutionality.

¹ Article 701 et seq.

Operation and Maintenance; Fees, Tolls and Charges

Sec. 3. Such city is authorized to employ necessary personnel to operate such municipal auditorium and/or theatre, and to properly maintain and keep the same in proper repair, the costs of which shall be classed as operation and maintenance expenses. Such operation and maintenance expenses shall always be a first lien and charge against the income thereof. So long as any of said bonds or any interest thereon remain outstanding, the city shall charge or require payment of fees, tolls and charges for the use of such auditorium and/or theatre and their facilities which shall be equal and uniform within classes defined by the governing body of such city, and which shall be sufficient to pay all

expenses of operation and maintenance and to pay the principal of and interest on the outstanding bonds as such principal matures and as such interest accrues, and to establish and maintain such reserve or reserves, if any, as may be prescribed in the ordinance authorizing the bonds.

Additional Bonds

Sec. 4. So long as any such revenue bonds are outstanding, no additional bonds of equal dignity shall be issued against the pledged revenues, except to the extent and in the manner expressly permitted in the ordinance authorizing the bonds.

Exemption From Taxation

Sec. 5. Any bond issued pursuant to the provisions of this Act shall be exempt from taxation by the State of Texas or by any municipal corporation, county or other political subdivision or taxing district of the State.

Partial Invalidity

Sec. 6. If any word, phrase, clause, sentence, paragraph, Section or part of this Act shall for any reason be held to be unconstitutional, it shall not affect any other word, phrase, clause, sentence, paragraph, Section or part of this Act.

[Acts 1949, 51st Leg., p. 936, ch. 510.]

Art. 835k. Bonds for Municipal Garage or Park Band Shell Validated

Sec. 1. All bonds heretofore voted and authorized by any city for the purpose of constructing and equipping of a municipal garage and for the purpose of constructing a municipal public park band shell, either or both, including all proceedings and the authorization and issuance thereof, are hereby validated, ratified, approved, and confirmed notwithstanding any lack of charter or statutory power of such city or the governing body thereof to authorize and issue such bonds and notwithstanding that the election may not in all respects have been ordered and held in accordance with statutory provisions; and such bonds when approved by the Attorney General of the State of Texas, and sold and delivered for not less than par and accrued interest, shall be binding, legal, valid, and enforceable obligations of such cities. Provided, however, that this Act shall apply only to such bonds which were authorized at an election or elections wherein a majority of the qualified property taxpaying voters whose property had been duly rendered for taxation voting on separate propositions voted in favor of the issuance thereof.

Sec. 2. This Act shall not be construed as validating any such proceedings or bonds issued or to be issued pursuant thereto, the validity of which has been contested or attacked in any suit or litigation pending at the time that this Act becomes effective.

[Acts 1949, 51st Leg., p. 1178, ch. 592.]

Art. 835k-1. Bonds for Public Recreation Tower Structure; Validation

Sec. 1. All bonds payable from ad valorem taxes heretofore issued, sold, and delivered by any city for the purpose of making improvements for public recreation purposes, to wit: the construction and equipment of a tower structure, to include observation, dining, concession, and other facilities, are hereby validated in all respects.

Sec. 2. All elections heretofore held or attempted to be held at which the issuance of all such bonds shall have been authorized or attempted to be authorized for said purpose are hereby validated in all respects.

Sec. 3. All proceedings, ordinances, and other acts or attempted acts of the governing body of any city pertaining to the authorization, issuance, sale, and delivery of all such bonds and the election authorizing same or attempting to authorize same are hereby validated in all respects.

Sec. 4. This Act shall not validate any proceeding which may have been nullified by a final judgment of a court of competent jurisdiction.

[Acts 1967, 60th Leg., p. 1198, ch. 535, eff. Aug. 28, 1967.]

Art. 835l. Harbor, Wharf and Dock Facilities; Cities and Towns of 5,000 or Less on Gulf or Connecting Waters

Sec. 1. Any city or town in this State, having five thousand (5,000) or less inhabitants, located on the coast of the Gulf of Mexico, or on any channel, canal, bay, or inlet connected with the Gulf of Mexico, organized and operating under the general law, shall have the authority to purchase, by condemnation or otherwise, construct, own, maintain, improve, repair, operate, or lease any wharf, pier, pavilion, dock, harbor or boat basin, and such other facilities as may be deemed advisable in connection therewith, including ferries, marinas, elevated platforms, parking facilities, restaurants, hotels, motels, clubs, or other commercial establishments and municipal buildings.

Sec. 2. Any such city or town may issue its negotiable bonds for the purposes above enumerated and may provide for the payment of the principal of and interest on such bonds from the income of such facilities including income from leasing any or all of such facilities or land after deducting the reasonable cost of the operation and maintenance thereof, or such city or town may issue its negotiable bonds for such purposes in the manner now provided for the issuance of other municipal bonds payable from an ad valorem tax levied on all the taxable property within such city or town.

Sec. 3. In the event bonds are issued payable from the income of such facilities, the governing body of such city or town shall have the authority to issue such bonds without the giving of any notice or submitting the question to a vote of the qualified property taxpaying voters, and may prescribe the

terms and provisions of such bonds in any manner such governing body may deem advisable. If any such bonds are issued payable from an ad valorem tax on the property in such city or town, the question of the issuance of such bonds shall first be submitted to a vote of the qualified electors of such city or town who own taxable property therein and who have duly rendered the same for taxation, and such bonds shall not be issued unless authorized by a majority vote of the voters voting at such election.

Sec. 4. Before any such bonds shall be issued and sold, they shall first be submitted to the Attorney General for his approval and if approved by him, to the Comptroller of Public Accounts of the State of Texas, to be registered by him in the manner provided for other municipal bonds. The approval of the Attorney General of such bonds and registration thereof by the Comptroller of Public Accounts shall have the same effect as in the case of other municipal bonds.

[Acts 1951, 52nd Leg., p. 339, ch. 210. Amended by Acts 1979, 66th Leg., p. 1907, ch. 772, § 7, eff. June 13, 1979.]

Art. 835m. Municipal Libraries; Fire Stations; Validation of Bonds

Sec.1. All bonds heretofore voted by any incorporated city or town, including home rule cities, for the purpose of enlarging and improving a municipally owned and operated library building or constructing a new municipal library building, either or both, and all proceedings relating thereto, are hereby in all things validated, ratified, approved, and confirmed, notwithstanding the fact that the election may not in all respects have been ordered and held in accordance with mandatory statutory provisions. All bonds heretofore voted by any incorporated city or town, including home rule cities, for the purpose of constructing a fire station or a fire station and dormitory, either or both, and all proceedings relating thereto, are hereby in all things validated, ratified, approved, and confirmed, notwithstanding the fact that the election may not in all respects have been ordered and held in accordance with mandatory statutory provisions. Such bonds, when approved by the Attorney-General of Texas and registered by the Comptroller of Public Accounts of Texas, and sold and delivered for not less than their par value plus accrued interest, shall be binding, legal, valid, and enforceable obligations of such city or town and shall be incontestable. Provided, however, that this Act shall apply only to such bonds which were authorized at an election or elections wherein a majority of the qualified property taxpaying voters whose property had been duly rendered for taxation voted in favor of the issuance thereof.

Sec. 2. This Act shall not be construed as validating any such bonds or proceedings, the validity of which has been contested or attacked in any suit or litigation pending at the time this Act becomes effective.

[Acts 1953, 53rd Leg., p. 2, ch. 2.]

Art. 835n. Issuance of Bonds for Fire Fighting Equipment in Cities of Less Than 5,000 Population

Cities and towns of less than five thousand (5,000) population are authorized to issue negotiable bonds for the purpose of providing money to purchase fire fighting equipment. Chapter 1, Title 22, Revised Civil Statutes of Texas, as amended,¹ relating to the voting and issuance of bonds, the approval thereof by the Attorney General, and registration by the Comptroller of Public Accounts, shall be applicable to bonds issued under this law.

[Acts 1959, 56th Leg., 1st C.S., p. 18, ch. 5, § 1.]

¹ Article 701 et seq.

Art. 835o. Home Rule Cities; Street and Drainage Improvements; Fire Stations; Validation of Bonds

Sec. 1. All bonds heretofore authorized by any Home Rule City in the State of Texas, for the purpose of providing street and drainage improvements, or for the purpose of constructing new fire stations, and any and all proceedings pertaining to the authorization and issuance thereof, are hereby validated, ratified, approved and confirmed notwithstanding any lack of Charter or statutory authority of such City, or the governing body thereof to authorize and issue such bonds, and notwithstanding the fact that the election might not have been ordered and held in all respects in accordance with the provisions of the Charter or Statutes, and the issuance, sale and delivery of such bonds are hereby authorized and approved irrespective of the fact that any such City may be engaged in any suit or litigation questioning the power of such City to annex territory wherein the validity of its Home Rule Charter and the authority of the governing body to function under such Home Rule Charter may be contested or under attack in such suit or litigation; and such bonds, when approved by the Attorney General and registered by the Comptroller of Public Accounts of the State of Texas, and sold and delivered, in accordance with law, shall be binding, legal, valid and enforceable obligations, and the bonds shall be incontestable.

Sec. 2. This Act shall apply only to such bonds as were authorized at an election or elections wherein a majority of the voting qualified property tax-paying voters who had duly rendered their property for taxation voted in favor of the issuance thereof.

Sec. 3. This Act shall not be construed as validating any such proceedings or bonds issued or to be issued, the validity of which is contested or under attack in any suit or litigation pending at the time this Act becomes effective, if such suit or litigation is ultimately determined against the validity of the proceedings or bonds, except insofar as such proceedings or bonds might be affected by any such City being engaged in any suit or litigation questioning the power of such City, or the governing body thereof, to annex territory wherein the validity

of its Home Rule Charter and the authority of the governing body to so function under such Home Rule Charter may be contested or under attack.

Sec. 4. This Act shall be strictly construed to achieve the purposes hereof, and no action by any City hereunder shall be validated by this Act except for the specific and limited purposes enumerated herein.

[Acts 1962, 57th Leg., 3rd C.S., p. 59, ch. 21, §§ 1 to 4.]

Art. 835p. Cities of 600,000 or More; Limitation on Bonded Indebtedness

Sec. 1. This Act shall be applicable to all cities having a population of six hundred thousand (600,000) or more according to the then last preceding Federal Census.

Sec. 2. Any such city shall be authorized to incur total bonded indebtedness by the issuance of tax-supported bonds, whether voted prior to or after the effective date of this Act, in an amount not exceeding ten (10%) per cent of the total assessed valuation of property shown by the last assessment roll of such city, notwithstanding that the limit of total bonded indebtedness fixed in dollars by the city charter is a lesser amount.

[Acts 1967, 60th Leg., p. 38, ch. 18, eff. March 17, 1967.]

Art. 835q. Revenue Bonds and Ad Valorem Tax Bonds; Validation of Proceedings

Sec. 1. Where any city in the state which operates under the general law or pursuant to a home rule charter has heretofore at an election submitted to the qualified electors who own taxable property in said city and who have duly rendered the same for taxation propositions for the issuance of the bonds of such city for the purposes stated in such propositions, such bonds being payable from the revenues stated in such propositions or payable from ad valorem taxes to be levied therefor, and such propositions having carried by the vote of a majority of the persons voting in such election, all of the proceedings heretofore had by such city, including all proceedings had and acts done in connection with the calling and holding of the election, despite any failure or failures in such proceedings to comply with the pertinent statutes, are hereby ratified, validated and confirmed.

Sec. 2. The governing body of each such city is authorized to adopt all proceedings necessary or desirable to complete the issuance of the revenue bonds and the ad valorem tax bonds so authorized, and to do everything necessary to the issuance of revenue bonds and ad valorem tax bonds in the amounts so authorized as provided by the statutes relating to the issuance of such bonds.

Sec. 3. The revenue bonds and ad valorem tax bonds of any such city when delivered and paid for pursuant to such existing proceedings, and lawful proceedings hereinafter had shall be and are hereby

declared to be valid and binding obligations of such city in accordance with the terms thereof.

Sec. 4. This Act shall have no application to litigation pending in any court of competent jurisdiction in this state on the effective date hereof questioning the validity of any matters hereby validated, if such litigation is ultimately determined against the validity of same.

[Acts 1969, 61st Leg., p. 67, ch. 25, eff. March 25, 1969.]

Art. 835r. Bonds for Payment of Judgments; Election

Sec. 1. Whenever a final judgment or decree of a court of competent jurisdiction shall have been heretofore entered or may hereafter be entered against any city or town or for which the payment thereof is the legal responsibility of such city or town which judgment or decree awards the plaintiff or plaintiffs a cash judgment or decree against such city or town and such city or town does not have funds available with which to pay said judgment or decree and the interest thereon in cash and the cost and expenses connected therewith, the governing body of such city or town shall have the right, power and authority, after due notice, to call and hold an election, in the same manner provided for calling and holding other bond elections, for the purpose of submitting to the qualified resident electors of such city or town who own taxable property within said city and who have duly rendered the same for taxation the proposition of whether or not such city or town shall issue, sell and deliver to a purchaser thereof its negotiable bonds in an amount sufficient to pay said judgment or decree and the interest thereon and any costs and expenses connected therewith. If a majority of those voting at such election vote in favor of the issuance of such bonds, there shall be levied and collected a tax against all the taxable property in said city or town to pay the interest on said bonds and to create a sinking fund to redeem the principal of said bonds as same becomes due. Such bonds shall be issued to mature serially or otherwise not to exceed forty (40) years from their date and to bear interest at a rate not to exceed six and one-half percent (6½%) per annum and in such denominations as may be determined by the governing body of such city or town. Except as otherwise provided in this Act, the general laws governing the issuance of bonds by cities and towns shall be applicable to the issuance of said bonds.

Sec. 2. Said bonds or refunding bonds and the record pertaining to same shall be submitted to the Attorney General of Texas for his examination and if he approves same they shall be registered by the Comptroller of Public Accounts of Texas and delivered to the purchaser thereof at a price of not less than the par value thereof and accrued interest. After such approval by the Attorney General and registration by the Comptroller of Public Accounts, said bonds in the hands of the original purchaser or subsequent holders thereof shall be legal, valid and

binding general obligations of such city or town and shall be incontestable for any cause.

Sec. 3. Said governing body shall have the authority to refund such bonds in accordance with the general laws authorizing the issuance of refunding bonds by cities and towns, except such refunding bonds shall bear interest at the same or lower rate than borne by the bonds refunded, unless it is shown mathematically that a savings will result in the total amount of interest to be paid.

[Acts 1969, 61st Leg., p. 1679, ch. 540, eff. Sept. 1, 1969.]

CHAPTER EIGHT. SINKING FUNDS—INVESTMENTS, ETC.

- Art. 836. Investments.
 837. Secondary Investments.
 837a. Investment of Sinking Funds of County or Navigation District in Counties in Excess of 190,000.
 838. Repealed.
 839. Disbursements.
 840. Diversion of Funds; Penalties.
 841. Recovery.
 842. Federal Farm Loan Bonds.
 842a. Securities Issued by Federal Agencies; Texas Securities; Investments.
 842a-1. Obligations Wholly or Partly Insured by United States or State, Investment In.

Art. 836. Investments

The legally authorized governing body of any county, city or town, or the trustees of any school district or school community, may invest their respective sinking funds for the redemption and payment of the outstanding bonds of such county, city or town, or community, in bonds of the United States; war-savings certificates; and certificates of indebtedness issued by the Secretary of the Treasury of the United States; in bonds of Texas, or any county of this State, or of any incorporated city or town; and in shares or share accounts of building and loan associations organized under the laws of this State, or Federal Savings and Loan Associations domiciled in this State, where such shares or share accounts are insured under and by virtue of the Federal Savings and Loan Insurance Corporation. No such bonds shall be purchased which, according to their terms, mature at a date subsequent to the time of maturity of the bonds for the payment of which such sinking fund was created.

[Acts 1925, S.B. 84. Amended by Acts 1949, 51st Leg., p. 812, ch. 437, § 1.]

Art. 837. Secondary Investments

In the event a governing body is unable to purchase securities of the character mentioned in the preceding article, which mature at a date prior to the time of maturity of the bonds for the payment of which such sinking fund was created, then they may invest such funds in the bonds of any school

district or school community authorized to issue bonds, under the same restrictions as provided in the preceding article.

[Acts 1925, S.B. 84.]

Art. 837a. Investment of Sinking Funds of County or Navigation District in Counties in Excess of 190,000

This Article shall apply only to and in counties having a population in excess of 190,000 according to the last preceding or any future Federal Census. Investments of sinking funds of any county and Navigation District shall be made in the manner provided by Article 837 and the terms governing the purchase of any securities authorized by this Chapter, shall be reflected by appropriate minutes of the governing body with a complete description of the securities purchased. Upon receipt of said securities and payment therefor the same shall be forthwith delivered to the Depository and in the event there is no Depository, then to the Treasurer of the county, who shall arrange for said securities to be placed in a safety deposit vault or other secure place if no safety deposit vault is available, and the contract of arrangement shall provide simultaneous or joint access to said securities by the Treasurer and the County Auditor. A written record of the securities purchased and deposited in said safety deposit box shall be maintained therein, and shall at all times reflect the condition of the investments. A copy of such record shall be maintained by the Depository. Access to said box shall be only in the presence of the above named officials and officers of the Depository. The bond of the Depository shall secure said securities.

The County Auditor shall prescribe the system of accounts for said security record and the type of reports necessary thereto, and shall not less than once in each six months audit the same and count the securities in said safety deposit vault, and file a report thereof with the governing body of said county or Navigation District respectively, and also with the Depository. The duties herein imposed are official duties and are within the terms of the official bonds of the officers named who shall be responsible for the safe deposit and withdrawal of said securities. No securities shall be withdrawn from said safety deposit box except upon the written order of the Commissioners' Court, recorded in its minutes, a copy of which shall be furnished the Depository and the County Auditor.

[Acts 1937, 45th Leg., p. 193, ch. 101, § 1.]

Art. 838. Repealed by Acts 1963, 58th Leg., p. 1102, ch. 428, § 1

Art. 839. Disbursements

No city or county treasurer shall honor any draft upon the interest and sinking fund provided for any of the bonds of such city or county, nor pay out nor divert any of the same, except for the purpose of paying the interest on such bonds or for redeeming

the same, or for investment in such securities as may be provided by law.

[Acts 1925, S.B. 84.]

Art. 840. Diversion of Funds; Penalties

Any treasurer who shall divert said fund or apply said fund for any other purpose than as permitted by the preceding Article shall be subject to a penalty of not less than Five Hundred Dollars (\$500.) nor more than One Thousand Dollars (\$1,000.), to be recovered by the state, and in addition thereto, shall be liable for the amount of such fund so diverted.

[Acts 1925, S.B. 84. Amended by Acts 1963, 58th Leg., p. 1102, ch. 428, § 2.]

Art. 841. Recovery

The Comptroller, whenever the reports of any treasurer show that he has diverted said funds, or when he shall fail to make such reports, shall notify the Attorney General or the district attorney of the district in which such treasurer resides, or county attorney in counties in which there is no district attorney provided for by law, of the fact, who shall thereupon institute suit against such treasurer and his official bondsmen for the amount of such penalty and of said fund so diverted. The amount of such penalty so recovered shall be paid into the State Treasury, and the amount of the diverted fund so recovered shall be paid into the county or city treasury to the credit of the fund from which it was so diverted.

[Acts 1925, S.B. 84.]

Art. 842. Federal Farm Loan Bonds

All bonds issued under and by virtue of the Federal Farm Loan Act, approved by the President of the United States, July 17, 1916,¹ and all consolidated bonds, bonds, debentures, and other similar obligations issued by virtue of the Farm Credit Act of 1971, P.L. 92-181, approved by the President of the United States, December 10, 1971, and as thereafter amended,² shall be a lawful investment for all fiduciary and trust funds in this State, and may be accepted as security for all public deposits where deposits of bonds or mortgages are authorized by law to be accepted. Such bonds shall be lawful investments for all funds which may be lawfully invested by guardians, administrators, trustees and receivers, for saving departments of banks incorporated under the laws of Texas, for banks, savings banks and trust companies chartered under the laws of Texas, and for all insurance companies chartered or transacting business under the laws of Texas, where investments are required or permitted by the laws of this State.

[Acts 1925, S.B. 84. Amended by Acts 1973, 63rd Leg., p. 1252, ch. 455, § 1, eff. June 14, 1973.]

¹ 12 U.S.C.A. § 641 (repealed; see, now, § 2001 et seq.).

² 12 U.S.C.A. § 2001 et seq.

**Art. 842a. Securities Issued by Federal Agencies;
Texas Securities; Investments**

Hereafter, all mortgages, bonds, debentures, notes, collateral trust certificates, and other such evidences of indebtedness, issued or that hereafter may be issued under the terms and provisions of the National Housing Act, approved by the President of the United States on June 27, 1934, as amended¹ and as may hereafter be amended, and all "insured accounts" issued or that may hereafter be issued by any institution insured under the provisions of Title IV of the National Housing Act, approved June 27, 1934, as amended and as may hereafter be amended,² or any evidences of indebtedness or accounts that may be issued or insured by any lawful agency created thereunder, all mortgages, bonds, consolidated bonds issued under the Farm Credit Act of 1971, P.L. 92-181, and as thereafter amended,³ debentures, notes, collateral trust certificates, or other such evidences of indebtedness, which have been or which may hereafter be issued by the Federal Home Loan Bank Board, or any Federal Home Loan Bank, or the Home Owners' Loan Corporation, or by the Federal Savings and Loan Insurance Corporation, or by the Federal Farm Loan Board, or by any Federal Land Bank, the Federal Intermediate Credit Banks, or Banks for Cooperatives, or by any National Mortgage Association, or by any entity, corporation or agency, which has been or which may be created by or authorized by any Act, which has been enacted or which may hereafter be enacted by the Congress of the United States, or by any amendment thereto, which has for its purpose the relief of, refinancing of or assistance to owners of mortgaged or incumbered homes, farms, and other real estate, and the improvement or financing or the making of loans on any real property, shall hereafter be lawful investments for all fiduciary and trust funds in this State, and may be accepted as security for all public deposits where deposits of bonds, consolidated bonds issued under the Farm Credit Act of 1971, P.L. 92-181, and as thereafter amended, or mortgages are authorized by law to be accepted. Such mortgages, bonds, consolidated bonds issued under the Farm Credit Act of 1971, P.L. 92-181, and as thereafter amended, debentures, notes, collateral trust certificates and other such evidences of indebtedness, insured accounts shall be lawful investments for all funds which may be lawfully invested by guardians, administrators, trustees, and receivers, for building and loan associations, savings departments of banks, incorporated under the laws of Texas, for banks, savings banks and trust companies, chartered under the laws of Texas, and all insurance companies of every kind and character, chartered or transacting business under the laws of Texas, where investments are required or permitted by the laws of this State; providing further that where such mortgages, bonds, consolidated bonds issued under the Farm Credit Act of 1971, P.L. 92-181, and as thereafter amended, debentures, notes, collateral trust certificates, and other such evidences of indebtedness are issued against and

secured by promissory notes, or other obligations, the payment of which is secured in whole or in part, by mortgage, deed of trust, or other valid first lien upon real estate situated in Texas, or where such mortgages, bonds, consolidated bonds issued under the Farm Credit Act of 1971, P.L. 92-181, and as thereafter amended, debentures, notes, collateral trust certificates, or other such evidences of indebtedness are acquired, directly or indirectly, in exchange for, or in substitution of notes, or other obligations, secured by mortgage, deed of trust, or other valid first lien upon real estate situated in Texas, or where such "insured accounts" are issued by building and loan associations chartered under the laws of Texas or by Federal Savings and Loan Associations domiciled in Texas, then such mortgages, bonds, consolidated bonds issued under the Farm Credit Act of 1971, P.L. 92-181, and as thereafter amended, debentures, notes, collateral trust certificates or other such evidences of indebtedness, "insured accounts," so issued and so secured, or so acquired or insured, shall be regarded for investment purposes by insurance companies as "Texas Securities," within the meaning of the laws of Texas governing such investments.

The provisions of this Act shall be cumulative of all other provisions of the Civil Statutes of the State of Texas, affecting the investment of funds or moneys by fiduciaries, guardians, administrators, trustees and receivers, building and loan associations, savings departments of banks, incorporated and doing business under the laws of Texas, commercial banks, savings banks and trust companies, chartered and doing business under the laws of Texas, insurance companies of any kind and character, chartered and transacting business under the laws of Texas, and all corporate creatures, organized and doing business under the laws of Texas.

It is hereby declared to be the legislative intent to enact a separate provision of this Act independent of all other provisions, and the fact that any phrase, sentence, or clause of this Act shall be declared unconstitutional, shall in no event affect the validity of any of the provisions hereof.

[Acts 1933, 43rd Leg., p. 406, ch. 160, § 1. Amended by Acts 1935, 44th Leg., p. 33, ch. 12, § 1; Acts 1935, 44th Leg., p. 90, ch. 31, § 1; Acts 1941, 47th Leg., p. 1356, ch. 618, § 1; Acts 1961, 57th Leg., p. 1119, ch. 507, § 1; Acts 1973, 63rd Leg., p. 1252, ch. 455, § 2, eff. June 14, 1973.]

¹ 12 U.S.C.A. § 1701 et seq.

² 12 U.S.C.A. § 1724 et seq.

³ 12 U.S.C.A. § 2001 et seq.

Art. 842a-1. Obligations Wholly or Partly Insured by United States or State, Investment In

Savings and loan associations, banks, insurance companies, and other corporations or other organizations, similar or dissimilar, are hereby authorized to lend, and to buy and sell for their own account, obligations in which except as to value of property and dignity of lien thereon securing the obligation it

is otherwise lawful for such investor to invest its own funds, (by direct loan or by purchase), if the entire amount of the indebtedness is insured or guaranteed in any manner by the United States or by this State; or, if not so wholly insured or guaranteed, the difference between the entire amount of the indebtedness and that portion thereof insured or guaranteed by the United States or by this State, does not exceed the amount permissible under the law of this State, and meets the requirements thereof as to value of property and dignity of lien thereon, provided; further authorizing that any such lender may make an unsecured loan not exceeding Five Hundred Dollars (\$500), if at least one-half thereof is guaranteed pursuant to the Servicemen's Readjustment Act of 1944.¹

[Acts 1945, 49th Leg., p. 315, ch. 230, § 1.]

¹See 38 U.S.C.A. § 1801 et seq.

CHAPTER NINE. STATE BONDS

Art.

842b to 842f. Repealed.

842g. Suits on Bonds Issued in 1861.

Art. 842b to 842f. Repealed by Acts 1934, 43rd Leg., 3rd C.S., p. 59, ch. 34, § 39; Acts 1935, 44th Leg., p. 79, ch. 30, § 22; Acts 1951, 52nd Leg., p. 362, ch. 228, § 1

Art. 842g. Suits on Bonds Issued in 1861

Sec. 1. The consent of the Legislature of the State of Texas is hereby given to all lawful holders of bonds issued under the Act of April 8, 1861, their

executors, administrators and heirs to file and prosecute suit against the State of Texas, Comptroller of Public Accounts and the State Treasurer for moneys alleged to be due in unpaid principal and interest on said bonds prorated to the extent only of the amount heretofore reimbursed to the State of Texas by the United States government for the principal and interest on said bonds.

Sec. 2. Said suit shall be brought in Travis County at any time within two (2) years from the date of this Act.

Sec. 3. The State and said Comptroller and Treasurer may appeal from any judgment had thereby as provided by law without executing any bond and upon final judgment against said defendants, same shall be paid out of the General Funds of the State Treasury not otherwise appropriated.

Sec. 4. Service in the said cause shall be had by citing the Governor, Comptroller, Treasurer and Attorney General.

Sec. 5. The invalidity of any section, term or provision hereof shall not render invalid the remaining sections, terms and provisions hereof which would otherwise be valid.

Sec. 6. Nothing herein shall be construed as tolling the Statute of Limitations on such cause, or as reviving such cause if same is now barred by the Statute of Limitations.

Sec. 7. Nothing herein shall be construed as an admission of liability on the part of the State of Texas in such cause.

[Acts 1951, 52nd Leg., p. 677, ch. 392.]

TITLE 23

BRANDS AND TRADEMARKS

Art.

843 to 851-C. Repealed.

Art. 843. Repealed by Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, § 4, eff. Sept. 1, 1967

Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopted the Business & Commerce Code.

See, now, Business & Commerce Code, § 17.29.

Arts. 844 to 851-B. Repealed by Acts 1962, 57th Leg., 3rd C.S., p. 62, ch. 24, § 19

Art. 851-C. Repealed by Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, § 4, eff. Sept. 1, 1967

Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopted the Business & Commerce Code.

See, now, Business & Commerce Code, § 16.01 et seq.

TITLE 24

BUILDING—SAVINGS AND LOAN ASSOCIATIONS

Art.

852. Repealed.

852a. Savings and Loan Act.

853 to 881b. Repealed.

Art. 852. Repealed by Acts 1963, 58th Leg., p. 269, ch. 113, § 2

Art. 852a. Savings and Loan Act

CHAPTER ONE. SHORT TITLE, FORM, DEFINITIONS

Short Title

Sec. 1.01. This Act shall be known and may be cited as the "Texas Savings and Loan Act."

Form

Sec. 1.02. This Act has been organized and divided in the following manner:

(1) The Act is divided into Chapters, containing groups of related Articles. Chapters are numbered consecutively with cardinal numbers.

(2) Chapters are divided into Sections, numbered consecutively with Arabic numerals.

(3) Sections are divided into Subsections. The Subsections within each Section are numbered consecutively with Arabic numerals enclosed in parenthesis.

Definitions

Sec. 1.03. As used in this Act the following terms, unless otherwise clearly indicated by the context, have the meanings specified below:

(1) "Association" shall mean a savings and loan association subject to the provisions of this Act.

(2) "Savings and Loan Association" shall mean an association whose primary purpose is to promote thrift and home financing and whose principal activity is the lending to its members of money accumulated in savings accounts of its members on the security of first liens on homes and other improved real estate.

(3) "Loss Reserves" shall mean the aggregate amount of the reserves allocated by an association for the sole purpose of absorbing losses.

(4) "Savings Liability" shall mean the aggregate amount of the withdrawal value of the savings accounts of the members of an association at any particular time as shown by the books of the association.

(5) "Savings Account" shall mean that part of the savings liability of an association which is credited to a member by reason of the placement of funds in the association.

(6) "Withdrawal Value of a Savings Account" shall mean the credit balance of a savings account at any particular time as shown by the books of an association.

(7) "The Commissioner" shall mean the Savings and Loan Commissioner appointed under the provisions of House Bill No. 91, Chapter 198, Acts of the Fifty-seventh Legislature, Regular Session, 1961,¹ as the same may be hereafter amended from time to time.

(8) "Surplus" shall mean the aggregate amount of the undistributed earnings of an association held as undivided profits or unallocated reserves for general corporate purposes and any paid-in surplus held by an association.

(9) "Federal Association" shall mean a savings and loan association incorporated pursuant to the Home Owner's Loan Act of 1933 as now or hereafter amended,² whose principal business office is located within the territorial limits of this State.

(10) "Member" shall mean a person holding a savings account in an association, or owning one or more shares of its Permanent Reserve Fund Stock, or borrowing from or assuming or obligated upon a loan in which an association has an interest, or owning property which secures a loan in which an association has an interest. The voting rights of members shall be as provided in the bylaws of each respective association.

(11) "Dividends on Saving Accounts" shall mean that part of the net income of an association which is declared payable on savings accounts from time to time by the Board of Directors, and is the cost of savings money to the association.

¹ Article 342-205.

² 12 U.S.C.A. § 1461 et seq.

Effect of Headings, Etc.

Sec. 1.04. The division of this Act into Chapters and Sections and the use of captions in connection therewith are solely for convenience and shall have no legal effect in construing the provisions of this Act.

CHAPTER TWO. FORMATION OF ASSOCIATIONS

Application for Charter

Sec. 2.01. Application for a charter for a savings and loan association may be made by five (5) or more citizens of this State (hereinafter referred to as incorporators) by tendering to the Commissioner along with the proper filing fee, an application consisting of the following:

(1) Two (2) copies of Articles of incorporation for the proposed association stating (i) the name of the association, (ii) the site of the principal office and (iii) the names and addresses of the initial directors.

(2) A statement as to (i) the amount, if any, of Permanent Reserve Fund Stock which has been subscribed and paid for at the time of filing, (ii) the names and addresses of such subscribers and the amount subscribed by each, (iii) the amount of savings liability, if any, with which the association will commence business, (iv) the amount of paid-in surplus or expense fund with which the association will commence business.

(3) Two (2) copies of the bylaws under which the association proposes to operate.

(4) Statements, exhibits, maps and other data sufficiently detailed and comprehensive as to enable the Commissioner to pass upon the matters set forth in Section 2.08(2), (3) and (4) of this Act and such other information in regard to the proposed association and its operation as may be required by duly promulgated rules and regulations of the Com-

missioner and the Building and Loan Section of the Finance Commission of Texas.

The Articles of incorporation and all statements of fact tendered to the Commissioner in connection with an application for charter shall be subscribed and sworn to under the sanction of an oath, or such affirmation as is by law equivalent to an oath, made before an officer authorized to administer oaths.

Proposed Managing Officer of Applicants; Approval

Sec. 2.01a. The applicants for a charter for a new association shall not be required at any contested hearing concerning the granting of the charter by the Commissioner, to identify in the public record of that hearing the name and qualifications of the proposed managing officer of the new association, but such evidence may be presented to the Commissioner before, during, or after other determinations required by this Act are made; provided, however, no new association shall commence business without first having presented to the Commissioner the name and qualifications of its proposed managing officer, and until that managing officer is approved as qualified by the Commissioner.

Permanent Reserve Fund Stock

Sec. 2.02. The charter of an association may provide for the issuance of Capital Stock in the form of common or preferred stock. No other form or type of stock or shares may be issued. Such Capital Stock, when issued, may not be retired or withdrawn except as hereinafter provided, until after all liabilities of the association shall have been satisfied in full, including the withdrawal value of all savings accounts. Such stock must be fully paid for in cash in advance of issuance and the association may not make any loans against the shares of such stock. Shares of such stock may be issued with par value of not less than One Dollar (\$1) nor more than One Hundred Dollars (\$100). With the prior written approval of the Commissioner as to the number of shares to be issued, the bylaws of an association may provide that its Capital Stock may be issued with no par value. An association authorized to issue such stock must have at all times issued and outstanding stock with a value on its books of at least Twenty-five Thousand Dollars (\$25,000) or two and one-half per cent (2½%) of its gross assets, whichever is greater, but no association shall be required to have an amount of such stock with a value on its books of more than Two Hundred and Fifty Thousand Dollars (\$250,000). Associations whose savings accounts are insured by the Federal Savings and Loan Insurance Corporation may retire in whole or in part any such stock heretofore issued when such associations are authorized to do so by a majority vote at any annual meeting of its members, or any special meeting of members called for such purpose; provided, that the basis of such retirement shall have been first approved by the Commissioner and consent to such retirement upon the part of the Federal Savings and Loan Insurance

Corporation has been filed in writing with the Commission.

Stock Requirements for Proposed Permanent Reserve Fund Stock Associations

Sec. 2.03. Incorporators of proposed associations with authority to issue Permanent Reserve Fund Stock, as a prerequisite to the approval of an application for a charter shall be required to have subscribed and paid for in cash to the credit of the proposed association an aggregate amount of Permanent Reserve Fund Stock as the Commissioner shall specify within the limits set for such stock in the preceding Section. Such stock shall be issued within thirty (30) days from the date of incorporation.

Paid-in Surplus Requirements for Permanent Reserve Fund Stock Associations

Sec. 2.04. As a prerequisite to approval of any application for a proposed association with authority to issue Permanent Reserve Fund Stock the Commissioner may require in addition to the amount paid in for such stock a paid-in surplus up to but not in excess of the aggregate amount of the Permanent Reserve Fund Stock required under the preceding Section. Such paid-in surplus may be used in lieu of earnings to pay organization and operating expenses, dividends on savings accounts and to meet any loss reserve requirements. If the application should not be approved or if the proposed association does not proceed to do business, the stock subscriptions for Permanent Reserve Fund Stock and paid-in surplus shall be returned pro-rata to the subscribers, less any lawful expenditures.

Savings Account Requirements for Proposed Associations Without Permanent Reserve Fund Stock

Sec. 2.05. As a prerequisite to the approval of an application for a charter of an association without Permanent Reserve Fund Stock the incorporators must show to the satisfaction of the Commissioner subscribed and paid-in savings accounts in the following aggregate amounts in relation to the population of the community in which the home office of the association is to be located: (a) in communities having not more than ten thousand (10,000) inhabitants, the minimum sum of Fifty Thousand Dollars (\$50,000); (b) in communities having more than ten thousand (10,000) but less than one hundred thousand (100,000) inhabitants, the minimum sum of One Hundred Thousand Dollars (\$100,000); (c) in communities having one hundred thousand (100,000) or more inhabitants, the minimum sum of Two Hundred Thousand Dollars (\$200,000); provided, that the Commissioner may, in his discretion, require a larger amount to be paid in. The population of the community shall be determined by the Commissioner based upon the latest Federal census.

Expense Fund Requirements for Proposed Association Without Permanent Reserve Fund Stock

Sec. 2.06. In addition to the savings account subscriptions required by the preceding Section the incorporators of an association without Permanent Reserve Fund Stock must show to the satisfaction of the Commissioner that an expense fund has been subscribed and paid into the credit of the proposed association equal to not less than fifty per cent (50%) of the minimum specified amount of required savings accounts set out in Section 2.05, from which expense fund the expense of organizing the association and its operating expenses in addition to such dividends as may be declared and paid or credited to its savings account holders may be paid until such time as its earnings are sufficient to pay same. The amounts so contributed to the expense fund shall not constitute a liability of the association except as hereinafter provided. Such contributions may be repaid pro-rata to the contributors from the net earnings of the association after provision for required loss reserve allocations and payment or credit of dividends declared on savings accounts. In case of the liquidation of an association before contributions to the expense fund have been repaid, any contributions to the expense fund remaining unexpended, after the payment of expenses of liquidation, all creditors, and the withdrawal value of all savings accounts shall be paid to the contributors pro-rata. The books of the association shall reflect such expense fund. Contributors to the expense fund shall be paid dividends on the amounts paid in by them and for such purpose such contributions shall in all respects be considered as savings accounts of the association.

Hearings on Charter Applications

Sec. 2.07. When a proper application for a charter has been filed, the Commissioner shall cause public notice of such application to be given and give any interested party an opportunity to appear, present evidence and be heard for or against such application. The hearing shall be held before a hearing officer designated by the Commissioner. The hearing officer shall file a report on the hearing with the Commissioner. The report must contain findings of fact on each condition set out by Section 2.08 of this Act and the facts, received as evidence at the hearing, on which those findings are based.

Approval of Application for Charter

Sec. 2.08. The Commissioner shall not approve any charter application unless he shall have affirmatively found from the data furnished with the application, the evidence adduced at such hearing and his official records that:

- (1) the prerequisites, where applicable, set forth in Sections 2.02, 2.03, 2.04, 2.05, and 2.06 have been complied with and that the Articles of incorporation comply with all other provisions of this Act;
- (2) the character, responsibility and general fitness of the persons named in the Articles of incor-

poration are such as to command confidence and warrant belief that the business of the proposed association will be honestly and efficiently conducted in accordance with the intent and purpose of this Act and that the proposed association will have qualified fulltime management;

(3) there is a public need for the proposed association and the volume of business in the community in which the proposed association will conduct its business is such as to indicate profitable operation;

(4) the operation of the proposed association will not unduly harm any existing association.

If the Commissioner so finds, he shall state his findings in writing and issue under his official seal a certificate of incorporation and deliver a copy of the approved Articles of incorporation and bylaws to the incorporators and retain a copy thereof as a permanent file of his office, whereupon the proposed association shall be a corporate body with perpetual existence unless terminated by law and may exercise the powers of a savings and loan association as herein set forth.

Refusal of Charter Application

Sec. 2.09. If the Commissioner is unable to make the findings as required by the preceding Section, he shall endorse upon each copy of the proposed Articles of incorporation the word "refused" with the date of such endorsement and attach thereto a written statement of his grounds for such refusal. One copy of the proposed Articles and attached grounds of refusal shall be promptly mailed to the incorporators by certified mail.

Forfeiture of Charter for Failure to Commence Business

Sec. 2.10. Any association whose charter has been approved under this Act shall commence business within six (6) months after the date of such approval. If an association has not commenced business within such time, the incorporators may request a hearing before the Commissioner; and if good cause is shown for such failure, the Commissioner may grant a reasonable extension of the time for commencing business to give such association an opportunity to overcome the cause for the delay in commencing business. Failure to commence business as herein required shall constitute grounds for forfeiture of the association's charter at the suit of the Attorney General upon request of the Commissioner brought in the County where the association proposes to locate its principal office.

Amendment of Charter and Bylaws

Sec. 2.11. Any association may, by resolution adopted by a majority vote of its members at any annual meeting or any special meeting called for such purpose, amend its charter or bylaws in any manner not inconsistent with the provisions of this Act; provided, that before such amendments be-

come effective they must be filed with and approved by the Commissioner.

Corporate Name; Exclusive Use by Associations

Sec. 2.12. The name of every association shall include either the words "Savings Association," or "Savings and Loan Association." These words shall be preceded by an appropriate descriptive word or words approved by the Commissioner. An ordinal number may not be used as a single descriptive word preceding the words "Savings Association," or "Savings and Loan Association," unless such words are followed by the name of the town, city or county in which the association has its home office. No certificate of incorporation of a proposed association having the same name as any other association authorized to do business in this State under this Act or a name so nearly resembling it as to be calculated to deceive shall be issued by the Commissioner, except to an association formed by the reincorporation, reorganization, or consolidation of other associations, or upon the sale of the property or franchise of an association. No person, firm, company, association, fiduciary, partnership or corporation, either domestic or foreign, unless authorized to do business in this State under the provisions of this Act shall do business under any name or title which indicates or reasonably implies that the business is the character or kind of business carried on or transacted by an association or which is calculated to lead any person to believe that the business is that of an association. Upon application by the Commissioner or any association, a court of competent jurisdiction may issue an injunction to restrain any such entity from violating or continuing to violate any of the foregoing provisions of this Section.

Change of Office or Name

Sec. 2.13. No association shall, without the prior approval of the Commissioner (i) establish any office other than the principal office stated in its articles of incorporation, (ii) move any office of the association from its immediate vicinity or (iii) change its name. When his approval is applied for, the Commissioner shall give any person who might be affected an opportunity to be heard on the action proposed to be taken for which approval is sought.

Preference to Local Control

Sec. 2.14. In any instance where there is a conflict between an application for the approval of a charter for a new association and an application for the establishment of an additional office by an existing association both seeking to locate in the same community and the principal office of the existing association is located in a different county than such community, the Commissioner may give additional weight to the application having the greater degree of control vested in or held by residents of the particular community.

Incorporation to Take Over Business of an Existing Association

Sec. 2.15. (a) Application for a charter for a savings and loan association for the sole purpose of purchasing the assets, assuming the liabilities (other than its liability to stockholders as such) and continuing the business of any association deemed by the commissioner to be in an unsafe condition (hereinafter referred to as the reorganizing association) may be made to the commissioner.

(b) The application for such a charter shall consist of such data and information as the commissioner may require, or that may be required by, duly promulgated rules and regulations of the commissioner and the Savings and Loan Section of the Finance Commission of Texas. The capitalization of such an association shall be in an amount set by the commissioner sufficient to carry out the purposes for which the charter is requested.

(c) The provisions of the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes), shall not apply to such an application.

(d) If the commissioner finds that the business of the reorganizing association can be effectively continued under the proposed charter, that the reorganization is in the best interest of the savers, depositors, creditors, and stockholders, if any, of the reorganizing association, and the public in general, he shall state his findings in writing and issue under his official seal a certificate of incorporation, whereupon the proposed association shall be a corporate body, and a continuation of the reorganizing association subject to all its liabilities, obligations, duties, and relations, save and except its liability to stockholders as such, and may exercise all the powers of a savings and loan association under the laws of this state.

CHAPTER THREE. DIRECTORS, OFFICERS AND MEMBERS

Board of Directors

Sec. 3.01. The business of the association shall be directed by a board of directors of not less than five (5) nor more than twenty-one (21) elected by a majority vote at each annual meeting of the members; provided, that associations authorized to issue Permanent Reserve Fund Stock by their bylaws may provide in such bylaws that all or at least a majority of the board of directors shall be elected from among the holders of such stock. The number of directors shall be fixed from time to time within the limits above prescribed by resolution adopted at any annual meeting of members, or any special meeting called for such purpose.

Organization Meeting

Sec. 3.02. Within thirty (30) days after the corporate existence of an association shall begin, the initial board of directors shall hold an organization meeting and, pursuant to the provisions of this Act

and the bylaws, shall elect officers and take such other action as is appropriate in connection with beginning the transaction of business by the association. The Commissioner upon good cause shown may extend by order the time within which the organization meeting shall be held.

Qualification of Directors

Sec. 3.03. The bylaws of an association may prescribe other qualifications for directors, but no person shall be eligible to election as a director unless he is the owner in good faith and his own right on the books of the association either in the form of a savings account or Permanent Reserve Fund Stock or a combination of both having a value on such books of at least One Thousand Dollars (\$1,000) and which shall not be reduced by withdrawal or pledge for a loan by the association, so long as such person remains a director. Any director, who after his election as such, ceases to be the owner in his own right of the necessary qualifying interest shall cease to be a director; provided, that no action of the board of directors shall be invalidated through the participation of such director in such action; provided, further, that if a director becomes ineligible under the terms of this Section by reason of the exercise by the association of the right of redemption of savings accounts provided for in Section 6.16, he shall validly in office until the expiration of his term or until he otherwise becomes ineligible, whichever may occur first. Any vacancy among directors may be filled by a majority vote of the remaining directors, though less than a quorum, by electing a director to serve until the next annual meeting of members. In the event of a vacancy on the board of directors from any cause, the remaining directors shall have full power and authority to continue direction of the association until such vacancy is filled.

Officers

Sec. 3.04. The officers of an association shall consist of a president, one or more vice presidents, a secretary and such other officers as may be prescribed by the bylaws. Such officers shall be elected by majority vote of the board of directors. The president shall be a member of the board of directors.

Indemnity Bonds of Directors, Officers and Employees

Sec. 3.05. Every association shall maintain on file with the Commissioner an effective blanket indemnity bond with an adequate corporate surety protecting the association from loss by or through any fraud, dishonesty, forgery or alteration, larceny, theft, embezzlement, robbery, burglary, holdup, wrongful or unlawful abstraction, misappropriation, or any other dishonest or criminal action or omission by any officer or employee of such association and any director of such association when performing the duty of an officer or employee. Associations which employ collection agents, who for any reason

are not covered by a bond as hereinabove required, shall provide for the bonding of each such agent in an amount equal to at least twice the average monthly collection of such agent. Such agents shall be required to make settlement with the association at least monthly. No bond coverage will be required of any agent which is a bank insured by the Federal Deposit Insurance Corporation or an institution insured by the Federal Savings and Loan Insurance Corporation. The amounts and form of such bonds and sufficiency of the surety thereon shall be approved by the board of directors and the Commissioner. All such bonds shall provide that a cancellation thereof either by the surety or the insured shall not become effective unless and until thirty (30) days' notice in writing first shall have been given to the Commissioner, unless he shall have approved such cancellation earlier.

Meetings of Members; Voting Rights

Sec. 3.06. The annual meeting of the members of each association shall be held each year at the time fixed in the bylaws of the association. Special meetings may be called as provided in the bylaws. Those members or stockholders who shall be entitled to vote at any annual or special meeting of the association shall be those members or stockholders of record as of the end of the calendar year preceding the meeting or those of record 20 business days prior to the date on which the notice of the meeting is given, whichever is later, except those who have ceased to be members or stockholders between the record date and the date of the meeting. The bylaws may provide the basis for computing the number of votes which a member shall be entitled to cast, and in the instance of a Permanent Reserve Fund Stock association the bylaws may provide that only holders of Permanent Reserve Fund Stock shall have the right to vote. In the absence of any bylaw provision to the contrary, in the determination of all questions requiring action by the members, each member shall be entitled to cast one (1) vote by virtue of his membership, plus an additional vote for each share or fraction thereof of the Permanent Reserve Fund Stock of the association, if any, owned by such member, and an additional vote for each One Hundred Dollars (\$100) or fraction thereof of the withdrawal value of savings accounts, if any, held by such member. A loan or a savings account shall create a single membership for voting purposes even though more than one person is obligated on such loan or has an interest in such savings account. Voting may be in person or by proxy. Every proxy shall be in writing and signed by the member or his duly authorized attorney-in-fact and, when filed with the secretary, shall, unless otherwise specified in the proxy, continue in force from year to year until a revocation in writing is duly delivered to the secretary or until superseded by subsequent proxies. The bylaws of each association shall specify the quorum requirements and other voting requirements for conducting business at membership meetings.

Access to Books and Records

Sec. 3.07. Every member shall have the right to inspect such books and records of an association as pertain to his loan, Permanent Reserve Fund Stock or savings account. Otherwise, the right of inspection and examination of the books and records shall be limited to the Commissioner or his duly authorized representatives as provided in this Act, to persons duly authorized to act for the association and to any Federal instrumentality or agency authorized to inspect or examine the books and records of an association whose savings accounts are insured by the Federal Savings and Loan Insurance Corporation. The books and records pertaining to the accounts and loans of members shall be kept confidential by the Commissioner, his examiners and representatives, except where disclosure thereof shall be compelled by a court of competent jurisdiction, and no member or other person shall have access to the books and records or shall be furnished or shall possess a partial or complete list of the members except upon express action and authority of the board of directors. The books, records and files of an association shall not be admissible as evidence in any proceeding concerning the validity of any tax assessment or the collection of delinquent taxes, penalties and interest except where (i) the owner of an account is a proper party to the proceeding in which event the books, files and records pertaining to the account of such party shall be admissible or (ii) the association itself is a proper party to the proceeding in which event any book, file or record material to the proceeding shall be admissible.

Repeal

By order of the Texas Supreme Court dated November 23, 1982, effective September 1, 1983, adopting the Texas Rules of Evidence, § 3.07 of this article is deemed to be repealed insofar as it relates to civil actions by the Rules of Practice Act, Acts 1939, 46th Leg., p. 201, § 1, classified as art. 1731a, § 1.

CHAPTER FOUR. CORPORATE POWERS OF ASSOCIATES

General Corporate Powers

Sec. 4.01. Every association incorporated pursuant to or operating under the provisions of this Act shall have all the powers enumerated, authorized, and permitted by this Act and such other rights, privileges, and powers as may be incidental to or reasonably necessary for the accomplishment of the objects and purposes of the association.

Power to Borrow

Sec. 4.02. An association shall have power to borrow an aggregate amount equal to twenty-five per cent (25%) if its savings liability on the date of borrowing from any non-governmental source and may pledge its assets to secure the repayment of money so borrowed. Any borrowing from non-governmental sources in excess of such amount must

first be approved in writing by the Commissioner. Notwithstanding the aforesaid limitation, an association which is a member of a Federal Home Loan Bank shall have power to borrow or obtain advances from such bank in such amounts and upon such terms as may be prescribed by such bank from time to time. In addition, an association may, at any time through action of its board of directors, issue such capital notes, debentures or other capital obligations as shall be authorized under rules and regulations promulgated by the Building and Loan Section of the Finance Commission and the Commissioner acting pursuant to the rule-making power delegated by Chapter 198, Acts of the 57th Legislature, Regular Session, 1961, as the same may be amended from time to time.

Insurance of Savings Accounts

Sec. 4.03. Every association shall have the power and right to obtain and maintain insurance of its savings accounts by the Federal Savings and Loan Insurance Corporation. No association or corporation or foreign association or any other person shall advertise or represent or offer to accept any savings accounts in this State as insured or guaranteed accounts or as the savings accounts of an insured or guaranteed institution unless the same are insured by either the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation.

Fiscal Agent

Sec. 4.04. Any association shall have power to act as fiscal agent of the United States, and, when so designated by the Secretary of the Treasury, it shall perform under such regulations as he may require, and shall have power to act as agent for any instrumentality thereof, and as agent of this State or any governmental subdivision or instrumentality thereof.

Power to Act Under Federal Self-Employed Retirement Plans

Sec. 4.05. Any association and any Federal association (insofar as its charter and applicable Federal rules and regulations permit) may exercise all powers necessary to qualify as a trustee or custodian for retirement plans meeting the requirements of 26 U.S.C. sec. 401(d) or sec. 408 or any similar plans permitted or recognized by Federal law and may invest any funds held in such capacities in the savings accounts of the institution if the trust or custodial retirement plan does not prohibit such investment.

CHAPTER FIVE. LOANS, INVESTMENTS, OWNERSHIP OF REAL PROPERTY

Original Real Estate Loans

Sec. 5.01. Every association may make real estate loans to members secured by a mortgage, deed of trust or other instrument creating or constituting a first and prior lien on improved real estate and

may make additional real estate loans secured by liens subsequent to its own first lien upon the same property. Additional security may also be taken by the association in connection with any such loan if deemed necessary and proper.

Power to Deal in Real Estate Loans

Sec. 5.02. Every association may purchase real estate loans upon security of the same character against which such association may make an original loan and also may lend money on the security of such real estate loans.

Participation in Real Estate Loans with Others

Sec. 5.03. Subject to the requirements of any rules and regulations adopted under Section 5.04 hereof, every association may participate with other lenders in real estate loans of any type that such association could originate; may sell with or without recourse any real estate loan it holds or any participating interest therein; and may service any real estate loans sold by it.

Loans Shall Conform to Rules and Regulations of the Commissioner and Building and Loan Section of the Finance Commission

Sec. 5.04. The Commissioner and the Building and Loan Section of the Finance Commission, acting pursuant to the rule-making power delegated by House Bill No. 91, Chapter 198, Acts of the Fifty-seventh Legislature, Regular Session, 1961,¹ as the same may be amended shall, from time to time, promulgate such rules and regulations in respect to loans by associations operating under this law as may be reasonably necessary to assure that such loans are in keeping with sound lending practices and promote the purposes of this Act; provided that such rules and regulations shall not prohibit an association from making any loan or investment that a Federal association could make under applicable Federal regulations.

¹ Article 342-205.

Requirements in Regard to Lending Transactions

Sec. 5.05. In no event shall an association make a loan, purchase or sell a note or lien or enter into any participation transaction authorized in Sections 5.01, 5.02, and 5.03 in violation of any rule or regulation promulgated under Section 5.04 and no association shall:

(1) Make a real estate loan to an officer or director of the association unless such loan be first approved unanimously by its board of directors and such approval recorded in the minutes of the meeting of the board at which such loan was approved.

(2) Make a real estate loan or loans to any one borrower in the aggregate in excess of Fifty Thousand Dollars (\$50,000) or the sum of its loss reserves, surplus and permanent Reserve Fund Stock, if any, or within such limits as may be fixed by appropriate rule and regulation promulgated under

Section 5.04 hereof, whichever is the greater amount.

(3) Make a real estate loan unless an appraisal by an appraiser or committee of appraisers appointed by the board of directors first be made and filed in writing with the association as a part of its permanent files; reappraisals may be required by the Commissioner on real estate securing loans which are delinquent more than twelve (12) months at the expense of the association.

(4) Make a real estate loan which is not secured by a first and prior lien upon the property described in the mortgage, deed of trust or other instrument creating or constituting such lien, unless every prior lien thereon is owned by such association.

(5) Make a real estate loan unless the association is furnished with either a satisfactory abstract of title or a policy of title insurance issued by a title company authorized to insure titles in this state showing that the lien securing such loan meets the requirements of the preceding subsection (4).

(6) Make a real estate loan unless the insurable improvements thereon are insured against loss by a fire and extended coverage policy or its equivalent issued by an insurance company authorized to do business in this state.

(7) Sell or transfer a prior lien held by the association while retaining a junior lien on the same security to secure an unsatisfied obligation due the association unless such junior lien or liens were created in connection with a loan made under Sections 5.08 and 5.10 of this Act.

(8) Fail to promptly record in the proper county records every mortgage, deed of trust or other instrument, creating, constituting or transferring any lien securing in whole or in part any real estate loan or the association's interest therein.

Advances to Pay Taxes, Etc., on Security

Sec. 5.06. Associations may pay taxes, assessments, insurance premiums, and other similar charges for the protection of their interests in properties securing their real estate loans, which such advances may be carried on their books as an asset of the association and for which they may charge and collect interest, or such advances may be added to the unpaid balance of the loan as of the first day of the month in which such advances are made. All such advances shall constitute a valid lien against the real estate securing the loan for which they were made. Associations may require borrowers to pay monthly in advance, in addition to interest or interest and principal, the equivalent of one-twelfth ($\frac{1}{12}$) of the estimated annual taxes, assessments, insurance premiums, and other charges upon the real estate securing any loan, or any of such charges, so as to enable the association to pay same as they become due from the funds so received. The amount of such monthly charges may be increased or decreased as is necessary for the pay-

ment of same. Associations may carry such funds in trust in an account or may credit the same to the indebtedness and advance the money for taxes, insurance or other charges as they come due. Every association shall keep a record of the status of taxes, assessments, insurance premiums, and other charges on all real estate securing its loans and on all real and personal property owned by it.

Expenses, Fees and Charges for Real Estate Loans

Sec. 5.07. Every association may require borrowing members to pay all reasonable expenses incurred in connection with the making, closing, disbursing, extending, readjusting or renewing of real estate loans, which such charges may be collected by the association from the borrower and retained by it or paid to any persons, including any director, officer, or employee of the association rendering services in connection therewith, or paid directly by the borrower. In addition, associations may charge premiums for making such loans as well as penalties for prepayments or late payments; provided, that unless agreed in writing to the contrary, any prepayment of principal shall be applied on the final installment of the note or other obligation until fully paid, and thereafter on the installments in the inverse order of their maturity. The expenses, fees and charges authorized herein shall be in addition to interest authorized by law, and shall not be deemed to be a part of the interest collected or agreed to be paid on such loans within the meaning of any law of this State which limits the rate of interest which may be exacted in any transaction. No director, officer or employee of an association shall receive any fee or other compensation of any kind in connection with procuring any loan for an association, except for services actually rendered as above provided. A loan settlement statement shall be furnished by or on behalf of the association to each borrower upon the closing of every real estate loan, indicating in detail the expenses, fees and charges such borrower has paid or obligated himself to pay to the association or to any other person in connection with such loan. A copy of such statement shall be retained in the records of the association.

Insured and Guaranteed Loans

Sec. 5.08. Any association may make, without regard to any loan limitations or restrictions otherwise imposed by this Act, any loan, secured or unsecured, which is insured or guaranteed in any manner and in any amount by the United States or any instrumentality thereof.

Loans on Security of Savings Accounts

Sec. 5.09. Any association may make loans on the sole security value of the accounts owned or otherwise pledged for or by the borrower. No such loan shall be made when an association has applications for withdrawal which have been on file more than sixty (60) days and not reached for payment.

**Property Improvement Loans and Other Loans
to Members**

Sec. 5.10. Any association may make property improvement loans to home owners and other property owners for maintenance, repair, modernization, improvement and equipment of their properties, and may make other loans to members, on such terms and conditions as may be fixed by rules and regulations adopted under Section 5.04 hereof and which shall not be subject to the requirements of Section 5.05 of this Act.

Investment in Securities

Sec. 5.11. Every association shall have power to invest in obligations of, or guaranteed as to principal and interest by, the United States or this State; in stock of a Federal Home Loan Bank of which it is eligible to be a member, and in any obligations or consolidated obligations of any Federal Home Loan Bank or Banks; in stock or obligations of the Federal Savings and Loan Insurance Corporation; in stock or obligations of a national mortgage association or any successor or successors thereto; in demand, time, or savings deposits with any bank or trust company the deposits of which are insured by the Federal Deposit Insurance Corporation; in stock or obligations of any corporation or agency of the United States or this State, or in deposits therewith to the extent that such corporation or agency assists in furthering or facilitating the association's purposes or power; in savings accounts of any association operating under the provisions of this Act and of any Federal association; in bonds, notes, or other evidences of indebtedness which are a general obligation of any city, town, village, county, school district, or other municipal corporation or political subdivision of this State; and in such other securities or obligations which the Commissioner may approve and place on a published list. An association investing in securities which are listed by the Commissioner shall not be required to dispose of such securities if at a later time the Commissioner shall remove same from list. No security owned by an association shall be carried on its books at more than the actual cost thereof unless a different treatment is permitted by the Commissioner in writing.

Acquisition of Real Property

Sec. 5.12. An association may own during the period of its corporate existence real property upon which any facility used in connection with the operation of such association is located. Every other parcel of real estate acquired by such association in the course of business shall be disposed of within five (5) years from the date acquired unless the Commissioner shall have extended the time in which such disposition shall be made. Any of such real property may be sold, conveyed, leased, improved, repaired, mortgaged or exchanged for other real estate when such is authorized by the board of directors.

Limitation on Investment in Office Buildings

Sec. 5.13. An association may not invest more in office buildings than an amount equal to the aggregate dollar value of its loss reserves and surplus plus the par value of any outstanding Permanent Reserve Fund Stock as reflected by its books at the time of such investment unless the investment of a greater amount is authorized by the Commissioner in writing.

**Valuation of Real Property on the Books of
an Association**

Sec. 5.14. No association shall carry any real estate on its books at a sum in excess of the total amount invested by such association on account of such real estate, including advances, costs and improvements, but excluding accrued but uncollected interest unless the Commissioner has specifically approved in writing a higher valuation. Any association selling real estate under a contract of sale may carry the amount due the association under the terms of such contract as an asset upon its books; provided, that at no time shall the contract be considered as having an asset value greater in amount than the sales price agreed upon in the contract, or greater in amount than the value at which such property so sold was permitted to be carried upon the books of the association.

Appraisals of Real Estate Owned

Sec. 5.15. Every association shall appraise every parcel of real estate at the time of acquisition thereof and upon completion of any permanent improvements thereto. The report of such appraisal shall be in writing and kept in the records of the association.

Enlargement of Powers

Sec. 5.16. Any provisions of this Act to the contrary notwithstanding, any association may make any loan or investment, perform any function, or engage in any activity which such association could make were it incorporated and operating as a Federal association domiciled in this State.

CHAPTER SIX. SAVINGS ACCOUNTS

No Limitation on Savings Accounts

Sec. 6.01. There shall be no limit on the number and value of savings accounts an association may accept unless limits are fixed by its board of directors.

Who May Open a Savings Account

Sec. 6.02. Investments in savings accounts may be made only with cash and may be made by any person in his own right or in a trust or other fiduciary capacity and by any partnership, association, corporation, political subdivision, public and governmental unit or entity.

Savings Contracts

Sec. 6.03. Each holder of a savings account shall execute a savings contract setting forth any special terms and provisions applicable to such account and the conditions upon which withdrawals may be made not inconsistent with provisions of this Act. Such savings contract shall be held by the association as part of its records pertaining to such account. The savings contract in respect to savings accounts of political subdivisions and public and governmental units or entities shall provide that the holder of any such account shall not become a member of the association.

Evidence of Ownership of an Account

Sec. 6.04. As evidence of each savings account the association shall issue to the holder of such account either an account book or certificate.

Transfer of Savings Accounts

Sec. 6.05. Savings accounts shall be transferable only on the books of the association upon presentation of evidence of transfer satisfactory to the association accompanied by proper application for transfer by the transferee who shall accept such account subject to the terms and conditions of the savings contract, the bylaws of the association and the provisions of its charter. The association may treat the holder of record of a savings account as the owner thereof for all purposes without being affected by any notice to the contrary unless the association has acknowledged in writing that a pledge of such savings account has been made.

Lost or Destroyed Account Books or Certificates

Sec. 6.06. A new account book or certificate may be issued in the name of the holder of record at any time when requested by such holder or his legal representative upon proof satisfactory to the association that the original book or certificate has been lost or destroyed. The new account book or certificate shall expressly state that it is issued in lieu of the one lost or destroyed and the association shall in no way be liable thereafter on account of the original account book or certificate. The association may if it desires require indemnification against any loss that might result from the issuance of the new account book or certificate.

Savings Accounts of Married Women and Minors

Sec. 6.07. Any association operating under this law and any Federal savings and loan association doing business in this State may accept savings accounts from any married woman or minor as the sole and absolute owner of such savings account, and receive payments thereon by or for such owner, and pay withdrawals, accept pledges to the association, and act in any other manner with respect to such accounts on the order of such married woman or minor. Any payment or delivery of rights to a married woman or to any minor, or a receipt or acquittance signed by a married woman or by a

minor who holds a savings account, shall be a valid and sufficient release and discharge of such institution for any payment so made or delivery of rights to such married woman or minor. In the case of a minor, the receipt, acquittance, pledge or other action required by the institution to be taken by the minor shall be binding upon such minor with like effect as if he were of full age and legal capacity; provided, if any parent or guardian of such minor should not desire the minor to have authority to pledge, hypothecate, control, transfer or make withdrawals from his savings account, such fact may be made known to the association in writing by such parent or guardian, in which event the right of the minor to pledge, hypothecate, control, transfer and make withdrawals from the account during the minority of such minor shall not be exercised by him except with the joinder of such parent or guardian. In the event of the death of such minor, the receipt or acquittance of either parent or guardian of such minor shall be valid and sufficient discharge of such institution for any sum or sums not exceeding in the aggregate One Thousand Dollars (\$1,000).

Savings Accounts in Two or More Names

Sec. 6.08. When a savings account is opened in any association operating under this law or Federal Savings and Loan Association doing business in this state in the names of two or more persons, whether minor or adult, and the savings contract provides that the moneys in such account may be paid to or on the order of any one of such persons, then the institution may pay the moneys in such account to or on the order of any one of such persons either before or after the death of the other person or persons named on such account and such institution shall have no further liability for the amounts so paid, but if the savings contract provides that the signatures of more than one of such persons during their lifetimes or of more than one of the survivors after the death of any one of them are required on any check, receipt or withdrawal order, then the institution shall pay the moneys in the account only in accordance with such instructions; provided, that any one of the parties to such an account may give written notice to the institution not to permit withdrawals in accordance with the terms of the savings contract, in which event the institution may refuse, without liability, to honor any check, receipt or withdrawal request on the account pending determination of the rights of the parties thereto.

Joint Accounts by Husband and Wife

Sec. 6.09. A husband and wife shall have full power to enter into a savings contract involving a savings account consisting of funds which are community property of their marriage so as to create a joint tenancy with right of survivorship as to such account and any future additions or dividends made or credited thereto and, to the extent necessary to accomplish such result in law, such contract shall constitute a partition of such community property or reciprocal gifts from the respective spouses, if

the same is in writing and subscribed to by such husband and wife even though not acknowledged by either of them.

Pledge to Association of Joint Savings Accounts

Sec. 6.10. The pledge or hypothecation to any association or Federal association of all or part of a savings account issued in the names of two (2) or more persons signed by any person or persons upon whose signature or signatures withdrawals may be made from the account shall, unless the terms of the savings account provide specifically to the contrary, be a valid pledge and transfer to the institution of that part of the account pledged or hypothecated, and shall not operate to sever or terminate the joint and survivorship ownership of all or any part of the account.

Savings Accounts of Fiduciaries

Sec. 6.11. Any association operating under this law or any Federal savings and loan association doing business in this State may accept savings accounts in the name of any administrator, executor, custodian, guardian, trustee, or other fiduciary for a named beneficiary or beneficiaries, and any such fiduciary shall have power to vote as a member as if the membership were held absolutely, to open and make additions to, and to withdraw from any such account in whole or in part. Except when otherwise provided by law, the payment to any such fiduciary or a receipt or acquittance signed by any such fiduciary to whom any payment is made shall be a valid and sufficient release and discharge of an institution for the payment so made. Whenever a person holding an account in a fiduciary capacity dies and no written notice or order of the probate court of the revocation or termination of the fiduciary relationship shall have been given to the institution and the institution has no written notice or order of the probate court of any other disposition of the beneficial estate, the withdrawal value of such account, and dividends thereon, or other rights relating thereto may, at the option of the institution, be paid or delivered, in whole or in part, to the beneficiary or beneficiaries, and such institution shall have no further liability therefor.

Trust Accounts Where Trust Instrument Not Disclosed

Sec. 6.12. Whenever an account shall be opened by any person, describing himself in opening such account as a trustee for another and no other or further notice of the existence and terms of a legal and valid trust than such description shall have been given in writing to such institution, withdrawals from such account may be made on the signature of the person so described as trustee, and in the event of the death of such person, the withdrawal value of such account, or any part thereof, together with dividends thereon, may be paid to the person for whom the account was thus stated to have been opened, and the institution shall have no further liability therefor.

Powers of Attorney on Savings Accounts

Sec. 6.13. Any association operating under this law or any Federal association doing business in this State may continue to recognize the authority of an attorney-in-fact authorized in writing to manage or to make withdrawals either in whole or in part from the savings account of a member until it receives written notice or is on actual notice of the revocation of his authority. For the purposes of this Section, written notice of the death or adjudication of incompetency of such member shall constitute written notice of revocation of the authority of his attorney.

Savings Accounts as Legal Investments

Sec. 6.14. Administrators, executors, guardians, trustees and other fiduciaries of every kind and nature; counties, cities, towns and all other political subdivisions or instrumentalities of this State; insurance companies doing business in this State; business and nonprofit corporations; charitable or educational corporations or associations; banks; credit unions and all other financial institutions are hereby specifically authorized and empowered to invest funds held by them in savings accounts of any association operating under this law or any Federal association. Any such investments made by insurance companies shall be eligible for tax reducing purposes under Article 7064 of the Revised Civil Statutes of 1925, as amended,¹ and any such investment by a school district of any of its funds in such savings accounts which are insured by the Federal Savings and Loan Insurance Corporation shall for all purposes be considered as meeting the requirements of Section 1, Acts 1953, Fifty-third Legislature, Regular Session, page 464, Chapter 150, as amended (Article 2786d, Vernon's Annotated Civil Statutes),² and Article 2832, Revised Civil Statutes of Texas, 1925, as amended.³ If upon the effective date of this Act the shares and share accounts of associations operating under Article 881a of the Revised Civil Statutes of 1925, as amended, are legal investments for any particular business, organization, corporation, fiduciary or political subdivision, the savings accounts of associations subject to terms of this Act shall be deemed to be legal investments to the same extent as such shares and share accounts.

¹ Transferred; see, now, Insurance Code, art. 4.10.

² Repealed; see, now, Education Code, § 20.05.

³ Repealed.

Withdrawals From Savings Accounts

Sec. 6.15. Any savings account holder may at any time present a written application for withdrawal of all or any part of his savings account except to the extent the same may be pledged to the association or to another person on the books of the association. The association may pay in full each and every withdrawal request as presented and without requiring that written application therefor be made or the association may elect to number,

date and file in the order of actual receipt every withdrawal application and to pay such requests out of its net receipts. Not more than one half of the net receipts of the association in any month shall be applied to the payment of withdrawal applications unless the board of directors specifically authorizes the use of a greater portion of such receipts for such purpose. By the term "Net receipts" is meant the cash receipts of the association as loan repayments, interest and investments in savings accounts less disbursements for all expenses necessary and incidental to the operation of the association in carrying on its business. Whenever the net receipts so made applicable to withdrawal applications on file for a particular month are not sufficient to pay such applications in full, the applications on file shall be paid out of such net receipts on a pro-rata basis or, with the approval of the Commissioner, the board of directors may fix maximum amounts to be paid upon any one application during any one month and payments shall be made pro-rata out of such net receipts to all applications on file subject to such maximum payment limitation. No association can obligate itself to pay withdrawals on any plan other than that set forth above. While an application for withdrawal by a member remains in effect and unpaid, no withdrawal applications subsequently filed by the same member shall be paid and no loan shall be made secured by transfer or pledge of the account. A member filing a withdrawal application shall not become a creditor of the association by reason of such filing. Full payment may be made at any time to members whose entire interest in the association amounts to One Hundred Dollars (\$100) or less. The Commissioner with the approval of the Building and Loan Section of the Finance Commission and the Governor of Texas may invoke a uniform limitation on the amounts withdrawable from savings accounts of associations subject to this Act during any period when such limitation is necessary in the public interest. The membership of a savings account holder who has filed an application for withdrawal shall remain unimpaired so long as any withdrawal value remains to his credit on the books of the association. An application for withdrawal may be cancelled in whole or in part at any time by a member.

Redemption of Savings Accounts

Sec. 6.16. At any time funds are on hand for the purpose an association shall have the right to redeem by lot or otherwise, as the board of directors may determine, all or any part of any of its savings accounts on a dividend date by giving thirty (30) days' notice by certified mail addressed to each affected account holder at his last address as recorded on the books of the association. No association shall redeem any of its savings accounts when the association is subject to receivership action under Section 8.16 hereof or when it has applications for withdrawal which have been on file for more than thirty (30) days and have not been reached for payment. The redemption price of savings accounts

redeemed shall be the withdrawal value thereof. If the aforesaid notice of redemption shall have been duly given, and if on or before the redemption date the funds necessary for such redemption shall have been set aside so as to be and continue to be available therefor, dividends upon the accounts called for redemption shall cease to accrue from and after the dividend date specified as the redemption date, and all rights with respect to such accounts shall forthwith, after such redemption date, terminate, except only the right of the account holder of record to receive the redemption price.

Lien on Savings Accounts

Sec. 6.17. Every association operating under this law or any Federal association doing business in this State shall have a lien, without further agreement or pledge, upon all savings accounts owned by any member to whom or on whose behalf the association has made an advance of money by loan or otherwise and upon the default in the repayment or satisfaction thereof, the association may, without notice to or consent of the member, cancel on its books all or any part of the savings accounts owned by such member and apply the value of such accounts in payment on account of such obligation. An association may by written instrument waive its lien in whole or in part on any savings accounts. Any association may take the pledge of savings accounts of the association owned by a member other than the borrower as additional security for any loan secured by an account or by an account and real estate, or as additional security for any real estate loan.

Method of Paying Dividends on Savings Accounts

Sec. 6.18. Dividends shall be credited to savings accounts on the books of the association unless a savings account holder shall have requested and the association shall have agreed to pay dividends on such savings account in cash. Dividends payable in cash may be paid by check or bank draft.

Permissive Bylaw Provisions in Respect to Priority of Savings Accounts and Notice of Withdrawal

Sec. 6.19. The bylaws of an association may provide that in the event of voluntary or involuntary liquidation, dissolution, or winding up of the association or in the event of any other situation in which the priority of savings accounts is in controversy, all savings accounts shall, to the extent of their withdrawal value, be debts of the association having the same priority as the claims of general creditors of the association not having priority (other than any priority arising or resulting from consensual subordination) over other general creditors of the association. If its bylaws so provide, an association may require advance notice of as much as sixty (60) days before paying withdrawal applications. An association which, having required advance notice of withdrawal, fails to make full payment of any withdrawal application at the end of the notice period

shall be deemed to be subject to receivership proceedings under Section 8.16 of this Act.

Enlargement of Powers

Sec. 6.20. Notwithstanding any provision of this Act to the contrary, an association may raise capital in the manner and form and issue any certificate in the form and pay dividends, earnings or interest thereon in the manner which the association could if it were a Federal Association as defined in Section 1.03(9) of this Act.

CHAPTER SEVEN. COMPUTATION OF EARNINGS, TRANSFERS TO LOSS RESERVES, DIVIDENDS, SURPLUS

Computation of Net Income

Sec. 7.01. Each association shall close its books on the last business day of June and December of each year, and at such other times as its bylaws may provide, for the purpose of determining the gross income of the association for the period since the date of the last such closing of its books and from which shall be deducted the expenses of operating the association for such period, the balance remaining being the net income for the period.

Transfers to Loss Reserves

Sec. 7.02. If, at the date of any closing of its books, the loss reserves of an association equal an aggregate amount of less than five per cent (5%) of its savings liability, then an amount equal to at least five per cent (5%) of its net income, or so much thereof as may be necessary to increase its loss reserves to the above required amount, shall be transferred from the net income of the association to its loss reserves. In the event that any credit to the loss reserves of an association is made following the effective date of this Act in excess of the minimum five per cent (5%) requirement the dollar amount of such excess may be carried over as a credit toward the minimum requirement for any subsequent accounting period.

Dividends on Savings Accounts

Sec. 7.03. After providing for payment of the expenses of operation of the association and for the required minimum transfer to its loss reserves, the board of directors of the association may declare dividends on savings accounts. Dividends, when declared, shall be computed and paid in accordance with such terms and conditions as may from time to time be authorized by rules and regulations promulgated by the Commissioner and the Building and Loan Section of the Finance Commission of Texas. An association shall not be required to pay or credit a dividend of less than One Dollar (\$1) on any account or any dividend on short-term accounts where the savings contract provides for closing the account within one (1) year and waives dividend participation.

Dividends on Permanent Reserve Fund Stock

Sec. 7.04. The balance of net income of the association, if any, may be credited to a surplus account, from which the board of directors of any association whose bylaws provide for the issuance of Permanent Reserve Fund Stock, and which has such stock outstanding, may, at their discretion, and at such times as they may determine, declare and pay dividends in cash or additional stock to the holders of record of such stock outstanding at the date such dividends are declared.

Use of Surplus Accounts and Expense Fund Contributions

Sec. 7.05. Any association at any closing date may use all or any part of any surplus accounts, whether earned or paid-in, or any expense fund contributions on its books at such time to meet all or any part of the expenses of operating the association for the period just closed, required transfers to loss reserves, or the payment or credit of dividends declared on savings accounts.

Contracts With Members to Pay Interest

Sec. 7.06. An association may contract with its savings members to pay interest on savings accounts provided that the association's bylaws contain provisions substantially similar to those authorized by Section 6.19 of this Act. Any interest so paid shall be considered a cost of savings money to the association.

CHAPTER EIGHT. SUPERVISION AND REGULATION, BOOKS AND RECORDS, ACCOUNTING PRACTICES, STATEMENTS, REPORTS, AUDITS, EXAMINATIONS, VIOLATIONS, RECEIVERSHIP

Supervision and Regulation

Sec. 8.01. All associations subject to this Act shall be supervised and regulated and the provisions of this Act shall be enforced by the Savings and Loan Department of Texas and the Savings and Loan Commissioner, acting pursuant to the authority hereby delegated and the authority delegated by House Bill No. 91, Chapter 198, Acts of the Regular Session of the Fifty-seventh Legislature, 1961.¹

¹ Article 342-205.

Books and Records

Sec. 8.02. Every association shall keep at its home office correct and complete books of account and minutes of the meetings of members and directors. Complete records of all business transacted at the home office shall be maintained at the home office. Records of business transacted at any branch or agency office may be kept at such branch or agency office; provided, that control records of all business transacted at any branch or agency office shall be kept at the home office.

Accounting Practices

Sec. 8.03. Every association shall use such forms and observe such accounting principles and practices as the Commissioner may require from time to time.

Misdescription of Assets

Sec. 8.04. No association by any system of account or any device of bookkeeping shall, either directly or indirectly, knowingly enter any of its assets upon its books in the name of any other person, partnership, association or corporation or under any title or designation that is not truly descriptive of such assets.

Charging Off or Setting Up Reserves Against Bad Assets

Sec. 8.05. The Commissioner, after a determination of value, may order that assets in the aggregate, to the extent that such assets have depreciated in value, be charged off, or that a special reserve or reserves equal to such depreciation in value be set up by transfers from surplus.

Maintenance of Membership Records

Sec. 8.06. Every association shall maintain membership records which shall show the name and address of the member, the status of the member as a savings account holder, a stockholder or an obligor, and the date of membership thereof.

Reproduction and Destruction of Records

Sec. 8.07. Any association may cause any or all records kept by such association to be copied or reproduced by any photostatic, photographic, or microfilming process which correctly and permanently copies, reproduces or forms a medium for copying or reproducing the original record on a film or other durable material, and such association may thereafter dispose of the original record. Any such copy or reproduction shall be deemed to be an original record for all purposes and shall be treated as an original record in all courts or administrative agencies for the purpose of its admissibility in evidence. A facsimile, exemplification or certified copy shall, for all purposes, be deemed a facsimile, exemplification or certified copy of the original record.

Financial Statement

Sec. 8.08. Every association shall prepare and publish annually in the month of January of each year in a newspaper of general circulation in the county in which the home office of such association is located, a statement of its financial condition in the form prescribed or approved by the Commissioner as of the last business day of December of the preceding year.

Annual Reports, Other Reports

Sec. 8.09. On or before the last day of March in each year, every association shall make an annual written report to the Commissioner, upon a form to

be prescribed and furnished by the Commissioner, of its affairs and operations, which shall include a complete statement of its financial condition, including a statement of income and expense since its last previous similar report, for the twelve (12) months ending on the last business day of December of the previous year. Every such report shall be signed by the president, vice president or secretary. Every association shall also make such other reports as the Commissioner may from time to time require, which reports shall be in such form and filed on such dates as he may prescribe and shall, if required by him, be signed in the same manner as the annual report.

Annual Audit and Examination

Sec. 8.10. The Commissioner shall at frequent intervals examine or cause an examination to be made into the affairs of every association subject to this Act. If an association is not audited in a manner satisfactory to the Commissioner, the examination of such association shall include an audit. Upon completion of an audit, one (1) copy of same, signed and certified by the auditor making such audit, shall be promptly filed with the Commissioner. The Commissioner, any deputy commissioner, or his examiners or auditors shall have free access to all books and records of an association which relate to its business and books and records kept by any officer, agent or employee relating to or upon which any record of its business is kept; and may summon witnesses and administer oaths or affirmations in examination of the directors, officers, agents, or employees of any such association, or any other person in relation to its affairs, transactions and condition, and may require and compel the production of records, books, papers, contracts or other documents by court order, if not voluntarily produced.

Joint Examinations

Sec. 8.11. The Commissioner may examine or cause to be examined any association in conjunction with an examination by the Federal Home Loan Bank Board, a Federal Home Loan Bank or the Federal Savings and Loan Insurance Corporation, and shall accept any audit made by or accepted by any of said agencies during the course of any examination of an association.

Extra or Additional Examinations

Sec. 8.12. Whenever, in the judgment of the Commissioner, the condition of any association renders it necessary or expedient to make an extra or additional examination or audit or to devote any extraordinary attention to its affairs, the Commissioner shall cause such work to be done, and such association shall be charged with the cost of same. A full and complete copy of the report of all examinations and audits shall be promptly furnished to the association examined or audited. Every report of examination or audit shall be presented to the

board of directors at their next regular meeting, or at a special meeting called for such purpose, and noted in the minutes thereof.

Commissioner Shall Order Discontinuance of Violations

Sec. 8.13. If the Commissioner as a result of any examination or investigation of the affairs of an association finds that such association is violating or has violated or is about to violate any provision of its charter or bylaws or any law, or willfully violates any rule or regulation governing its operations to an extent which would tend to cause a substantial reduction in net worth or is engaging in, or has engaged in, or if the Commissioner has reasonable cause to believe that the association is about to engage in an unsafe and unsound practice or practices, he shall deliver a formal written order to the board of directors of the association in which the facts known to the Commissioner are set forth with an order to cease and desist from any such violation or practice. Such order may, by provisions which may be mandatory or otherwise, require the association, its directors, officers, employees, or agents to take affirmative action to correct the conditions resulting from any such violation or practice. Such order shall become final 10 days after the same has been delivered unless the association shall within such time request a hearing before the Savings and Loan Section of the Finance Commission in regard to such order, at which hearing any pertinent evidence relating to said order or the facts stated therein may be presented. Such hearing shall be promptly held, and the Savings and Loan Section, on the basis of the evidence presented and any matters of record concerning the order provided by the Commissioner, shall continue such order in effect, modify the same, or set it aside. An unsafe and unsound practice with respect to an association is such action or inaction as is likely to cause insolvency or substantial dissipation of assets or earnings or to otherwise prejudice its ability to timely satisfy withdrawal requests of savings account holders.

Commissioner May Remove Directors and Officers Participating in Violations

Sec. 8.14. Whenever in the opinion of the Commissioner, any director or officer of an association has committed any violation of law, rule, or regulation, or refused to comply with a cease and desist order which has become final, or has engaged or participated in any unsafe or unsound practice or practices in connection with the association, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as such director or officer, and it appears that the association has suffered or probably will suffer substantial financial loss or other damage or that its ability to timely satisfy withdrawal requests of savings account holders could be seriously prejudiced thereby, the Commissioner may require that any such director or officer be removed from the office. Prior to entering an order of removal, the Commis-

sioner shall deliver a full statement of the acts and conduct to which he objects to the board of directors of the association and the person or persons concerned and of his intention to enter a removal order. Such order shall become final within 10 days after such delivery unless within such time a hearing is requested. The Commissioner shall promptly hold a hearing if timely request is made at which any pertinent evidence relating to the matters set forth in such statement may be presented. After such hearing the Commissioner, on the basis of the evidence presented at such hearing, may proceed to enter an order for the immediate removal of the director or officer affected, a reprimand of the individuals and association concerned or a dismissal of the entire matter. If no hearing is requested within the time specified, the Commissioner may proceed to enter an order of removal on the basis of the facts set forth in his original statement.

Enforcement of Cease and Desist and Removal Orders

Sec. 8.15. In the case of violation or threatened violation of or failure or refusal to obey a final cease and desist order or a removal order, the Commissioner may apply to a district court of Travis County for an order enjoining the association, its directors, officers, employees, or agents from violating, failing or refusing to obey such order. The court shall grant such injunction upon a showing of substantial evidence to support the findings of fact in the Commissioner's order. No bond for injunction shall be required of the Commissioner.

Receivership

Sec. 8.16. If, in the judgment of the Commissioner, the public interest requires it, he may apply to a district court of the county in which the home office of the association is located for the appointment of a receiver for such association. Such court shall appoint a receiver as applied for if it finds substantial evidence to support any one or more of the following circumstances or conditions alleged to exist by the Commissioner in his application:

- (1) that the association is insolvent in that the cash value of its assets realizable in a reasonable time is less than the total of its obligations to its creditors and the amount of its savings liability;
- (2) that there has been a substantial dissipation of assets or earnings due to any violation or violations of applicable law, rules, or regulations, or to any unsafe or unsound practice or practices;
- (3) that the association is in an unsafe and unsound condition to transact business in that there has been a substantial reduction of its net worth over the preceding 36 months (for this purpose, net worth shall be computed after the establishment of such valuation reserves and other reserves against possible losses as have been required by any supervisory authority having jurisdiction over the association or would be required under generally accepted accounting principles applicable to savings and loan

associations) and has failed to restore such net worth reduction as ordered by the Commissioner;

(4) that the association and its directors and officers have violated any material conditions of its charter or bylaws, the terms of any final cease and desist order issued by the Commissioner, or any agreement between the association and the Commissioner;

(5) that the association, its directors, and officers have concealed or refused to permit examination of the books, papers, accounts, records, and affairs of the association by the Commissioner or other duly authorized personnel of the Savings and Loan Department.

All proceedings in regard to such applications shall be governed by the laws of this State applicable to receiverships generally. The Commissioner, or his deputy or a Savings and Loan Examiner shall be appointed by the court as a receiver. The receiver, upon appointment by the court, shall immediately take charge of the affairs of the association, subject to the direction of the court, and proceed to conduct the business of the association or to take such steps as may be necessary to conserve the assets and protect the rights of the creditors of the association and its members as may be ordered by the court. The official who is appointed receiver shall receive no additional compensation for such service. If the association is an institution insured by the Federal Savings and Loan Insurance Corporation, said corporation may be tendered appointment as receiver or co-receiver. If it accepts such appointment, it may, nevertheless, make loans on the security of or purchase at public or private sale any part or all of the assets of the association of which it is receiver or co-receiver, provided such loan or purchase is approved by such court. The directors, officers and attorneys of an association in office at the time of the initiation of any proceeding under this Section are expressly authorized to contest any such proceedings and shall be reimbursed for reasonable expenses and attorney's fees by the association or from its assets, the amount of which shall be fixed by the court.

Communications From Commissioner

Sec. 8.17. Every approval or rejection by the Commissioner given pursuant to the provisions of this Act and every communication having the effect of an order or instruction to any association shall be sent by certified mail to the association affected thereby, addressed to the president thereof at the home office of the association, and shall be presented to the board of directors of such association at its next regular meeting or at a special meeting called for such purpose and noted in the minutes of such meeting.

Voluntary Supervisory Control

Sec. 8.18. If in connection with any cease and desist order the Commissioner requests the consent

of the board of directors of the association to the placing of the association under supervisory control of the Commissioner, and a majority of such board affirmatively consents to such request, the Commissioner may appoint a supervisory agent to supervise and monitor the operations of the association during the period of supervision to which consent was given. During the period of supervision, the association, its directors, and officers shall act in accordance with such instructions and directions as may be given by the Commissioner through the supervisory agent and shall not act or fail to act except in compliance with such cease and desist order without the prior approval of the supervisor or the Commissioner. The cost incident to such supervision shall be fixed by the Commissioner and paid by the association.

CHAPTER NINE. FOREIGN ASSOCIATIONS

Limitation on Right to do Business as a Savings and Loan Association

Sec. 9.01. From and after the effective date of this act no person, firm, company, association, fiduciary, partnership or corporation by whatever name called shall do business as a savings and loan association within this State or maintain any office in this State for the purpose of doing such business except:

- (1) associations organized under the laws of this State and subject to this Act;
- (2) Federal associations as herein defined;
- (3) savings and loan associations organized under the laws of another state of the United States which have held on the effective date of this Act certificates of authority issued pursuant to Section 61 of Senate Bill No. 111, Acts, 1929, Forty-first Legislature, Second Called Session, page 100, Chapter 61,¹ for not less than ten (10) consecutive years and have actually done business in this State continuously for such period; and

(4) to the extent any activity does not constitute transacting business in this State under Article 8.01B of the Texas Business Corporation Act.

¹ Article 881a-60 (repealed).

Renewal of Outstanding Certificates

Sec. 9.02. Any savings and loan association organized under the laws of another state of the United States holding a certificate of authority to do business in this State on the effective date of this Act may renew such certificate from year to year thereafter by the payment of an annual renewal fee of Five Hundred Dollars (\$500) or Twenty Dollars (\$20) for each million dollars or major fraction thereof of the total assets of such association, whichever is the greater, and by fulfilling all the prerequisites required by law at the time it secured its last renewal certificate prior to the effective date of this Act. Such association shall pay the same annual fees in lieu of examination charges paid by domestic associations under Section 11.06 of this Act, together with all traveling expenses of such examination;

provided that if such examination fee is inadequate to defray all expenses of such examination, then such association shall pay the additional cost thereof. Examinations shall not be made more than once each year.

Contracts Deemed Made in This State

Sec. 9.03. Any contract made by any foreign association with any citizen of this State shall be deemed and considered a Texas contract and shall be construed by all the courts of this State according to the laws of this State.

Rights, Privileges and Obligations of Foreign Associations With Certificates of Authority

Sec. 9.04. Any foreign association operating under a certificate of authority as herein provided, during the time such certificate is in force, shall have all of the rights and privileges of associations created under this Act and its savings accounts shall be eligible for investment to the same extent as that of a domestic association; likewise, all provisions of this Act and all rules and regulations made pursuant thereto shall be applicable to such foreign associations.

Power of Commissioner to Revoke Certificate

Sec. 9.05. The Commissioner may issue discontinuance orders against a foreign association in the same manner as against domestic associations as set forth in Section 8.13 hereof, and upon the failure or refusal of a foreign association to comply with a final order of the Commissioner he shall revoke the certificate of authority held by such association and it will be unlawful thereafter for any agent of such association to transact any business in this State, except to receive payments to apply on loan contracts then in effect, and to pay withdrawal requests.

Federal Savings and Loan Associations

Sec. 9.06. Federal associations are not foreign corporations or associations. Unless Federal laws or regulations provide otherwise, Federal associations and the members thereof shall possess all of the rights, powers, privileges, benefits, immunities and exemptions that are herein provided or that may hereafter be provided by the laws of this State for associations subject to this Act or the members thereof. This provision is additional and supplemental to any provision which, by specific reference, is applicable to Federal associations and the members thereof.

CHAPTER TEN. CONVERSION, REORGANIZATION, MERGER AND CONSOLIDATION, VOLUNTARY LIQUIDATION

Conversion Into Federal Associations

Sec. 10.01. Any association subject to this Act may convert itself into a Federal association in accordance with the provisions of Section 5 of the Home Owners' Loan Act of 1933, as now or hereaf-

ter amended,¹ upon a majority vote of the members at any annual meeting or any special meeting called to consider such action. A copy of the minutes of the proceedings of such meeting of the members, verified by affidavit of the secretary or an assistant secretary shall be filed in the office of the Commissioner within ten (10) days after the date of such meeting. A sworn copy of the proceedings of such meeting, when so filed, shall be presumptive evidence of the holding and action of such meeting. Within three (3) months after the date of such meeting, the association shall take such action in the manner prescribed and authorized by the laws of the United States as shall make it a Federal association. There shall be filed with the Commissioner a copy of the charter issued to such Federal association by the Federal Home Loan Bank Board or a certificate showing the organization of such association as a Federal association, certified by the secretary or assistant secretary of the Federal Home Loan Bank Board. No failure to file any such instruments with the Commissioner shall affect the validity of such conversion. Upon the grant of any association of a charter by the Federal Home Loan Bank Board, the association receiving such charter shall cease to be an association incorporated under this Act and shall no longer be subject to the supervision and control of the Commissioner. Upon the conversion of any association into a Federal association, the corporate existence of such association shall not terminate, but such Federal association shall be deemed to be a continuation of the entity of the association so converted and all property of the converted association, including its rights, titles, and interests in and to all property of whatever kind, whether real, personal, or mixed, and things in action, and every right, privilege, interest, and asset of any conceivable value or benefit then existing, or pertaining to it, or which would inure to it, shall immediately by operation of law and without any conveyance or transfer and without any further act or deed remain and be vested in and continue and be the property of such Federal association into which the state association has converted itself, and such Federal association shall have, hold and enjoy the same in its own right as fully and to the same extent as the same was possessed, held, and enjoyed by the converting association, and such Federal association as of the time of the taking effect of such conversion shall continue to have and succeed to all the rights, obligations, and relations of the converting association. All pending actions and other judicial proceedings to which the converting state association is a party shall not be deemed to have abated or to have discontinued by reason of such conversion, but may be prosecuted to final judgment, order, or decree in the same manner as if such conversion into Federal association had not been made and such Federal association resulting from such conversion may continue such action in its corporate name as a Federal association, and any judgment, order, or decree may be rendered for or against it which might have been rendered for or

against the converting state association theretofore involved in such judicial proceedings. Any association or corporation, which has heretofore converted itself into a Federal association under the provisions of the Home Owners' Loan Act of 1933 and has received a charter from the Federal Home Loan Bank Board, shall hereafter be recognized as a Federal association, and its Federal charter shall be given full credence by the courts of this State to the same extent as if such conversion had taken place under the provisions of this Section; provided, however, that there shall have been compliance with the foregoing requirements with respect to the filing with the Commissioner of a copy of the Federal charter or a certificate showing the organization of such association as a Federal association. All such conversions are hereby ratified and confirmed, and all the obligations of such an association which has so converted shall continue as valid and subsisting obligations of such Federal association, and the title to all of the property of such an association shall be deemed to have continued and vested, as of the date of issuance of such Federal charter, in such Federal association as fully and completely as if such conversion had taken place since the enactment of this Act pursuant to this Section.

112 U.S.C.A. § 1464.

Conversion Into State Chartered Association

Sec. 10.02. Any Federal association may convert itself into an association under this Act upon a majority vote of the members of such Federal association cast at an annual meeting or any special meeting called to consider such action. Copies of the minutes of the proceedings of such meeting of members, verified by affidavit of the secretary or an assistant secretary, shall be filed in the office of the Commissioner and mailed to the Federal Home Loan Bank Board, Washington, D.C., within ten (10) days after such meeting. Such verified copies of the proceedings of the meeting when so filed shall be presumptive evidence of the holding and action of such meeting. At the meeting at which conversion is voted upon, the members shall also vote upon the directors who shall be the directors of the state-chartered association after conversion takes effect. Such directors then shall execute two (2) copies of the application for certificate of incorporation provided in this Act. The Commissioner shall, upon receipt of such application, cause the association to be examined and if he finds that it is in sound condition, approve the conversion and insert in the certificate of incorporation, at the end of the paragraph preceding the testimonium clause, the following: "This association is incorporated by conversion from a Federal savings and loan association." Each of the directors chosen for the association shall sign and acknowledge the application for certificate of incorporation as subscribers thereto and the proposed bylaws as incorporators of the association. The provisions of this Act shall, so far as applicable, apply to such conversion. The state-chartered association shall be a continuation of the

corporate entity of the converting Federal association and continue to have all of its property and rights.

Reorganization, Merger, and Consolidation

Sec. 10.03. Pursuant to a plan adopted by the board of directors and approved by the Commissioner as equitable to the members of the association and as not impairing the usefulness and success of other properly conducted associations, an association shall have power to reorganize or to merge or consolidate with another association or Federal association; provided, that the plan of such reorganization, merger or consolidation shall be approved by a majority of the total vote the members are entitled to cast. Approval may be voted at either an annual meeting or at a special meeting called to consider such action. In all cases the corporate continuity of the resulting corporation shall possess the same incidents as that of an association which has converted in accordance with this Act. In the case of prior common ownership, the association in the proposed merger possessing the largest assets shall be designated as the home office. Any order of the Commissioner approving the reorganization, merger, or consolidation of any association with another association or Federal association shall become final 10 days after the same has been delivered unless an association within the vicinity of the reorganizing, merging, or consolidating associations shall within such time request a public hearing before the Commissioner in regard to such order, objecting to such order on the basis that the reorganization, merger, or consolidation would materially constrict the ability of the objecting association to compete in its vicinity. Such hearing shall be promptly held, and the Commissioner on the basis of the evidence presented shall thereupon either continue such order in effect, modify the same, or set it aside.

Voluntary Liquidation

Sec. 10.04. At any annual meeting or any special meeting called for such purpose, any association may by majority vote of its members resolve to liquidate and dissolve the association; provided, that before such resolution shall take effect, a copy thereof certified to by the president and the secretary of the association, together with an itemized statement of its assets and liabilities sworn to by a majority of its board of directors, shall be filed with and approved by the Commissioner. When the Commissioner shall have approved such resolution it shall thereafter be unlawful for such association to accept any additional savings accounts or additions to savings accounts or to make any additional loans, but all its income and receipts in excess of actual expenses of liquidation of the association shall be applied to the discharge of its liabilities. The board of directors of the association, under the supervision of the Commissioner and in accordance with a plan of liquidation approved by him, shall thereupon proceed to liquidate the affairs of the association

and reduce the assets thereof to cash for the purpose of paying, satisfying and discharging all existing liabilities and obligations of the association, including the withdrawal value of all savings accounts, the balance remaining, if any there be, to be distributed pro-rata among the savings account members of record on the date of adoption by the association of the resolution to liquidate; provided, however, that if the association be one whose by-laws provide for the issuance of Permanent Reserve Fund Stock and such association has issued and has outstanding such stock, then any such balance remaining after all liabilities and obligations have been fully paid and satisfied, including the withdrawal value of all savings accounts, shall be distributed among the holders of such stock in proportion to their stockholding. All expenses incurred by the Commissioner or any of his representatives during the course of any such liquidation shall be paid from the assets of the association. Upon completion of liquidation, the board of directors shall file with the Commissioner a final report and accounting of such liquidation. The approval of such report by the Commissioner shall operate as a complete and final discharge of the board of directors and each member in connection with the liquidation of such association.

CHAPTER ELEVEN. MISCELLANEOUS

Exemption from Securities Laws

Sec. 11.01. Savings accounts, certificates, and other evidences of interests in the savings liability of associations subject to this Act and of Federal associations are not "securities" for any purpose under The Securities Act, as amended (Article 581-1, et seq., Vernon's Texas Civil Statutes). Securities of these associations other than interests in the savings liability of the associations are not subject to the registration requirements of The Securities Act, as amended. Any person whose principal occupation is that of an officer of an association is exempt from the registration and licensing provisions of The Securities Act, as amended, with respect to that person's participation in a sale or other transaction involving securities of the association of which the person is an officer.

Acknowledgments by Members and Employees

Sec. 11.02. No public officer qualified to take acknowledgments or proofs of written instruments shall be disqualified from taking the acknowledgments or proofs of any instrument in writing in which an association or Federal association is interested by reason of his membership in or stockholding in or employment by such an institution so interested, and any such acknowledgments or proofs heretofore taken are hereby validated.

Closing Places of Business

Sec. 11.03. All associations and Federal savings and loan associations operating in this State are hereby authorized and permitted to close their re-

spective places of business at any time the board of directors of such institution shall so determine.

Right to Act to Avoid Loss

Sec. 11.04. Nothing in this Act or the statute law of this State shall be construed as denying to an association the right to invest its funds, operate a business, manage or deal in property, or take any other action over whatever period of time may reasonably be necessary to avoid loss on a loan or investment theretofore made or an obligation created in good faith.

Fees

Sec. 11.05. The amount of the fees to be charged by the Commissioner for supervision and examination of associations, filing of applications and other documents and for other services performed by the Commissioner and his office and the time and manner of payment thereof shall be fixed by rule and regulation adopted by the Commissioner and the Savings and Loan Section of the Finance Commission, acting pursuant to the rule-making power delegated by Article 5, Chapter II, the Texas Banking Code of 1943 (Article 342-205, Vernon's Texas Civil Statutes). All fees collected by the Commissioner shall be deposited and used in accordance with Section (h), Article 5, Chapter II, The Texas Banking Code of 1943 (Article 342-205, Vernon's Texas Civil Statutes).

All Associations Authorized to Conduct a Savings and Loan Business Shall Conform to This Act

Sec. 11.06. Any association or corporation authorized to conduct a building and loan association, savings and loan association, building society or other similar business under prior law by whatever name known which has substantially the same purpose as a savings and loan association as defined by this Act shall, at the time this Act becomes effective, be subject to the provisions of this Act and shall thereafter be deemed to exist by virtue of this Act. The name, rights, powers, privileges, and immunities of each such association or corporation shall be governed, controlled, construed, extended, limited and determined by the provisions of this Act to the same extent and effect as if such corporation had been incorporated pursuant hereto, and the Articles of association, certificate of incorporation, or charter, however, entitled, bylaws and constitutions, or other rules of every such corporation heretofore made or existing are hereby modified, altered and amended to conform to the provisions of this Act, with or without the issuance or approval by the Commissioner of conformed copies of such documents, and the same are declared void to the extent that the same are inconsistent with the provisions of this Act; except that (i) the obligations of any such existing corporation, whether between such corporation and its members, or any of them, or any other person or persons, or any valid contract between the members of such corporation, or between such corporation and any other person or persons, existing

at the time this Act takes effect shall not be in any way impaired by the provisions of this Act and (ii) no association shall be required to change its name, and, with such exceptions, every such corporation shall possess the rights, powers, privileges and immunities and shall be subject to the duties, liabilities, disabilities and restrictions conferred and imposed by this Act, notwithstanding anything to the contrary in its certificate of incorporation, bylaws, constitution, or rules. All obligations of any such corporation heretofore contracted shall be enforceable by it and in its name, and demands, claims, and rights of action against any such corporation may be enforced against it as fully and completely as they might have been enforced heretofore.

Outstanding Shares, Stock, Share Accounts and Investment Certificates (Except Permanent Reserve Fund Stock) to be Considered as Savings Accounts

Sec. 11.07. From and after the effective date of this Act any shares, stock, share accounts and investment certificates (except Permanent Reserve Fund Stock) which an association subject to this Act has issued and which is then outstanding shall be considered as savings accounts as defined in this Act and the holders thereof shall have all of the rights and privileges appertaining to the holder of savings accounts under this Act as well as any valid contractual or other legal rights in respect thereto preserved by Section 11.06 of this Act; except that any such outstanding shares or share accounts which are not entitled to dividends shall not by virtue of any provision of this Act become so entitled.

Associations Prohibited From Issuing Any Stock or Shares Not Authorized by This Act

Sec. 11.08. No association subject to this Act shall, after the effective date of this Act, issue any form of stock, share, account or investment certificate except as permitted by this Act for associations formed under its terms.

Ad Valorem Taxation of the Property of an Association

Sec. 11.09. Each association subject to this Act and all Federal associations domiciled in this State shall render for ad valorem taxation all of its real estate as other real estate is rendered. The personal property of each such association shall be valued as other personal property is valued for assessment in this State, and shall be rendered by such association to the appropriate assessing unit or units in the following manner:

- (1) its furniture, fixtures, equipment and automobiles shall be rendered where such property is located in the same manner as other similar property;
- (2) the remainder of the personal property of such association shall be rendered as a whole in the city and county where its principal office is located at the value remaining after deducting from the

total value of such association's entire assets the following:

- (a) all debts of every kind and character owed by such association;
- (b) all tax free securities owned by such association;
- (c) the loss reserves and surplus of the association;
- (d) the savings liability of the association;
- (e) the assessed value of its furniture, fixtures and real estate.

Initiation of Rule-Making by Associations

Sec. 11.10. When as many as twenty per cent (20%) of the associations subject to this Act petition the Commissioner in writing requesting the promulgation, amendment or repeal of a rule or regulation the Commissioner shall initiate rule-making proceedings under Section (e) of Article 5, Sub-Chapter II, Chapter 97, Acts of the Forty-eighth Legislature, as amended by House Bill No. 91, Acts 1961, Fifty-seventh Legislature, Chapter 198.¹

¹ Article 342-205.

Hearing Procedure

Sec. 11.11. (1) Notice of any hearing held pursuant to orders issued under Sections 8.13 and 8.14 shall be given to all parties affected by such orders. Notice of all other hearings held under any provision of this Act shall be given to all associations and Federal associations in the county where the subject matter of the hearing is or will be situated.

(2) Opportunity shall be afforded any interested party to respond and present evidence and argument on all issues involved in any hearing held under any provision of this Act.

(3) Upon the written request of any interested party the Commissioner shall keep a formal record of the proceedings of any hearing held under any provision of this Act.

(4) A decision or order adverse to a party who has appeared and participated in a hearing shall be in writing and shall include findings of fact and conclusions of law, separately stated, on all issues material to the decision reached. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.

(5) A decision or order entered after hearing shall be final and appealable fifteen (15) days after the day the same is entered unless a motion for rehearing is filed by a party within such time and if the motion for rehearing is overruled such decision or order shall be final and appealable from and after the date the order overruling such motion is entered.

(6) Parties to a hearing shall be promptly notified either personally or by mail of any decision, order or

other action taken in respect to the subject matter of the hearing.

Judicial Review

Sec. 11.12. Any party with an interest in the subject matter thereof who is dissatisfied with any act, order, ruling or decision of the Commissioner taken or made, or with any rule or regulation promulgated by the Commissioner and the Building and Loan Section of the Finance Commission in connection with the administration of this Act, may secure judicial review thereof in the following manner:

(1) Venue. (a) Proceedings for review of a removal order entered pursuant to Section 8.14 of this Act, may be instituted by filing a petition as in civil actions generally against the Commissioner, as defendant, either in a district court of Travis County, or in the district court of the county in which any person affected by such order resides or of the county in which the principal office of the association affected by such order is located.

(b) Proceedings for review of other acts, orders, rulings or decisions of the Commissioner or of any rule or regulation promulgated by the Commissioner and the Building and Loan Section of the Finance Commission may be instituted by filing a petition as in a civil action generally against the Commissioner, as defendant, in a district court of Travis County and not elsewhere.

(2) Time for Filing. Any petition for judicial review must be filed within thirty (30) days after the action, order, ruling or decision of the Commissioner is final or the rule or regulation complained of is promulgated.

(3) Stay of Enforcement. The filing of a petition for review shall not itself stay the effect of the act, order, ruling, decision or rule or regulation complained of, but the Commissioner or the reviewing court may order a stay upon appropriate terms and if a stay is so granted no supersedeas bond shall be required.

(4) Service of Process. The petition for review shall be served on the Commissioner and upon all parties of record in any hearing before the Commissioner in respect to the matter for which review is sought or upon the Commissioner alone if the matter for which review is sought is a rule or regulation promulgated in connection with the administration of this Act. After service of such petition upon the Commissioner and within the time permitted for filing an answer, the Commissioner shall certify to the District Court in which such petition is filed the record of the proceedings to which the petition refers. The cost of preparing and certifying such record shall be paid to the Commissioner by the petitioner and taxed as part of the cost in the case, to be paid as directed by the court upon final determination of said cause.

(5) Trial. (a) The review of an order issued under Section 8.14 of this Act shall be tried in the

same manner as civil actions generally and the complaining party shall be entitled to a jury. The trial shall be governed by the rules of civil procedure and all fact issues material to the validity of such order shall be determined de novo on the preponderance of the evidence and the substantial evidence rule shall not apply. Any relevant and competent evidence shall be admissible for or against the order.

(b) The review of any other act, order, ruling or decision of the Commissioner or of any rule or regulation shall be tried by the court without a jury in the same manner as civil actions generally and all fact issues material to the validity of the Act, order, ruling, decision or rule or regulation complained of shall be redetermined in such trial on the preponderance of the competent evidence, but no evidence shall be admissible which was not adduced at the hearing on the matter before the Commissioner or officially noticed in the record of such hearing.

(6) Burden of Proof and Judgment. The burden of proof shall be on the plaintiff. The reviewing court may affirm the action complained of or remand the matter to the Commissioner for further proceedings.

(7) Appeals. Appeals from any final judgment may be taken by either party in the manner provided for in civil actions generally, but no appeal bond shall be required of the Commissioner.

Slander

Sec. 11.13. Any person who shall knowingly make, utter, circulate or transmit to another, or others, any statement untrue in fact, derogatory to the financial condition of any association subject to this Act or any Federal association in this State, with intent to injure any such financial institution, or who shall counsel, aid, procure or induce another to originate, make, utter, transmit or circulate any such statement or rumor, with like intent, shall be guilty of an offense and upon conviction shall be punished by a fine of not more than Two Thousand, Five Hundred Dollars (\$2,500) or by imprisonment in the State penitentiary for a period not exceeding two (2) years or both by such fine and imprisonment.

Penalty for Embezzlement, Etc.

Sec. 11.14. Every officer, director, member of any committee, clerk or agent of any association subject to this Act or any Federal association in this State who embezzles, abstracts or misapplies any of the moneys, funds or credits of such association, who issues or puts into circulation any warrant or other orders without proper authority, who issues, assigns, transfers, cancels or delivers up any note, bond, draft, mortgage, judgment, decree or any other written instrument belonging to such association, who certifies to or makes a false entry in any book, report or statement of or to such association, with intent in either case to deceive, injure or de-

fraud such association, or any member thereof, or for the purpose of inducing any person to become a member thereof, or to deceive anyone appointed to examine the affairs of such association shall be deemed guilty of a felony and on conviction thereof shall be imprisoned in the State penitentiary for a period of not less than one (1) year nor more than ten (10) years. Whoever, with intent to deceive, injure or defraud aids or abets any officer, member of any committee or other person in committing any of the prohibited acts enumerated herein shall be deemed guilty of a felony, and on conviction thereof shall be imprisoned in the State penitentiary for a period of not less than one (1) year nor more than ten (10) years.

Sec. 11.15. Repealed by Acts 1983, 68th Leg., p. 2785, ch. 477, § 8, eff. Sept. 1, 1983.

Penalty for Failing to Comply With Law

Sec. 11.16. Any association violating the provisions of this law or failing to comply with the provisions of this law or any valid rules or regulations made thereunder may be required by the Commissioner to pay from Five Dollars (\$5) per day to Twenty-five Dollars (\$25) per day to the Commissioner for each day it so fails after lawful notice of the delinquency by the Commissioner. The Attorney General is authorized to file suit for the collection of such penalty upon certification by the Commissioner of the failure or refusal of such association to remit the penalty assessed by him.

Penalty for Suppressing Evidence

Sec. 11.17. Every officer, director, employee or agent of any association subject to this Act who, for the purpose of concealing any fact or suppressing any evidence against himself or against any other person, abstracts, removes, mutilates, destroys or secretes any paper, book or record of any association or of the Commissioner, shall be deemed guilty of a felony and upon conviction therefor, shall be punished by confinement in the State penitentiary for a period of not less than one (1) year nor more than five (5) years.

Disclosure of Examiners—Penalty

Sec. 11.18. The Commissioner and any examiner, inspector, deputy, assistant or clerk, appointed or acting under the provisions of this Act, failing to keep secret any facts or information regarding an association obtained in the course of an examination or by reason of his official position, except when the public duty of such officer required him to report upon or take official action regarding the affairs of the association so examined, or who wilfully makes a false official report as to the condition of such association, shall be removed from his position or office and shall be fined not more than Five Hundred Dollars (\$500), or imprisoned in the county jail for not more than one (1) year, or both. Reports of examinations made to the Commissioner shall be regarded as confidential and not for public record or

inspection, except that for good reason same may be made public by the Commissioner, but copies thereof may, upon request of the association, be furnished to the Federal Home Loan Bank Board or to the Federal Home Loan Bank for the purpose of meeting the requirements of the Federal Home Loan Bank Act. Nothing herein shall prevent the proper exchange of information relating to associations and the business thereof with the representatives of savings and loan departments of other states, but in no case shall the private business or affairs of any individual association be disclosed. Any official violating any provision of this Section, in addition to the penalties herein provided, shall be liable, with his bondsmen, to the person or corporation injured by the disclosure of such secrets. The foregoing provisions shall not apply to any facts or information or to any reports of investigations obtained or made by the Commissioner or his staff in connection with any applications for a charter under this Act or in connection with any hearing held by the Commissioner under this Act, and any such facts, information or reports may be included in the record of the appropriate hearing. Notwithstanding the foregoing, the Commissioner shall report promptly to the Savings and Loan Section of the Finance Commission when either a cease and desist or removal order under Sections 8.13 and 8.14 of this article has been issued to an association. The Commissioner shall furnish such information about the association as the section members shall require in executive session.

Permanent Reserve Fund Stock to be Called Capital Stock

Sec. 11.19. The stock issued by an association under the authority of Section 2.02 shall hereafter be called "Capital" stock rather than "Permanent Reserve Fund" stock and the term "Permanent Reserve Fund" wherever such term appears in the Texas Savings and Loan Act, as amended (Article 852a, Vernon's Texas Civil Statutes), is hereby changed to "Capital."

Change of Control of Association

Sec. 11.20. (a) No person may acquire any voting security of a savings and loan association or of any corporation or other entity owning voting securities of a savings and loan association if, after the acquisition, the person would own or possess the power to vote 25 percent or more of the voting securities of the association unless an application is filed with the commissioner for his review of the proposed transaction and for his action, if any, as provided by this section.

(b) The application must be on a form prescribed by the commissioner and must be made under oath. The application must, except to the extent expressly waived by the commissioner, contain the following information:

(1) the identity, personal history, business background and experience, and financial condition of

each person by whom or on whose behalf the acquisition is to be made, including a description of the managerial resources and future prospects of each acquiring party and a description of any material pending legal or administrative proceedings in which he is a party;

(2) the terms and conditions of any proposed acquisition and the manner in which the acquisition is to be made;

(3) the identity, source, and amount of the funds or other consideration used or to be used in making the acquisition, and if any part of these funds or other consideration has been or is to be borrowed or otherwise obtained for the purpose of making the acquisition, a description of the transaction, the names of the parties, and arrangements, agreements, or understandings with those persons;

(4) any plans or proposals which any acquiring party making the acquisition may have to liquidate the association, to sell its assets or merge it with any company, or to make any other major changes in its business or corporate structure or management;

(5) the terms and conditions of any offer, invitation, agreement, or arrangement under which any voting security will be acquired and any contract affecting that security or its financing after it is acquired; and

(6) other information that the commissioner by rule requires to be furnished in an application as well as any information that the commissioner orders to be included in the particular application being filed.

(c) The applicant shall pay the appropriate filing fee when he files the application. A person proposing to acquire voting securities subject to this section includes an individual, two or more individuals acting in concert, any type of partnership, corporation, syndicate, trust, or any other organization, or any combination of the foregoing, and the information required by the commissioner may be required of each member of the group, as directed by the commissioner. Information obtained by the commissioner under this section is confidential and may not be disclosed by the commissioner or any officer or employee of the Savings and Loan Department, except that the commissioner may in his discretion, if he deems it necessary or proper to the enforcement of the laws of this state or the United States and to the best interest of the public, divulge information to any department, agency, or instrumentality of the state or federal government, and provided that notice of the application, its date of filing, and the identity of all parties to the application shall be submitted to the Texas Register by the commissioner on receipt of the application and shall be published in the next issue of the Texas Register following the date the information is received.

(d) The commissioner shall issue an order denying an application if he finds that:

(1) the acquisition would substantially lessen competition or would in any manner be in restraint of trade and would result in a monopoly or would be in furtherance of a combination or conspiracy to monopolize or attempt to monopolize the savings and loan industry in any part of the state, unless he also finds that the anticompetitive effects of the proposed acquisition are clearly outweighed in the public interest by the probable effect of acquisition in meeting the convenience and needs of the community to be served and that the proposed acquisition is not in violation of any law of this state or the United States;

(2) the poor financial condition of any acquiring party might jeopardize the financial stability of the association being acquired;

(3) plans or proposals to liquidate or sell the association or its assets are not in the best interest of the association;

(4) the experience, ability, standing, competence, trustworthiness, or integrity of the applicant is such that the acquisition would not be in the best interest of the association;

(5) the association will not be solvent, have adequate capital structure, or be in compliance with the laws of this state after the acquisition;

(6) the applicant has failed to furnish all of the information pertinent to the application reasonably requested by the commissioner; or

(7) the applicant is not acting in good faith.

(e) If an application filed under this section is not denied by the commissioner within 60 days after it is filed, the transaction may be consummated. The commissioner may, before the expiration of the 60-day period, give the applicant written notice that the application will not be denied, in which case the transaction may be consummated. Any agreement entered into by the applicants and the commissioner as a condition that the application will not be denied is enforceable against the association and is considered for all purposes an agreement under this Act.

(f) If the commissioner issues an order denying an application, the applicant is entitled to a hearing if he requests one in writing not later than the 30th day after the day the application is filed or the 15th day after the day the application is denied, whichever date is later. After hearing the matter, the commissioner shall, within 30 days, enter a final order either affirming his denial or withdrawing his denial of the application. An applicant may not appeal the commissioner's denial of an application or order affirming his denial until a final order is entered. Any applicant shall have the right to appeal the final order only to the district court of Travis County, Texas, against the Savings and Loan Commissioner of Texas as defendant. The action shall not be limited to questions of law and the substantial evidence rule shall not apply, but the action shall be tried and determined upon a trial de

novo to the same extent as now provided for in the case of an appeal from the justice court to the county court. Either party to the action may appeal to the appellate court having jurisdiction of the cause, and the appeal shall be at once returnable to the appellate court having jurisdiction of the cause and that action shall have precedence in that appellate court over all causes of a different character pending in that court. The commissioner shall not be required to give any appeal bond in any cause arising under this section. The filing of an appeal under this section shall not stay the order of the commissioner adverse to the applicant.

(g) This section does not apply to a conversion, reorganization, merger, consolidation, or voluntary liquidation under Chapter 10, Texas Savings and Loan Act (Article 852a, Vernon's Texas Civil Statutes).

(h) No provision of this section shall excuse or diminish the notice requirements provided elsewhere in this Act.

(i) No provision of this section shall be construed to prevent the commissioner from investigating, commenting upon, or seeking to enjoin or set aside any transfer of voting securities, whether the transfer is included in this section or not, if the commissioner deems the transfer to be against the public interest.

(j) If it appears to the commissioner that any person has committed or is about to commit a violation of this section or any rule or order of the commissioner adopted under it, the attorney general on behalf of the commissioner may apply to the district court of Travis County for an order enjoining the violation and for any other equitable relief as the nature of the case may require.

(k) Any person who wilfully and knowingly makes a materially false or misleading statement to the commissioner with respect to the information required by this section may be fined in an amount not exceeding \$2,000, or be confined in jail for a period not to exceed one year or both. This provision is cumulative of other remedies contained in this section.

(l) The Savings and Loan Section by rule shall adopt a schedule of fees for the filing of applications and the holding of hearings. The schedule may be graduated so that those applications and hearings that are more difficult to review or administer will require a larger fee. An application fee is not refundable on denial of the application, but the commissioner may refund a portion of the fee if the application is withdrawn before he completes review of it. Fees collected under this section shall be deposited and used in accordance with Section (h), Article 5, Chapter II, The Texas Banking Code of 1943 (Article 342-205, Vernon's Texas Civil Statutes).

Applicability of Chapter 4, Business & Commerce Code

Sec. 11.21. An association shall be subject to and shall have the benefit of the provisions of Chapter 4 of the Business & Commerce Code with respect to all items paid, collected, settled, negotiated, or otherwise handled for customers of the association.

[Acts 1963, 58th Leg., p. 269, ch. 113, § 1. Amended by Acts 1965, 59th Leg., p. 492, ch. 254, §§ 1, 2, eff. Aug. 30, 1965; Acts 1969, 61st Leg., p. 1678, ch. 539, § 1, eff. Sept. 1, 1969; Acts 1969, 61st Leg., p. 2363, ch. 800, §§ 1, 2, 3, eff. June 14, 1969; Acts 1971, 62nd Leg., p. 2811, ch. 913, §§ 1, 2, eff. Aug. 30, 1971; Acts 1971, 62nd Leg., p. 2812, ch. 913, § 3, eff. Aug. 30, 1971; Acts 1973, 63rd Leg., p. 1615, ch. 580, §§ 1 to 4, eff. Aug. 27, 1973; Acts 1975, 64th Leg., p. 54, ch. 30, § 1, eff. Sept. 1, 1975; Acts 1975, 64th Leg., p. 401, ch. 177, § 1, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 642, ch. 239, §§ 1 to 5, eff. May 25, 1977; Acts 1983, 68th Leg., p. 1088, ch. 244, § 8, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 2777, ch. 477, §§ 3 to 6, 9 to 11, eff. Sept. 1, 1983.]

Sections 2 to 5 of the 1963 Act provide:

"Sec. 2. Repeal of Conflicting Laws.

"(a) In connection with the general purpose of this Act the following Statutes and Acts, together with all laws or parts of laws in conflict herewith, are hereby repealed:

"(1) Articles 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881 of Title 24, Revised Civil Statutes of Texas; Articles 1134, 1135, 1136, Penal Code of Texas, and all amendments to said Articles.

"(2) Acts 1929, Forty-first Legislature, Second Called Session page 100, Chapter 61, as amended Acts 1930, Forty-first Legislature, Fifth Called Session, page 193, Chapter 51; Acts 1931, Forty-second Legislature, page 53, Chapter 36; Acts 1931, Forty-second Legislature, page 320, Chapter 191; Acts 1931, Forty-second Legislature, page 331, Chapter 198; Acts 1932, Forty-second Legislature, Third Called Session, page 34, Chapter 18; Acts 1932, Forty-second Legislature, Third Called Session, page 32, Chapter 17; Acts 1935, Forty-fourth Legislature, page 159, Chapter 68; Acts 1939, Forty-sixth Legislature, Title: Building and Loan Associations, page 74, Chapter 1, page 76, Chapter 2, page 87, Chapter 3; Acts 1941, Forty-seventh Legislature, page 346, Chapter 188; Acts 1943, Forty-eighth Legislature, page 482, Chapter 323; Acts 1945, Forty-ninth Legislature, page 28, Chapter 18; Acts 1947, Fiftieth Legislature, page 348, Chapter 196; Acts 1947, Fiftieth Legislature, page 488, Chapter 285; Acts 1949, Fifty-first Legislature, page 486, Chapter 263; Acts 1949, Fifty-first Legislature, page 696, Chapter 363; Acts 1949, Fifty-first Legislature, page 966, Chapter 534; Acts 1951, Fifty-second Legislature, page 204, Chapter 119; Acts 1951, Fifty-second Legislature, page 233, Chapter 139; Acts 1953, Fifty-third Legislature, page 1028, Chapter 425; Acts 1957, Fifty-fifth Legislature, page 1319, Chapter 445 (Article 881a, Subdivision 1-69, Vernon's Civil Statutes of Texas).

"(3) Acts 1949, Fifty-first Legislature, page 601, Chapter 319 (Article 881b, Vernon's Civil Statutes of Texas).

"(b) The repeal of a prior act by this Act shall not impair or otherwise affect any right accrued or established, or any liability or penalty incurred, under the provisions of such act prior to the repeal thereof.

"Sec. 3. Severability. If any part, Section, Subsection, paragraph, sentence, clause, phrase, or word contained in this Act shall be held by the courts to be unconstitutional, such holding shall not affect the validity of the remaining portions of the Act, and the Legislature hereby declares that it would have passed such remaining portions despite such invalidity.

"Sec. 4. Effective Date. This Act shall take effect on January 1, 1964.

"Sec. 5. Emergency. The fact that the present laws relating to savings and loan associations are in many respects inadequate, containing in many instances overlapping, ambiguous, inconsistent and obsolete provisions and seriously impairing the efficient opera-

tion of such associations and their ability to serve the public needs in home financing creates an emergency and an imperative public necessity. Demanding that the Constitutional Rule requiring all bills to be read on three several days in each House be suspended and such Rule is hereby suspended and this Act shall take effect and be in full force from and after the date specified in Section 4 hereof and it is so enacted."

Section 6 of the 1977 amendatory act provided:

"If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications to the Act which can be

given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

Acts 1979, 66th Leg., p. 348, ch. 160, eff. May 15, 1979, amended various provisions of The Securities Act (art. 581-1 et seq.).

Section 10 of the 1979 Act provided:

"This Act does not affect Section 11.01, Texas Savings and Loan Act, as amended (Article 852a, Vernon's Texas Civil Statutes), or Article 11a, Chapter IV, The Texas Banking Code of 1943, as added (Article 342-411a, Vernon's Texas Civil Statutes)."

Arts. 853 to 881b. Repealed by Acts 1963, 58th Leg., p. 269, ch. 113, § 2

TITLE 25

CARRIERS

1. DUTIES AND LIABILITIES

- Art.**
882. At Common Law.
883. Liability Fixed; Exceptions for Rates Based on Value; Evidence; Notice of Claim May be Required.
883(a). Declaration of Value; Rates Based on Value; Evidence.
883b. Declaration of Value as Evidence.
884. Must Carry Goods.
885. Must Give Bill of Lading.
886. Liability as a Warehouseman, etc.
887. Diligence in Delivery.
888. Shall Ship in Order.
889. Care of Animals
889a. Repealed.

2. BILLS OF LADING

- 890 to 899. Repealed.

3. DISPOSITION OF UNCLAIMED GOODS

900. Unclaimed Freight.
901. Sale.
902. Sale of Live Stock.
903. Perishable Property.
904. Data Kept.

4. CONNECTING LINES OF COMMON CARRIERS

905. "Connecting Lines."
906. Recovery by Shipper.

5. PROTECTING MOVEMENT OF COMMERCE

907. Protecting Commerce.
908. Governor's Jurisdiction.
909. Arrests.
910. Rangers Used.
911. Scope of Law.

6. REGULATION OF MOTOR CARRIERS

- 911a. Motor Bus Transportation and Regulation by Railroad Commission.
911b. Motor Carriers and Regulation by Railroad Commission.
911c. Unconstitutional.
911d. Regulation of Motor Bus Ticket Brokers.
911e. Unconstitutional.
911f. Motor Transportation Brokers of Fresh Citrus Fruits and Vegetables.
911g. Motor Transportation of Migrant Agricultural Workers.
911h. Agreement Requiring Carrier to Pay Charge Contingent Upon Use of Another Mode of Transportation.
911i. Transporting by Motor Vehicle for Hire Without Permit.
911j. Transportation of Persons for Hire; Agencies for Obtaining Co-Travelers to Share Expenses; License; Penalty.

1. DUTIES AND LIABILITIES

Art. 882. At Common Law

The duties and liabilities of carriers in this State and the remedies against them, shall be the same as are prescribed by the common law except where otherwise provided by this title.

[Acts 1925, S.B. 84.]

Art. 883. Liability Fixed; Exceptions for Rates Based on Value; Evidence; Notice of Claim May be Required

Railroad companies, and other carriers of passengers, goods, wares, and merchandise for hire, within this state, on land, or in boats or vessels on the waters entirely within this state, shall not limit or restrict their liability as it exists at common law, by any general or special notice, or by inserting exceptions in the bill of lading or memorandum given upon the receipt of the goods for transportation or in any other manner whatsoever; provided, however, that the provisions hereof respecting liabilities of carriers as it exists at common law for loss, damage, or injury to baggage and personal effects of passengers transported incident to the carriage of persons, goods, wares, and merchandise shall not apply to property received for transportation concerning which the carriers shall have been or shall hereafter be expressly authorized or required by order of the Railroad Commission of Texas to establish and maintain rates dependent upon the value declared in writing by the shipper of the property or agreed upon in writing as the released value of the property, in which case, such declaration or agreement shall have no effect other than to limit liability and recovery to an amount not exceeding the value so declared or released, and so far as relates to values, shall be valid and is not hereby prohibited. The Railroad Commission of Texas is hereby authorized to fix and establish just and reasonable rates for transportation of goods, wares, and merchandise described by commodities or articles or by generic grouping of commodities or articles, and the baggage and personal effects of passengers, dependent upon the value thereof declared in writing, or agreed upon in writing by the shipper or passenger as the agreed value, under the circumstances and conditions surrounding such transportation. Provided further, that a requirement of a notice or claim consistent with the provisions of Article 5546 of the Revised Civil Statutes of Texas, 1925, as heretofore amended, as a condition precedent to the enforcement of any claim or loss, damage and delay

or either, or any of them, whether inserted in a bill of lading or other contract or arrangement for carriage, or otherwise provided, shall be valid and is not hereby prohibited.

[Acts 1925, S.B. 84. Amended by Acts 1941, 47th Leg., p. 805, ch. 500, § 1; Acts 1965, 59th Leg., p. 581, ch. 295, § 1, eff. Aug. 30, 1965; Acts 1969, 61st Leg., p. 618, ch. 213, § 1, eff. Sept. 1, 1969.]

Section 2 of the 1965 amendatory act provides:

"All other laws or parts of laws in conflict herewith are to the extent of such conflict hereby repealed, provided, however, that nothing herein shall affect the provisions of Acts 1931, 42nd Legislature, page 480, Chapter 277, Section 6aa [art. 911b, § 6aa], requiring that minimum rates, fares and charges of contract carriers shall not be less than the rates prescribed for common carriers for substantially the same service, or the provisions of Acts 1947, 50th Legislature, page 563, Chapter 327 [arts. 883(a), 883b] relating to declaration of value, rates based on value and evidence, with respect to transportation of household goods, personal effects or used office furniture and equipment by specialized motor carriers and other carriers for hire."

Section 2 of the 1969 amendatory act provides:

"All other laws or parts of laws in conflict herewith or to the extent of such conflict are hereby repealed, provided, however, that nothing herein shall affect the provisions of Section 6aa, Chapter 314, General Laws, Acts of the 41st Legislature, Regular Session, 1929, as added by Section 6, Chapter 277, General Laws, Acts of the 42nd Legislature, Regular Session, 1931, (Section 6aa, Article 911a [probably should read "911b"], Vernon's Texas Civil Statutes), requiring that minimum rates, fares, and charges of contract carriers shall not be less than the rates prescribed for common carriers for substantially the same service, or the provisions of Article 883(a), Revised Civil Statutes of Texas, 1925, as added by Section 1, Chapter 327, Acts of the 50th Legislature, Regular Session, 1947, relating to declaration of value, rates based on value, and evidence, with respect to transportation of household goods, personal effects, or used office furniture and equipment by specialized motor carriers and other carriers for hire."

Art. 883(a). Declaration of Value; Rates Based on Value; Evidence

No specialized motor carrier or other carrier for hire, including the carriers referred to in said Article 883, shall be required to accept for transportation household goods, personal effects or used office furniture and equipment, unless the shipper or owner thereof or his agent shall first declare in writing the reasonable value thereof. The carrier shall not be liable in damages for an amount in excess of such declared value for the loss, destruction or damage of such property. The Railroad Commission shall establish adequate rates consistent with such declared values to be assessed and collected by such carriers. If the Railroad Commission fails to establish such rates, then in that event such carriers are authorized to collect reasonable transportation charges consistent with the declared value of such property.

[Acts 1947, 50th Leg., p. 563, ch. 327, § 1.]

Saving Clause

Acts 1965, 59th Leg., p. 581, ch. 295, § 1 and Acts 1969, 61st Leg., p. 618, ch. 213, § 1, which amended art. 883, in § 2 thereof repealed conflicting laws but provided that nothing therein should affect the provisions of this article. See notes under art. 883.

Art. 883b. Declaration of Value as Evidence

The declaration of value by the shipper shall not be admissible as evidence in any court action unless the carrier at the time of acceptance of such shipment had or provided and maintained in force insurance in a solvent company authorized to do business in Texas, or bonds, in an amount equal to such declared value to protect the owner of such shipment against loss or damage thereto; provided, however, this requirement as to insurance or bonds shall not apply to steam or electrical railways.

[Acts 1947, 50th Leg., p. 563, ch. 327, § 2.]

Saving Clause

Acts 1965, 59th Leg., p. 581, ch. 295, § 1, which amended art. 883, in § 2 thereof repealed conflicting laws but provided that nothing therein should affect the provisions of this article. See note under art. 883.

Art. 884. Must Carry Goods

Upon the tender of the legal or customary rates of freight on goods offered for transportation, to a common carrier other than a railroad, such carrier shall receive and transport such goods, provided his vehicle or vessel has capacity safely to carry the goods so offered on the trip or voyage then pending, and such goods are of the kind usually carried upon such vehicle or vessel, and are offered at a reasonable time. Any common carrier refusing to transport goods as above provided or to take the same in the order presented, shall be liable in damages to the party injured, by reason of such refusal, and shall also be liable to a penalty of not less than five nor more than five hundred dollars, to be recovered in each case by the owner of the goods in the county where the wrong is done or where the common carrier resides.

[Acts 1925, S.B. 84.]

Art. 885. Must Give Bill of Lading

Common carriers, when they receive goods for transportation, shall give to the shipper, when it is demanded, a bill of lading, or written receipt stating the quantity, character, order and condition of the goods; and such goods shall be delivered in like order and condition to the consignee, the unavoidable wear and tear¹ and deterioration in due course of transportation only, excepted. Any such common carrier failing to deliver goods as herein required shall be liable to the party injured for his damages, as at common law; and on refusal to execute and deliver a bill of lading or written receipt shall be liable to a penalty of not less than five nor more than five hundred dollars, to be recovered as in the preceding article.

[Acts 1925, S.B. 84.]

¹ Rev.Civ.St.1925 reads "tare."

Art. 886. Liability as a Warehouseman, etc.

Railroad companies and other common carriers having depots and warehouses for storing goods shall be liable as warehousemen are at common law for goods and the care of the same stored at such depots or warehouses before the commencement of the trip or voyage on which said goods are to be transported. They shall be liable as common carriers from the commencement of the trip or voyage until the goods are delivered to the consignee at the point of destination. The trip or voyage shall be considered as having commenced from the time of the signing of the bill of lading, and the liability of the common carrier shall attach, as at common law, from and after such signing.

[Acts 1925, S.B. 84.]

Art. 887. Diligence in Delivery

If the carrier at the point of destination shall use due diligence to notify the consignee, and the goods are not taken by the consignee, and have in consequence to be stored in the depots or warehouses of the common carriers, they shall thereafter only be liable as warehousemen.

[Acts 1925, S.B. 84.]

Art. 888. Shall Ship in Order

Where common carriers receive goods for transportation into their warehouses or depots, they shall forward them in the order in which they are received, the first received to be first forwarded, without giving the preference to one over another. For failure to do so, they shall be liable for all losses occurring while the goods remain, and for all damages occasioned or in any wise resulting from the delay.

[Acts 1925, S.B. 84.]

Art. 889. Care of Animals

A common carrier who conveys live stock of any kind shall feed and water the same during the time of conveyance and until the same is delivered to the consignee or disposed of as provided in this title, unless otherwise provided by special contract. Any carrier who shall fail to so feed and water said live stock sufficiently shall be liable to the party injured for his damages, and shall be liable also to a penalty of not less than five nor more than five hundred dollars, to be recovered by the owner of such live stock in any county where the wrong is done or where the common carrier resides.

[Acts 1925, S.B. 84.]

Art. 889a. Repealed by Acts 1969, 61st Leg., p. 1374, ch. 416, § 9, eff. Sept. 1, 1969

See, now, Human Resources Code, § 121.001 et seq.

2. BILLS OF LADING**Arts. 890 to 898. Repealed by Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, § 10-102, eff. June 30, 1966**

Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, enacting the Uniform Commercial Code, repealed arts. 890 to 898 effective June 30, 1966. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, was itself repealed by Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code effective September 1, 1967. However, the latter Act specifically provided that the repeal did not affect the prior operation of the 1965 Act or any prior action taken under it.

See, now, Business & Commerce Code, § 7.301 et seq.

Art. 899. Repealed by Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, § 4, eff. Sept. 1, 1967

Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopted the Business & Commerce Code.

See, now, Business & Commerce Code, § 35.15.

3. DISPOSITION OF UNCLAIMED GOODS**Art. 900. Unclaimed Freight**

When any freight or baggage has been conveyed by a common carrier to any point in this State, and shall remain unclaimed for the space of three months at the office or depot nearest or most convenient to destination, and the owner, whether known or not, fails within that time to claim such freight or baggage, or to pay the proper charges if there be any against it, it shall be lawful for such common carrier to sell such freight or baggage at public auction, offering each article separately as consigned or checked.

[Acts 1925, S.B. 84.]

Art. 901. Sale

Thirty days' notice of the time and place of sale, and a descriptive list of the packages to be sold, with names and numbers or marks found thereon, shall be posted in three public places in the county where the sale is to be made and on the door of the depot or warehouse if any, where the goods are, and notice shall also be given in at least one newspaper in the county, if any be published therein, for thirty days before sale. Out of the proceeds of such sale, the carrier shall deduct the proper charges on such freight or baggage, including costs of storing and costs of sale, and hold the overplus, if any, to the order of the owner any time within five years, on proof of ownership made by the claimant or his duly authorized agent or attorney.

[Acts 1925, S.B. 84.]

Art. 902. Sale of Live Stock

If any live stock remains unclaimed for the space of forty-eight hours after its arrival at the place of its destination, the carrier may sell the same at

public auction after giving five days' notice of the time and place of such sale, as prescribed in the preceding article and apply the proceeds as prescribed in said article, after deducting reasonable expenses for keeping, feeding and watering said live stock from the time of its arrival at the place of its destination until disposed of as herein provided.

[Acts 1925, S.B. 84.]

Art. 903. Perishable Property

If any perishable property remains unclaimed after arrival of¹ its place of destination until in danger of depreciation the carrier shall sell the same at public auction, after giving five days' notice of the time and place of sale, as prescribed in the second preceding article and apply the proceeds as prescribed in said article.

[Acts 1925, S.B. 84.]

¹ So in enrolled bill; probably should read "at".

Art. 904. Data Kept

In each sale under the three preceding articles the carrier shall keep an account of such sale and the expense thereof proportioned to each article sold, a copy of the notice and a copy of the sale bill.

[Acts 1925, S.B. 84.]

4. CONNECTING LINES OF COMMON CARRIERS

Art. 905. "Connecting Lines"

All common carriers in this State over whose transportation lines, or parts thereof, is transported any freight, baggage or other property received by either of such carriers for shipment or transportation between points in this State, on a contract for carriage recognized, acquiesced in, or acted upon by such carriers shall, with respect to the undertaking and matter of such transportation be considered and construed to be connecting lines. Such lines shall be deemed and held to be agents of each other, each the agent of the others, and all the others the agents of each, and shall be deemed and held to be under a contract with each other and with the shipper, owner and consignee of such property for the safe and speedy transportation of such property from point of shipment to destination; and such contract as to the shipper, owner and consignee of such property shall be deemed and held to be the contract of each of such common carriers. The provisions of this law shall apply whether the route of such freight, baggage or other property be chosen by the owner or his agents, or by the initial carrier to whom such property is delivered. In any suit brought hereunder, the rights, duties and liabilities of the parties shall be determined by the initial contract executed by and between the owner, shipper or his or her duly authorized agents and the initial carrier, unless it be proved that a subsequent contract supported by a valuable consideration moving to the owner or shipper, in addition to that of

the initial contract, was executed by such owner, shipper or his or their duly authorized agents with a subsequent connecting carrier handling the shipment, and the transportation of a caretaker shall not be deemed to be such valuable consideration. In any court of this State, any bill of lading, waybill, receipt, check or other instrument issued by either of such carriers, or other proof showing that either of them has received such freight, baggage or other property for shipment or transportation, shall constitute prima facie evidence of the subsistence of the relations, duties and liabilities of such carrier as herein provided, notwithstanding any stipulation or attempted stipulation to the contrary by such carrier, or either of them, and any stipulation contained in any contract contrary to any provision of this law shall be void.

[Acts 1925, S.B. 84.]

Art. 906. Recovery by Shipper

For any damage or injury to, or loss or delay of, any freight, baggage or other property, sustained anywhere during the transportation over connecting lines or either of them, as contemplated and defined in the preceding article, either or all of such connecting carriers, as the person or persons sustaining such damage may elect to sue therefor in this State, shall be held liable to such person or persons. The provisions of law allowing an apportionment of damage shall not be applicable to suits brought by such person or persons under the provisions of this subdivision except upon the plaintiff's request. Any carrier or carriers held liable under the provisions hereof shall be entitled in a subsequent action to recover the amount of any loss, damage or injury it has been required to pay hereunder, from the carrier or carriers through whose negligence the loss, damage or injury was sustained, together with all costs of suit; and for the purpose of such recovery, it shall only be necessary that the carrier against whom judgment was had, show which carrier or carriers caused the loss or damage and produce satisfactory evidence that the judgment rendered against it has been paid, and in such action between the carriers, the provisions of law allowing an apportionment of damage shall be applicable.

[Acts 1925, S.B. 84.]

5. PROTECTING MOVEMENT OF COMMERCE

Art. 907. Protecting Commerce

If at any time the movement of commerce by common carriers of this State or any of them is interfered with in violation of any of the provisions of Chapter 42 of the Penal Code, and the Governor, after investigation, becomes convinced that the local authorities were failing to enforce the law, either because they were unable or unwilling to do so, the Governor shall, in order to prevent such interference, forthwith issue his proclamations declaring

such conditions to exist and describing the areas thus affected.

[Acts 1925, S.B. 84. Amended by Acts 1973, 63rd Leg., p. 988, ch. 399, § 2(G), eff. Jan. 1, 1974.]

Art. 908. Governor's Jurisdiction

Upon the issuance of the proclamation provided for in the preceding article, the Governor shall exercise full and complete police jurisdiction of the area described in the proclamation whether the same be all within or partly within, or partly without the limits of any incorporated city or county; the exercise of said police jurisdiction by the Governor as above set out, shall supersede all police authority by any and all local authority, provided that the Governor shall not disturb the local authorities in the exercise of police jurisdiction, at any place outside the district described in his proclamation.

[Acts 1925, S.B. 84.]

Art. 909. Arrests

No peace officer of this State shall be permitted to make arrests after the Governor's proclamation has become effective, in the territory embraced by such proclamation, except officers acting under the authority of the Governor under the provisions of this law. Persons arrested within the district shall be delivered forthwith to the proper authorities for trial.

[Acts 1925, S.B. 84.]

Art. 910. Rangers Used

The provisions of this law shall be effective without a declaration of martial law. The State Rangers may be used in the enforcement of the provisions of this law. If a sufficient number of Rangers are not available, the Governor is authorized to employ any number of men to be designated as special Rangers and such men shall have all the power and authority of the regular Rangers, and shall be paid the same salary as the Rangers are paid, and such salaries shall be paid out of the appropriation made to the executive office for the payment of rewards and the enforcement of the law.

[Acts 1925, S.B. 84.]

Art. 911. Scope of Law

Nothing in this law shall be construed as limiting the power and authority of the Governor to declare martial law and to call forth the militia for the purpose of executing the law, when in the judgment of the chief executive it is deemed necessary so to do. This law shall be construed as cumulative of the existing laws of this State, and shall not be held to repeal any of the same except where in direct conflict herewith.

[Acts 1925, S.B. 84.]

6. REGULATION OF MOTOR CARRIERS

Art. 911a. Motor Bus Transportation and Regulation by Railroad Commission

Definitions

Sec. 1. (a) That the term "Corporation" when used in this Act means a corporation, company, association, or joint stock association.

(b) The term "Person" when used in this Act means an individual, firm or co-partnership.

(c) The term "Motor Bus Company" when used in this Act means every corporation or persons as herein defined, their lessees, trustees, receivers, or trustees appointed by any court whatsoever, owning, controlling, operating or managing any motor propelled passenger vehicle not usually operated on or over rails, and engaged in the business of transporting persons for compensation or hire over the public highways within the State of Texas, whether operating over fixed routes or fixed schedules, or otherwise. However, the term "Motor Bus Company" as used in this Act shall not include:

(1) corporations or persons, their lessees, trustees, or receivers, or trustees appointed by any court whatsoever, insofar as they own, control, operate, or manage motor propelled passenger vehicles operated wholly within the limits of any incorporated town or city, and the suburbs thereof, whether separately incorporated or otherwise;

(2) corporations or persons to the extent that they own, control, operate, or manage vehicles used for van-pooling or any other nonprofit ride-sharing arrangement by which a group of people share the expense of operating or owning and operating a vehicle in which they commute to and from work with one member of the group serving as driver in exchange for transportation to and from work and reasonable personal use of the vehicle; or

(3) corporations or persons, their lessees, trustees, or receivers, or trustees appointed by any court whatsoever, insofar as they own, control, operate, or manage motor propelled taxicabs designed for carrying no more than five passengers; permits, licenses, or certificates issued prior to June 1, 1983, would not be affected by the provisions of this exclusion. Such taxicabs are motor buses only when they operate to or from an airport established pursuant to Section 14, Chapter 114, Acts of the 50th Legislature, 1947, as amended (Article 46d-14 Vernon's Texas Civil Statutes).

(d) The term "Public Highway" when used in this Act means every street, road, or highway in this State.

(e) The term "Highway Commission" when used in this Act means the Board of Highway Commissioners of the State of Texas.

(f) The term "Commission" when used in this Act means the Railroad Commission of the State of Texas.

Common Carriers

Sec. 2. All motor-bus companies, as defined herein, are hereby declared to be "common carriers" and subject to regulation by the State of Texas, and shall not operate any motor propelled passenger vehicle for the regular transportation of persons as passengers for compensation or hire over any public highway in this State except in accordance with the provision of this Act, provided, however, that nothing in this Act or any provision thereof shall be construed or held to in any manner affect, limit, or deprive cities and towns from exercising any of the powers granted them by Chapter 147, pages 307 to 318 inclusive, of the General Laws of the State of Texas, passed by the Thirty-third Legislature, or any amendments thereto.

Certificates of Convenience and Necessity

Sec. 3. It is hereby declared that when existing transportation facilities on any highway in this State do not provide passenger service which the Commission shall deem adequate to provide for public convenience on such highway, then such inadequacy of service shall be considered as creating a condition wherein the public convenience and necessity require the designation of, and provision for, additional service on such highway, and it shall be the duty of the Commission to issue certificate or certificates as herein provided, if in the opinion of said Commission the issuance of such certificate will promote the public welfare.

Regulations by Commission

Sec. 4. (a) The Commission is hereby vested with power and authority, and it is hereby made its duty to supervise and regulate the public service rendered by every motor bus company operating over the highways in this State, to fix or approve the maximum, or minimum, or maximum and minimum, fares, rates or charges of, and to prescribe all rules and regulations necessary for the government of, each motor bus company; to prescribe the routes, schedules, service and safety of operations of each such motor bus company; to require the filing of such annual or other reports and of such other data by such motor bus company as the Commission may deem necessary. To ensure non-discriminatory rates, charges, and classifications for all shippers and users of regulated transportation services for which the Commission prescribes rates, charges, and classifications, the Commission shall establish collective ratemaking procedures for all commodities and services for which it prescribes rates, charges, and classifications. Those procedures must assure that respective revenues and costs of carriers engaged in the transportation of the particular commodity or service for which rates are prescribed are ascertained. Failure on the part of any carrier to comply with this subsection or the rules and regulations adopted under it may result in suspension or cancellation of the carrier's operating authority by the Commission.

(b) The Commission is hereby vested with authority to supervise, control and regulate all terminals of motor bus companies, including the location of facilities and charges to be made motor bus companies for the use of such terminal, or termini; provided, that the Commission shall have no authority to interfere in any way with valid contracts existing between motor bus companies and the owner or owners of motor bus terminals at the time of the passage of this Act.

(c) Repealed by Acts 1941, 47th Leg., p. 245, ch. 173, § 2.

(d) The Commission is further authorized and empowered to supervise and regulate motor bus companies in all other matters affecting the relationship between such motor bus companies and the traveling public that may be necessary to the efficient operation of this law.

(e) It shall be unlawful for any motor bus company to sell any tickets for the transportation of passengers within this State over any motor bus line at any rates other than the rates authorized and approved by the Commission under the terms of this law; and it shall be unlawful for any booking agency or brokerage concern, directly or indirectly, to sell tickets for the transportation of passengers over any motor bus line, and no motor bus company shall honor any ticket, or transport any passenger on any ticket so sold by any booking agency or brokerage concern.

(f) The Commission in prescribing and adopting routes and dealing with all other matters affecting the physical operation and control of motor bus companies over the public highways, under the power and authority of this Act, shall give due and proper consideration in forming its conclusions, and prescribing its orders and regulations to the general highway laws of this State, and to the orders, regulations, ordinances, or recommendations of the Highway Commission of Texas, or the Commissioners' Courts of any county or counties, or the local government of any municipality, through or between which the routes for such motor bus companies are prescribed and adopted.

**Application for Certificate or Permit;
Temporary Permits**

Sec. 5. No motor-bus company shall hereafter regularly operate for the transportation of persons as passengers for compensation or hire over the public highways of this State without first having obtained from the Commission under the provisions of this Act a certificate or permit declaring that the public convenience and necessity require such operation; provided, however, that when it appears to the satisfaction of the Commission that any motor-bus company making application for a certificate or permit is operating and has been continuously operating a motor-propelled passenger vehicle service in good faith, over the particular highways designated in said application for certificate or permit, for a

period commencing January 11th, 1927, or prior thereto, said motor-bus company, shall upon application be granted a temporary permit to operate just as said company shall have been operating during said period and no more; said temporary certificate or permit shall become permanent without notice and hearing before the Commission unless a protest shall be filed with the Commission as provided herein; and in the event protest is filed to the application of such motor-bus company then said temporary certificate or permit shall continue in effect until said application and protest is heard and decided upon by the Commission, and said hearing and decision shall be had and rendered by the Commission as speedily as possible.

At any time within thirty days after the day this Act shall take effect anyone affected by the granting of said certificate or permit may file with the Commission, a protest against said certificate or permit becoming or being made permanent, but such protest to be considered by the Commission must be filed within the specified thirty days and shall be in writing, and the author or authors of said protest shall supply the applying motor-bus company with a copy of same, setting forth in reasonable detail the reasons for said protest. In the event of protest to any application of any existing motor-bus company, hearing upon such application and protest shall be had and decision rendered as provided for all other applications.

In all other matters the holders of temporary or permanent certificates or permits obtained in this manner shall be subject to all of the provisions of this Act.

Any right, privilege, permit, or certificate held, owned or obtained by any motor-bus company under the provisions of this Act may be sold, assigned, leased or transferred, or inherited; provided, however, that any proposed sale, assignment, lease or transfer shall be first presented in writing to the Commission for its approval or disapproval and the Commission may disapprove such proposed sale, assignment, lease, or transfer if it be found and determined by the Commission that such proposed sale, assignment, lease or transfer is not made in good faith or that the proposed purchaser, assignee, lessee or transferee is not able or capable of continuing the operation of the equipment proposed to be sold, assigned, leased or transferred, in such manner as to render the service demanded by the public necessity and convenience on and along the designated route.

Provided, however, that any right, privilege, permit or certificate held, owned or obtained by any Motor Bus Company under the provisions of this Act or owned or obtained by any assignee or transferee of any such Motor Bus Company shall be taken and held subject to the right of the State at any time to limit, restrict or forbid the use of the Streets and Highways of this State to any owner or holder of such right, privilege, permit or certificate.

Commission to Determine Necessity for Service

Sec. 6. The Commission is hereby vested with power and authority, and it is hereby made its duty upon the filing of an application for a certificate of public convenience and necessity, to ascertain and determine under such rules and regulations as it may promulgate, after considering existing transportation facilities on such highway, the service rendered and capable of being rendered thereby, and the demand for, or need of additional service, if there exists a public necessity for such service, and if public convenience will be promoted by granting said application and permitting the operating of motor vehicles on the highways designated in such application, as a common carrier for hire.

Interference With General Use of Highways; Refusal Because of Existing Railroad Transportation

Sec. 7. The Commission shall also ascertain and determine if a particular highway or highways designated in said application are of such type of construction or in such state of repair, or subject to such use as to permit of the use sought to be made by the applicant, without unreasonable interference with the use of such highway or highways by the general public for highway purposes. And if the Commission shall determine, after hearing that the service rendered or capable of being rendered by existing transportation facilities or agencies on such highways is reasonably adequate, or that public convenience on such highways would not be promoted by granting of said application and the operation of motor vehicles on the public highways therein designated, or that such highway or highways are not in such state of repair, or are already subject to such use as would not permit of the use sought to be made by the applicant without unreasonable interference with the use of such highway or highways by the general public for highway purposes, then in either or any of such event said application may be denied and said certificate refused, otherwise the application shall be granted and the certificate issued upon such terms and conditions as said Commission may impose and subject to such rules and regulations as it may thereafter prescribe.

The Railroad Commission shall have no power in any event to refuse an application for a certificate of convenience and necessity on the ground that there are existing railroad or interurban railroad transportation facilities sufficient to serve the transportation needs of the territory involved.

In determining whether or not a certificate should be issued, the Commission shall give weight and due regard to (1) probably permanence and quality of the service offered by the applicant, (2) the financial ability and responsibility of the applicant and its organization and personnel (3) the character of vehicles and the character and location of depots or termini proposed to be used, and (4) the experience of the applicant in the transportation of passengers and the character of the bond or insurance proposed

to be given to insure the protection of its passengers and the public.

The Commission shall have the power and authority to grant temporary certificates to meet emergencies and shall have the power to make special rules and regulations to meet special conditions in different localities and for such time as in its judgment may be deemed expedient and best for the public welfare.

Contents of Application

Sec. 8. No application for certificate shall be considered by said Commission except that it shall be reduced to writing and set forth the following facts:

(a) It shall contain the name and address of the applicant, and the names and addresses of its officers, if any, and shall give full information concerning the financial condition and physical properties of the applicant.

(b) The complete route or routes over which the applicant desires to operate, together with a brief description of each vehicle which the applicant intends to use, including the seating capacity thereof.

(c) A proposed time schedule and a schedule of rates showing the passenger fares to be charged between the several points or localities to be served.

(d) It shall be accompanied by a plat or map showing the route or routes over which the applicant desires to operate, on which plat or map shall be delineated the line or lines of any existing transportation company or companies over the highways serving such territory, with the names and addresses of the owner or owners thereof, and shall point out the inadequacy of existing transportation facilities or service, and shall specify wherein additional facilities or service are required and would be secured by the granting of said application.

(e) Every application for a certificate of convenience and necessity shall be accompanied by a filing fee in the sum of Twenty-five (\$25.00) Dollars, which fee shall be in addition to other fees and taxes, and such fees shall be retained by the Commission whether the certificate of convenience and necessity be granted or not.

(f) Every application filed with the Commission for an order approving the lease, sale, or transfer of any certificate of convenience and necessity, or stock of any corporation owning or controlling a "motor bus company" shall be accompanied by a filing fee in the sum of Twenty-five (\$25.00) Dollars, which fee shall be in addition to the other fees and taxes, and shall be retained by the Commission whether the lease, sale, or transfer of the certificate of convenience and necessity, or stock of any corporation owning or controlling a "motor bus company" is approved or not, such fee to be paid by the purchaser.

(g) No stock of any corporation owning and operating any "motor bus company" shall be sold or

transferred without first securing the approval of the Commission as provided for certificates of convenience and necessity, in Section 5 of House Bill No. 50, the same being Chapter 270 of the Acts of the Regular Session of the 40th Legislature of the State of Texas, 1927,¹ and this paragraph shall be cumulative of that section, provided that the provisions of this subsection shall apply only to those cases where the proposed sale will change the controlling interest in such motor bus company.

¹ Section 5 of this Article.

Hearing on Application at Austin; Notice

Sec. 9. Upon the filing of said application the Commission shall fix a time and place for hearing, and the place of hearing shall be the city of Austin, Texas, unless otherwise ordered by said Commission. Notice of the filing of said application, and the time and place of hearing shall be given by mail not less than ten days exclusive of the day of mailing before such hearing, addressed to the owner or owners of existing transportation facilities over the highways, serving such territory as applicant seeks to serve, as well as to the Highway Commission of the State of Texas, the County Judge or Judges of the Counties and to the Mayor of any incorporated city or town, through which such motor carriers seek to operate.

Appearance by Parties Including Highway Commission; Suspension or Revocation of Certificate

Sec. 10. The hearing shall be conducted under such rules and regulations as the Commission may prescribe, and all parties interested, including the Highway Commission of this State, may appear either in person or by counsel, and present such evidence and argument as they may desire and as the Commission may deem pertinent, in favor of or against the granting of said application. It shall be the duty of the Highway Commission of this State, upon the request of the Commission to furnish any and all information that it has at its command relating to the highway or highways designated in such application as well as such other information as said Commission may deem pertinent to the granting or refusal of such application. After such hearing, and such investigation as the Commission may make of its own motion, it shall be the duty of said Commission to either refuse said application and certificate, or to grant said application and issue said certificate, in whole or in part, upon such terms and conditions it may impose, and subject to such rules and regulations as it may thereafter prescribe.

The Commission, at any time by its order duly entered after hearing had upon notice to the holder of any certificate granted under this Act and an opportunity given such holder to be heard, at which hearing it shall be proven to the satisfaction of the Commission that such certificate holder has discontinued operation or has violated or refused or neglected to observe any of its proper orders, rates,

fares, rules, or regulations, may suspend, revoke, alter or amend any certificate issued under the provisions of this Act, provided that the holder of such certificate shall have the right of appeal as provided herein. The Commission may place on probation a person whose certificate has been suspended, but if the Commission does place the certificate holder on probation and does allow him to continue to operate, the fact that the certificate has been suspended and the certificate holder has been put on probation shall appear in the records of the Commission relating to the suspension and probation.

**Liability and Property Damage Insurance;
Protection of Employees**

Sec. 11. The Commission shall, in the granting of any certificate to any motor bus company for regularly transporting persons as passengers for compensation or hire, require the owner or operator to first procure liability and property damage insurance from a company licensed to make and issue such insurance policy in the State of Texas covering each and every motor propelled vehicle while actually being operated by such applicant. The amount of such policy or policies of insurance shall be fixed by the Commission by general order or otherwise, and the terms and conditions of said policy or policies covering said motor vehicle are to be such as to indemnify the applicant against loss by reason of any personal injury to any person or loss or damage to the property of any person other than the assured and his employees. Such policy or policies shall furthermore provide that the insurer will pay all judgments which may be recovered against the insured motor bus company based on claims for loss or damage from personal injury or loss of or injury to property occurring during the term of the said policy or policies and arising out of the actual operation of such motor bus or busses, and such policy or policies shall also provide for successive recoveries to the complete exhaustion of the face amount thereof, and that such judgment will be paid by the insurer irrespective of the solvency or insolvency of the insured. Such liability and property damage insurance as required by the Commission shall be continuously maintained in force on each and every motor propelled vehicle while being operated in common carrier service. In addition to the insurance hereinabove set forth, the owner or operator shall also protect his employees by taking out workmen's compensation insurance either as provided by the Workmen's Compensation Laws of the State of Texas or in a reliable insurance company approved by the Railroad Commission of the State of Texas. The taking out of such indemnity policy or policies shall be a condition precedent to any operation and such policy or policies as required under this Act, shall be approved and filed with the Commission and failure to file and keep such policy or policies in force and effect as provided herein shall be cause for the revocation of the certificate

and shall subject the motor bus company so failing to the penalties prescribed herein.

Cab Cards and Identifying Marks

Sec. 11-A. (a) It shall be unlawful for any motor bus company, as hereinbefore defined, to operate any motor bus within this State unless there shall be in the cab of the motor bus a cab card to be furnished by the Commission. The cab card shall be so designed as to identify the vehicle as being a motor bus authorized to operate under the terms of this law, and the rules and regulations of the Commission, and shall bear the certificate number, vehicle unit number, and permanent vehicle identification number. Cab cards shall be issued annually and placed in the cab of each motor bus not later than September first of each year. The Commission is authorized to collect from the applicant a fee of One (\$1.00) Dollar for each cab card issued and said fee shall be deposited in the State Treasury to the credit of the "Motor Transportation Fund."

(b) A motor bus covered by this section must have in a conspicuous place on each side of the power unit in plainly legible print the name of the carrier, the unit number of the vehicle, and the number of the certificate or permit authorizing the service. These identifying marks must be in letters and numbers not less than two (2) inches in height and one-fourth (1/4) inch in width.

**Commission to Hear Applications and Complaints
Presented; Attendance of Witnesses**

Sec. 12. The Commission shall have the power and authority under this Act to hear and determine all applications of motor-bus companies; to determine complaints presented to it by motor-bus companies, by any public official or by any citizen having an interest in the subject matter of the complaint, or it may institute and investigate any matter pertaining to automobile passenger transportation for compensation or hire upon its own motion. The Commission or any member thereof, or authorized representative of the Commission, shall have the power to compel the attendance of witnesses, swear witnesses, take their testimony under oath, make record thereof, and if such record is made under the direction of a Commissioner, or authorized representative of the Commission a majority of the Commission may upon the record render judgment as if the case had been heard before a majority of the members of the Commission. The Commission shall have the power and authority under this Act to do and perform all necessary things to carry out the purpose, intent, and provisions of this Act, whether herein specifically mentioned or not, and to that end may hold hearings at any place in Texas which it may designate.

Per Diem and Mileage of Witnesses

Sec. 13. Each witness who shall be summoned to appear before the Commission or a Commissioner or authorized representative outside the county of

his residence shall receive for his attendance the same per diem and fees as now provided for witnesses in attendance on district courts of this State in criminal cases; such fees and mileage shall be ordered paid upon proper voucher, sworn to by such witness and approved by the Commission or the Chairman thereof, out of the monies and funds arising under this Act; provided that no witness shall be entitled to any witness fees or mileage who is directly or indirectly interested in any motorbus or other transportation company involved in or concerning which the investigation or hearing on account of which he is called shall relate, and no witness furnished with free transportation shall receive pay for the distance he may have traveled on such free transportation. All process issued by the Commission for summoning witnesses or other purposes shall be directed to the sheriff or any constable of any county in the State of Texas and any sheriff or constable of any county in this State shall promptly execute any subpoena or other document directed to him by the Commission and shall receive such fees for this service as is now paid for like services in the district courts of this State, such payment to be made on accounts properly verified and approved by the Commission or the Chairman thereof out of the fund provided in this Act.

Penalty for Violation of Act

Sec. 14. (a) Any officer, agent, servant, or employee of any corporation and every other person who violates or fails to comply with, or who procures, aids, or abets in the violation of any provisions of this Act shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not to exceed Five Hundred (\$500.00) Dollars, or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment; and the violations occurring on each day shall each constitute a separate offense.

(b) Any officer, agent, servant, or employee of any motor bus company as heretofore defined, and any motor bus company, as heretofore defined and/or the owner or operator, officer, servant, agent or employee, or any such owner or operator of any bus terminal who violates or fails to obey, observe or comply with any order, decision, rule or regulation, direction, demand or requirement of the Commission shall be subject to and shall pay a penalty not exceeding Five Hundred (\$500.00) Dollars, for each and every day of such violation. Such Penalty to be recovered in any court of competent jurisdiction in Travis County, Texas, or in the County in which the violation occurs. Suit for such penalty or penalties shall be instituted and conducted by the Attorney General of the State of Texas, or by the county or district attorney of the county in which the violation occurs, in the name of the State of Texas, and by direction of the Railroad Commission of Texas.

(c) Upon the violation of any provisions of this Chapter, or upon the violation of any rule, regula-

tion, order or decree of the Commission, promulgated under the terms of this Act, any district court of Travis County, Texas, or any district court of any county where such violation occurs, shall have the power to restrain and enjoin the person, firm or corporation so offending from further violating the provisions of this Act, or from violating the rules, regulations, orders and decrees of the Commission. Such injunctive relief may be granted upon the application of the Commission, or upon the application of any person authorized by it to act, or upon the application of any "motor bus company" holding a certificate of convenience and necessity over the route affected, and against any "motor bus company" violating the provisions of this Act and not holding a certificate over such route and attempting to operate or operating over said route. Such relief may be granted in suits for penalties as provided in sub-division (b) of this Section, but a suit for penalty shall not be a condition precedent to the injunctive relief provided by this Section.

(d) Any authorized inspector for the Commission shall have the power and authority to make arrests for the violation of this Act, coming under his observation, but such authority to make arrests shall be confined solely to the violations of this Act, provided, further that it shall be the duty of all law enforcement officers of this State to enforce the provisions of this Act.

Minimum Bus Fees; Payment to State Treasurer

Sec. 15. For the purpose of defraying the expense of administering this Act, every motor bus company now operating, or which shall hereafter operate in this State, shall, in addition to other fees and charges provided for by law, at the time of the issuance of a certificate of convenience and necessity, as provided herein, and annually thereafter pay a special minimum fee of Ten Dollars (\$10) for each motor-propelled vehicle, and a further fee, computed on the basis of One Dollar (\$1) per passenger seat for the rated passenger capacity of the vehicle, or vehicles used.

If the certificate of convenience and necessity herein referred to is issued after the month established for registration, the fees paid shall be proportionate to the remaining portion of the registration year, but in no case less than one-fourth ($\frac{1}{4}$) the annual fee. In case of emergencies or unusual temporary demands for transportation, the fee for additional motor-propelled vehicles for less periods shall be fixed by the Commission in such reasonable amount as may be prescribed by general rule or temporary order.

All fees accruing hereunder and all fines and penalties collected under the provisions of this Act shall be payable to the State Treasurer at Austin, Texas, and shall, by the State Treasurer, be deposited in the State Treasury at Austin and credited to the General Revenue Fund.

The Commission, by rule, may adopt a system under which fees become due on various dates during the year. In the year in which the registration expiration date is changed, the fees payable under the existing system shall be prorated on a monthly basis so that each registrant shall pay only that portion of the fee that is allocable to the number of months during which the registration is valid. On renewal of the registration on the new expiration date, the total registration renewal fee is payable.

Sec. 16. Repealed by Acts 1961, 57th Leg., p. 498, ch. 240, § 2.

Review of Decisions of Commission by District Court, Travis County

Sec. 17. If any such auto transportation company, association, corporation, or other party at interest be dissatisfied with any decision, rate, charge, rule, order, act, or regulation adopted by the Commission, such dissatisfied person, association, corporation, or party may file a petition setting forth the particular objection to such decision, rate, charge, rule, order, act, or regulation, or to either or all of them in the district court in Travis County, Texas, against said Commission as defendant. Said action shall have precedence over all other causes on the docket of a different nature and shall be tried and determined as other civil causes in a said court; either party to said action may appeal to the appellate court having jurisdiction of said cause and said appeal shall be at once returnable to said appellate court having jurisdiction of said cause and said action so appealed shall have precedence in said appellate court over all causes of a different character therein pending; provided, that if the court be in session at the time such right of action accrues the suit may be filed during such term and stand ready for trial after ten days notice. In all trials under this section the burden of proof shall rest upon the plaintiff who must show by the preponderance of evidence that the decisions, rates, regulations, rules, orders, classifications, acts, or charges complained of are unreasonable and unjust to it or them. The Commission shall not be required to give any appeal bond in any cause arising hereunder and no injunction shall be granted against any order of the Commission without hearing unless it shall clearly appear that irreparable injury will be done the complaining party if the injunction is not granted.

Ten Days as Reasonable Notice

Sec. 18. Whenever notice is required in this Act to be given ten days exclusive of the day of service and return shall be considered as reasonable notice; provided, that in case of emergency the Commission may hear any cause or complaint on less than ten days notice.

Office Provided by Board of Control

Sec. 19. The State Board of Control is hereby authorized and directed to set aside such additional

office space in the Capitol at Austin as may be deemed necessary by the Commission for the proper performance of its added duties as herein defined.

[Acts 1927, 40th Leg., p. 399, ch. 270. Amended by Acts 1929, 41st Leg., 1st C.S., p. 196, ch. 78, §§ 1 to 6; Acts 1961, 57th Leg., p. 498, ch. 240, §§ 1, 2; Acts 1981, 67th Leg., p. 68, ch. 30, § 1, eff. April 10, 1981; Acts 1981, 67th Leg., p. 294, ch. 118, § 1, eff. May 13, 1981; Acts 1981, 67th Leg., p. 2622, ch. 705, § 1, eff. Sept. 1, 1981; Acts 1983, 68th Leg., p. 1165, ch. 263, §§ 3, 9, 14, eff. Sept. 1, 1983; Acts 1983, 68th Leg., 1st C.S., p. 13, ch. 2, § 1, eff. Sept. 1, 1983.]

Construction of 1983 Amendment

Acts 1983, 68th Leg., 1st C.S., p. 13, Senate Concurrent Resolution No. 6, provides:

"WHEREAS, In the enrollment of that portion of H.B. 593, Acts of the 68th Legislature, Regular Session, 1983, amending Subsection (c), Section 1, Chapter 270, Acts of the 40th Legislature, Regular Session, 1927 (Article 911a, Vernon's Texas Civil Statutes), a change was made to a statutory citation appearing in a Senate amendment to Section 14 of that bill so that the bill was made to refer to all of Chapter 114, Acts of the 50th Legislature, 1947, as amended (Article 46d-1 et seq., Vernon's Texas Civil Statutes), rather than only Section 14 of that chapter; and

"WHEREAS, The intent of the Senate in adopting the amendment and the intent of the House of Representatives in concurring in the amendment was that the citation refer only to Section 14, Chapter 114, Acts of the 50th Legislature, 1947, as amended (Article 46d-14, Vernon's Texas Civil Statutes); now, therefore, be it

"RESOLVED by the Senate of the State of Texas, the House of Representatives concurring, That the Legislature intends that the citation in question refer only to Section 14, Chapter 114, Acts of the 50th Legislature, 1947, as amended (Article 46d-14, Vernon's Texas Civil Statutes), and this citation shall be so construed."

Art. 911b. Motor Carriers and Regulation by Railroad Commission

Definitions

Sec. 1. When used in this Act unless expressly stated otherwise:

(a) The term "person" means and includes an individual, a firm, co-partnership, corporation, company, an association or a joint stock association.

(b) The term "Commission" means the Railroad Commission of the State of Texas.

(c) The term "Highway Commission" means the Board of Highway Commissioners of the State of Texas.

(d) The term "public highway" means every street, road or highway in this State.

(e) The term "certificate" means certificate of public convenience and necessity issued under this Act.

(f) The term "permit" means the permit issued to contract carriers under the terms of this Act.

(g) The term "motor carrier" means any person, firm, corporation, company, copartnership, association or joint stock association, and their lessees, receivers, or trustees appointed by any court whatsoever owning, controlling, managing, operating, or causing to be operated any motor-propelled vehicle used in transporting property for compensation or hire over any public highway in this state; where in the course of such transportation a highway between two or more incorporated cities, towns or villages is traversed.

Provided, that the term "motor carrier" as used in this Act shall not include, and this Act shall not apply to motor vehicles engaged in the transportation of property for compensation or hire between points:

(1) Wholly within any one incorporated city, town or village;

(2) Wholly within an incorporated city, town or village and all areas, incorporated or unincorporated, wholly surrounded by such city, town or village;

(3) So situated that the transportation is performed wholly within an incorporated and immediately adjacent unincorporated area without operating within or through the corporate limits of more than a single incorporated city, town or village, except to the extent provided in (2) above; or

(4) Wholly within the limits of a base incorporated municipality and any number of incorporated cities, towns and villages which are immediately contiguous to said base municipality.

Provided further, that motor carriers authorized to serve any incorporated city, town or village within the areas described in (2), (3), and (4) above, except carriers of commodities in bulk in tank trucks and all specialized motor carriers, may perform service for compensation or hire between all points within the areas described in (2), (3), and (4) above, on the one hand, and, on the other, authorized points beyond such areas without a certificate or permit authorizing service at all points within such areas when such transportation is incident to, or a part of, otherwise regulated transportation performed under a through bill of lading.

Provided further, that after notice and public hearing the Railroad Commission of Texas is hereby authorized, except as to operations of carriers of commodities in bulk in tank vehicles and all specialized motor carriers, from time to time and where

necessary, to define and prescribe, and where necessary shall prescribe, commercial zones adjacent to and commercially a part of any specified incorporated municipality and within which operations as a motor carrier may be performed without a certificate or permit authorizing same and within which strictly local service wholly within such commercial zone may be performed at rates and charges other than those prescribed by the Commission. The Commission in so determining and prescribing the limits of any commercial zone shall take into consideration its powers and duties otherwise to administer and enforce the Motor Carrier Act considered in the light of the economic facts and conditions involved in each commercial zone or proposed commercial zone, particularly the effect that unregulated transportation for compensation or hire within such zone or proposed zone has had or may have upon fully regulated motor carriers operating in regulated intrastate commerce to, from and within such commercial zone. The Railroad Commission is empowered to prescribe such rules and regulations for operation of such transportation as the Commission deems in the public interest.

(h) The term "contract carrier" means any motor carrier as hereinabove defined transporting property for compensation or hire over any highway in this State other than as a common carrier.

(i) "Specialized motor carrier" means any person owning, controlling, managing, operating, or causing to be operated any motor-propelled vehicle used in transporting, over any public highway in this state, over irregular routes on irregular schedules, for compensation and for the general public with specialized equipment, property requiring specialized equipment in the transportation and handling thereof; provided, that the term "specialized motor carrier" as used in this Act shall not apply to motor vehicles operated exclusively within the incorporated limits of cities or towns; and, provided further, the term "specialized motor carrier" as used herein shall include those carriers who engage or desire to engage exclusively in the transportation of livestock, livestock feedstuff, agricultural products in their natural state, broom corn, grain, farm machinery, timber in its natural state, milk, wool, mohair, or property requiring specialized equipment as that term is hereinafter defined, or any one, or more, of the foregoing named commodities.

For the purpose of this Act, the term "specialized equipment" includes, but is not limited to block and tackle, hoists, cranes, windlasses, gin poles, winches, special motor vehicles, and such other devices as are necessary for the safe and proper loading or unloading of property requiring specialized equipment for the transportation and handling thereof.

For the purpose of this Act, the term "property requiring specialized equipment" is limited to (1) oil field equipment, (2) household goods and used office furniture and equipment, (3) pipe used in the construction and maintenance of water lines and pipe-

lines, and (4) commodities which by reason of length, width, weight, height, size, or other physical characteristics require the use of special devices, facilities, or equipment for their loading, unloading, and transportation.

For the purpose of this Act, the term "oil field equipment" means and includes machinery, materials, and equipment incidental to or used in the construction, operation, and maintenance of facilities which are used for the discovery, production, and processing of natural gas and petroleum, and such machinery, materials, and equipment when used in the construction and maintenance of pipelines.

(j) The term "transporting property for compensation or hire" shall include the furnishing during the same period of time of equipment and drivers to persons, firms, co-partnerships, associations or joint stock associations other than common carriers, contract carriers, specialized motor carriers for use in their carrier operations whether the equipment and drivers are furnished by the same or separate person, firm, co-partnership, association or joint stock association, and their lessees, receivers or trustees appointed by any court whatsoever owning, controlling, managing, operating or causing to be operated any motor-propelled vehicle, provided, when the owner of a motor-propelled vehicle furnishes, by lease, the motor-propelled vehicle and is employed to operate such motor-propelled vehicle by the person to whom the equipment is furnished, and when such motor-propelled vehicle and the operator thereof are to be engaged exclusively in the transportation of sand, gravel, dirt, caliche, shell, asphalt rock, crushed stone, hot-mix asphaltic concrete (not liquid asphalt), and aggregate, in bulk, when such substances have been processed by the person to whom the equipment is furnished, and when such substances are being transported by the lessee to or from the job site of any construction project, being performed by the lessee for or on behalf of the Federal Government, the State of Texas, or any political subdivision thereof, or to or from the construction site of any national defense project, airport and roadways leading thereto, or to or from the construction site of any road, highway and expressway, the owner of the motor-propelled vehicle so furnished and so used shall not be considered engaging in transportation for compensation or hire as that term is defined.

Exceptions to Definition of Terms "Motor Carrier", "Contract Carrier" and "Transporting Property for Compensation or Hire"

Sec. 1a. (1) Provided, however, that the term "Motor Carrier" and the term "Contract Carrier" as defined in the preceding Section shall not be held to include:

(a) Any person having a regular, separate, fixed, and established place of business, other than a transportation business, where goods, wares, and merchandise are kept in stock and are primarily and

regularly bought from the public or sold to the public or manufactured or processed by such person in the ordinary course of the mercantile, manufacturing, or processing business, and who, merely incidental to the operation of such business, transports over the highways of this state such goods of which such person is the bona fide owner by means of a motor vehicle of which such person is the bona fide owner; nor

(b) Any person transporting farm implements, livestock, livestock feedstuffs, dairy products, horticultural products, floral products, agricultural products, timber in its natural state, or wool and mohair of which such person is the bona fide owner on a vehicle of which he is the bona fide owner to and from the area of production and to and from the market or place of storage thereof; provided, however, if such person (other than a transportation company) has in his possession under a bona fide consignment contract livestock, wool, mohair, milk and cream, fresh fruits and vegetables, or timber in its natural state under contract, as an incident to a separate, fixed, and established business conducted by him the said possession shall be deemed ownership under this Act;

(c) Where merely incidental to a regular, separate, fixed, and established business, other than a transportation business, the transportation of employees, petroleum products, and incidental supplies used or sold in connection with the wholesale or retail sale of such petroleum products from the refinery or place of production or place of storage to the place of storage or place of sale and distribution to the ultimate consumer, in a motor vehicle owned and used exclusively by the marketer or refiner, or owned in whole or in part and used exclusively by the bona fide consignee or agent of such single marketer or refiner; as well as where merely incidental to a regular, separate, fixed, and established business, other than a transportation business, the transportation of petroleum, employees, material, supplies, and equipment for use in the departments of the petroleum business by the bona fide owner thereof in a vehicle of which he is the bona fide owner; bona fide consignee or agent as used herein being hereby defined and construed, for the purpose of this Act, to mean a person under contract with a single principal to distribute petroleum products in a limited territory and only for such single principal; nor

(d) Any utility company using its own equipment transporting its own property over the highways;

(e) Any person transporting fresh iced fish or shellfish from a coastal production-landing point to an initial packing or freezing plant located not more than seventy-five miles inland from the coast of Texas, regardless of the distance of such initial packing or freezing plant from the coastal production-landing point, and regardless of whether or not such person owns said fish or shellfish; provided, however, that such person shall have first filed with

the Railroad Commission of Texas certificates of insurance covering each motor vehicle to be used in such transportation with public liability and property damage insurance in the amounts required by the Commission for motor vehicles subject to its regulation;

(f) Any person transporting fresh vegetables, fresh fruits, or flax straw from the place where produced agriculturally and harvested to a point where the fresh fruits, vegetables, or flax straw are first processed, including but not limited to packing plants, canning plants, freezing plants and fiber or straw processing plants and regardless of whether or not such person owns said fresh fruits, fresh vegetables, or flax straw, provided such transportation does not exceed a total of seventy-five (75) miles in distance, except such transportation between points in the counties of Kinney, Uvalde, Maverick, Zavala, Dimmit, Webb, Zapata, Starr, Hidalgo, Cameron and Willacy, Texas; provided, however, that such person shall have first filed with the Railroad Commission of Texas certificates of insurance covering each motor vehicle to be used in such transportation with public liability and property damage insurance in the amounts required by the Commission for motor vehicles subject to its regulations.

(2) The term "person" as used in this Act shall include persons, firms, corporations, companies, co-partnerships, or associations or joint stock associations (and their receivers or trustees appointed by any Court whatsoever).

(3) The term "transporting property for compensation or hire" defined in Section 1(j) of this Act does not include furnishing of equipment and drivers during the same period of time by separate persons to a person who is not a common carrier, contract carrier, or specialized motor carrier for his use in bona fide private carriage in furtherance of a primary nontransportation business, provided that the person furnishing the equipment is in the bona fide business of leasing or renting motor vehicle equipment without drivers for compensation to the general public and has complied with the provisions of Section 2(a), (b), and (c) of Chapter 209, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 6701c-1, Vernon's Texas Civil Statutes), and provided further that said equipment is furnished under a bona fide written lease or rental agreement providing for the exclusive use and possession of said equipment for a minimum of seven consecutive days, and provided further that the person to whom the equipment and drivers are furnished directs, supervises, and controls the drivers and the use of the equipment, including maintaining all dispatch records and maintaining and filing all safety records and reports required by the United States Department of Transportation, the Texas Department of Public Safety, and the commission. The person to whom the drivers are furnished may pay the drivers' compensation or any required taxes or workman's compensation insur-

ance payments directly to the person furnishing the drivers.

Private Motor Vehicle Owners

Sec. 1b. Any person who transports goods, wares, or merchandise under the circumstances set forth in the foregoing Section 1a so as to be excluded by the terms of said Section from the definition of "motor carrier" or "contract carrier" shall be deemed to be a private motor vehicle owner; and such use of the highways by such private motor vehicle owners, as herein defined, shall be construed as use of the highways for the general public and not the use of such highways for the carrying on the business of transporting property for compensation or hire.

Hire Transportation of Oil Field Equipment

Sec. 1c. The terms "Motor Carrier" and "Specialized Motor Carrier," as used in Section 1 of this Act, shall apply to and include all for hire transportation of oil field equipment, as defined in subdivision (i) of Section 1 of this Act, over the public highways of this State outside the corporate limits of cities or towns, irrespective of whether in the course of such transportation a highway between two (2) or more incorporated cities, towns, or villages is traversed.

The provisions of this Section 1c shall not apply to or include vehicles used exclusively in the stringing of pipe for pipelines, nor shall this Section 1c apply to or include the transportation of water, drilling mud, petroleum and petroleum products in bulk, in tank trucks, when such substances are used in connection with the servicing of oil and gas wells, unless in the course of such transportation a highway between two (2) or more incorporated cities, towns or villages is traversed.

Nothing in this Section 1c shall in anywise repeal, alter, amend or affect any of the provisions of Chapter 290, Acts, Regular Session, Forty-seventh Legislature (being Sections 1a and 1b of this Act and now codified as Sections 1a and 1b of Article 911b, Vernon's Texas Civil Statutes).

Transportation of Cornish Hens or Commercial Broilers

Sec. 1d. Provided, however, that in any proceeding in which or in connection with which the Commission specifically finds that the public interest requires that specialized motor carriers of Cornish hens and/or commercial broilers or other specified special commodities should be permitted to commence new certificated operations or to perform new certificated services under existing conditions and without prior approval by the Commission of rates, fares and charges for such new service, then, in such event, and pursuant to such finding, such new certificated operations or new certificated services may be commenced and performed under existing conditions and absent prior approval by the Commission of applicable rates, fares and charges.

The term "Cornish hen" means a chicken which is approximately five weeks of age and the term "commercial broiler" means a chicken which is seven to eight weeks of age.

Wrecker Type Vehicles

Sec. 1 $\frac{1}{4}$. The term "Specialized Motor Carrier" and "Specialized Equipment" shall not include wrecker type vehicles used incidental to or as an adjunct to the carrying on of the primary business of buying, selling, exchanging, repairing, storing, servicing or wrecking motor vehicles.

Compliance With Act by Motor Carriers

Sec. 2. No motor carrier, as defined in the preceding section, shall operate any motor-propelled vehicle for the purpose of transportation or carriage of property for compensation or hire over any public highway in the State except in accordance with the provisions of this Act; provided, however, that nothing in this Act or any provision thereof shall be construed or held to in any manner affect, limit or deprive cities and towns from exercising any of the powers granted them by Chapter 147, Pages 307 to 318, inclusive of the General Laws of the State of Texas, passed by the 33rd Legislature, or any amendments thereto.

Certificate of Convenience and Necessity

Sec. 3. No motor carrier shall, after this Act goes into effect, operate as a common carrier without first having obtained from the Commission, under the provisions of this Act, a certificate of public convenience and necessity pursuant to a finding to the effect that the public convenience and necessity require such operation. No motor carrier shall, after this Act goes into effect, operate as a contract carrier without first having obtained from the Commission a permit so to do, which permit shall not be issued until the applicant shall have in all things complied with the requirements of this Act.

Supervision and Regulation by Commission

Sec. 4. (a) The commission is hereby vested with power and authority and it is hereby made its duty to supervise and regulate the transportation of property for compensation or hire by motor vehicle on any public highway in this State, to fix, prescribe or approve the maximum or minimum or maximum and minimum rates, fares and charges of each motor carrier in accordance with the specific provisions herein contained, to prescribe all rules and regulations necessary for the government of motor carriers, to prescribe rules and regulations for the safety of operations of each of such motor carriers, to require the filing of such monthly, annual or other reports and other data of motor carriers as the Commission may deem necessary, to prescribe the schedules and services of motor carriers operating as common carriers, and to supervise and regulate motor carriers in all matters affecting the relation-

ship between such carriers and the shipping public whether herein specifically mentioned or not. To ensure nondiscriminatory rates, charges, and classifications for all shippers and users of regulated transportation services for which the Commission prescribes rates, charges, and classifications, the Commission shall establish collective ratemaking procedures for all commodities and services for which it prescribes rates, charges, and classifications. Those procedures must assure that respective revenues and costs of carriers engaged in the transportation of the particular commodity or service for which rates are prescribed are ascertained. Failure on the part of any carrier to comply with this subsection or the rules and regulations adopted under it may result in suspension or cancellation of the carrier's operating authority by the Commission.

(b) Repealed by Acts 1941, 47th Leg., p. 245, ch. 173, § 2.

(c) The Commission is further authorized and empowered, and it shall be its duty, to supervise and regulate motor carriers in all matters affecting the relationship between such motor carriers and the shipping public that may be necessary in the interest of the public.

(d) The Commission is further authorized and empowered, and it shall be its duty, to supervise and regulate motor carriers in all matters whether specifically mentioned herein or not so as to carefully preserve, foster and regulate transportation and to relieve the existing and all future undue burdens on the highways arising by reason of the use of the highways by motor carriers, adjusting and administering its regulations in the interests of the public.

The Commission, in prescribing and adopting rules and regulations and in forming its conclusions and in prescribing its orders, shall invite the Highway Commission's opinion on the condition of the public highways involved and the ability of said highways to carry the existing and proposed additional traffic, and the Commission shall give due and proper consideration to the orders, regulations, ordinances or recommendations of the Highway Commission of Texas; provided, however, nothing herein contained shall be deemed to restrict the powers of the Highway Commission under existing laws. The Commission shall also give due and proper consideration to the recommendations of the Commissioners' Courts of the several Counties and to the recommendations of the local government of any municipality through or between which motor carriers operate.

(e) In enforcing motor carrier entry requirements, the Commission shall require that the applicant and the protestant make the showings otherwise required by law and the showings required by this subsection. In determining the issues of public convenience and necessity, the Commission shall give no consideration to any protestant who does not show it possesses authority to handle, in whole or in part, the traffic for which authority is sought,

it is willing and able to provide service that meets the reasonable needs of the shippers involved, and it has either performed service within the geographical scope of the application during the preceding 24-month period or has, actively and in good faith, solicited service within the geographical scope of the application during such period. Also, in determining the issues of public convenience and necessity, the Commission shall give no consideration to services and facilities of motor carriers not parties to the proceeding. With respect to showing public convenience and necessity, the applicant is required to prove a prima facie case that the public convenience would be promoted and a prima facie case that a public necessity exists, and in these circumstances, the burden of proof to show that the public convenience would not be promoted or that a public necessity does not exist for the proposed service or that the existing carriers are rendering a reasonably adequate service shifts from the applicant to the opposing carrier or carriers.

Commission to Issue Certificates of Convenience and Necessity; Assignment or Sale of Certificate

Sec. 5. No motor carrier shall hereafter operate as a common carrier for the transportation of property for compensation or hire over the public highways of this State without first having obtained from the Commission, under the provisions of this Act, a certificate declaring that the public convenience and necessity requires such operation; provided, however, the Commission shall, without application or hearing when this Act goes into effect, issue all motor carriers then operating lawfully under permanent certificates of public convenience and necessity heretofore issued to them, certificates in lieu of the certificates issued under the terms of the former law covering the same routes that said common carrier shall have been operating over, and no more.

Any certificate held, owned or obtained by any motor carrier operating as a common carrier under the provisions of this Act may be sold, assigned, leased, transferred or inherited; provided, however, that any proposed sale, lease, assignment or transfer shall be first presented in writing to the Commission for its approval or disapproval, and the Commission may disapprove such proposed sale, assignment, lease or transfer if it be found and determined by the Commission that such proposed sale, assignment, lease or transfer is not in good faith or that the proposed purchaser, assignee, lessee or transferee is not able or capable of continuing the operation of the equipment proposed to be sold, assigned, leased or transferred in such manner as to render the services demanded by the public necessity and convenience on and along the designated route, or that said proposed sale, assignment, lease or transfer is not best for the public interest; the Commission, in approving or disapproving any sale, assignment, lease or transfer of any certificate, may take into consideration all of the requirements and qualifications of a regular applicant re-

quired in this Act and apply same as necessary qualifications of any proposed purchaser, assignee, lessee or transferee; provided, however, that in case a certificate is transferred that the transferee shall pay to the Commission a sum of money equal to ten per cent (10%) of the amount paid as a consideration for the transfer of the certificate, which sum of ten per cent (10%) shall be deposited in the State Treasury to the credit of the Highway Fund of the State; provided further, that any certificate obtained by any motor carrier or by any assignee or transferee shall be taken and held subject to the right of the State at any time to limit, restrict or forbid the use of the streets and highways of this State to any holder or owner of such certificate. Every application filed with the Commission for an order approving the lease, sale or transfer of any certificate of convenience and necessity shall be accompanied by a filing fee in the sum of Twenty-five Dollars (\$25.00), which fee shall be in addition to the other fees and taxes and shall be retained by the Commission whether the lease, sale or transfer of the certificate of convenience and necessity is approved or not.

Certificates of Convenience and Necessity; Issuance to Specialized Motor Carrier; Application; Filing Fee

Sec. 5a. (a) The Commission is hereby given authority to issue upon application and hearing as provided in this Act, to those persons who desire to engage in the business of a "specialized motor carrier," certificates of convenience and necessity in the manner and under the terms and conditions as provided in this Act.

Any certificate held, owned, or obtained by any motor carrier operating as a "specialized motor carrier" under the provisions of this Act, may be sold, assigned, leased, transferred, or inherited; provided, however, that any proposed sale, lease, assignment, or transfer shall be first presented in writing to the Commission for its approval or disapproval, and the Commission may disapprove such proposed sale, assignment, lease, or transfer if it be found and determined by the Commission that such proposed sale, assignment, lease, or transfer is not in good faith or that the proposed purchaser, assignee, lessee, or transferee is not able or capable of continuing the operation of the equipment proposed to be sold, assigned, leased, or transferred in such manner as to render the services demanded by the public necessity and convenience in the territory covered by the certificate, or that said proposed sale, assignment, lease, or transfer is not best for the public interest; the Commission, in approving or disapproving the sale, assignment, lease, or transfer of any certificate, may take into consideration all of the requirements and qualifications of a regular applicant required in this Act and apply same as necessary qualifications of any proposed purchaser, assignee, lessee, or transferee; provided however, that in case a certificate is transferred that the transferee shall pay the Commission a sum of money equal to ten (10) per cent of the amount paid as a

consideration for the transfer of the certificate, which sum of ten (10) per cent shall be deposited in the State Treasury to the credit of the Highway Fund of the State; provided further, that any certificate obtained by any motor carrier or by any assignee or transferee shall be taken and held subject to the rights of the State at any time to limit, restrict, or forbid the use of the streets and highways of this State to any holder or owner of such certificate. Every application filed with the Commission for an order approving the lease, sale, or transfer of any certificate of convenience and necessity shall be accompanied by a filing fee in the sum of Twenty-five Dollars (\$25), which fee shall be in addition to the other fees and taxes and shall be retained by the Commission whether the lease, sale, or transfer of the certificate of convenience and necessity is approved or not.

(b) No motor carrier shall transport oil field equipment, household goods, used office furniture and equipment, livestock, milk, livestock feedstuff, grain, farm machinery, timber in its natural state, wool or mohair, on any highway in this State unless there is in force with respect to such carrier and such carrier is the owner or lessee of a certificate of convenience and necessity issued pursuant to a finding and containing a declaration that a necessity requires such operation or a contract carrier permit issued by the Commission, authorizing the transportation of such commodity or commodities; providing that nothing herein shall modify, restrict, or add to, the authority of the common carrier motor carriers operating under certificates of convenience and necessity issued by the Commission, nor shall any person who now holds or who may hereafter hold a certificate of convenience and necessity to operate as a common carrier be granted any certificate of convenience and necessity to operate as a Specialized Motor Carrier; provided further that any person to whom a "Special Commodity" permit for the transportation of any or all of said commodities had been issued under the provisions of Section 6, paragraph (d), Article 911b, Title 25, Revised Civil Statutes of the State of Texas, 1925, as amended, if such "Special Commodity" permit shall have been in force and effect on January 1, 1941, and if such person or predecessor in interest may desire to continue in the business of a motor carrier of such commodity or commodities shall file an application for a certificate of convenience and necessity under the terms of this Act within sixty (60) days after the effective date hereof, it shall be the duty of the Commission to issue without further proof a certificate authorizing the operation as a "Specialized Motor Carrier" for the transportation of such commodity or commodities covered by the "Special Commodity" permit held by the applicant, which "Specialized Motor Carrier" certificate shall be issued to the applicant and include all the rights and privileges granted under said "Special Commodity" permit.

(c) The Commission shall have no jurisdiction to consider, set for hearing, hear, or determine any

application for a certificate of convenience and necessity authorizing the operation as a "specialized motor carrier" or any other common carrier except as provided in the preceding paragraph unless the application shall be in writing and set forth in detail the following facts:

1. It shall contain the name and address of the applicant, who shall be the real party at interest, and the names and addresses of its officers, if any, and shall give full information concerning the financial condition and physical properties of the applicant.

2. The commodity or commodities or class or classes of commodities which the applicant proposes to transport and the specific territory or points to, or from, or between which the applicant desires to operate, together with the description of each vehicle which the applicant intends to use.

3. It shall be accompanied by a map, showing the territory within which, or the points to or from or between which, the applicant desires to operate, shall point out the public necessity for the proposed service and in what particulars the public convenience would be promoted by the institution of the proposed service, and shall specify wherein additional facilities or service are required and would be secured by the granting of said application.

(d) Before any such application shall be granted, the Commission shall hear, consider and determine said application in accordance with Subsection (e) of Section 4 and Sections 8, 9, 11, 12, 13, 13a, 14, and 15 of Chapter 277, Acts of the Forty-first Legislature, Regular Session, as amended (Article 911b, Revised Civil Statutes of the State of Texas, 1925, as amended), and if the Commission shall find any such applicant entitled thereto, it shall issue a certificate hereunder on such terms and conditions as is justified by the facts; otherwise said application shall be denied. In the event an applicant meets the requirements of Subsection (e) of Section 4, as well as other requirements of this Article 911b, the Commission shall grant any application for a certificate of convenience and necessity authorizing operation as a "Specialized Motor Carrier" or any other common carrier unless it is established by the substantial evidence of record considered as a whole that (1) the services and facilities of the existing carriers serving the territory or any part thereof are adequate; or (2) there does not exist a public necessity for such service, or (3) the public convenience will not be promoted by granting said application. The order of the Commission granting or denying said application and the certificate issued thereunder shall be void unless the Commission shall set forth in its order full and complete findings of fact on the issues of adequacy of the services and facilities of the existing carriers, and the public need for the proposed service. Likewise, the Commission shall have no authority to grant any contract carrier application for the transportation of any commodities in any territory or between any points where it

is established by substantial evidence in the record as a whole that the existing carriers are rendering, or are capable of rendering, a reasonably adequate service in the transportation of such commodities.

(e) Except where otherwise provided, applications for and holders of certificates of public convenience and necessity, as provided for in this Section, shall be subject to all of the provisions of the Act relating to common carriers by motor vehicle.

(f) Every application for a certificate of public convenience and necessity under this Section shall be accompanied by a filing fee in the sum of Twenty-five Dollars (\$25), which fee shall be in addition to other fees and taxes, and shall be retained by the Commission whether certificate of convenience and necessity is granted or not.

(g) For the purpose of defraying the expense of administering this Act, every motor carrier operating as a "specialized motor carrier" in this State shall at the time of the issuance of a certificate of convenience and necessity to him, and annually thereafter on or between September 1st and September 15th of each calendar year, pay a special fee of Ten Dollars (\$10) for each motor-propelled vehicle operated or to be operated by such motor carrier in the carriage of property. If the certificate of convenience and necessity herein referred to is issued after the month of September of any year, the fee paid shall be prorated to the remaining portion of the year ending August 31st following, but in no case less than one-fourth the annual fee. In case of emergency or unusual temporary demands for transportation the fee for additional motor-propelled vehicles for less period shall be fixed by the Commission in such reasonable amounts as may be prescribed by general rule or temporary order.

(h) Repealed by Acts 1981, 67th Leg., p. 2622, ch. 705, § 2, eff. Sept. 1, 1981.

Agricultural Permit

Sec. 5b. (a) A person transporting eligible agricultural commodities for compensation or hire, for the original producer or grower, or producers' or growers' cooperative association, between any point of production, processing, or storage, or from any point of production, processing, or storage to any point of first manufacture, is not required to obtain a certificate of public convenience and necessity from the Commission or to comply with tariffs or orders of the Commission governing rates and charges to be offered, demanded, or received for such service if the person holds an agricultural permit issued by the Commission.

(1) The Commission shall, by regulation or as a contested matter properly before the Commission in an enforcement proceeding, define the terms "agricultural commodities," "point of production," "point of processing," "point of storage," and "point of first manufacture." These terms shall include, in addition to such other commodities or points as the Commission shall designate:

(A) agricultural commodities: cotton, livestock, grain, fresh fruits, and fresh vegetables;

(B) point of production: farms and ranches at which the agricultural commodities were grown;

(C) point of processing: cotton gins, rice mills, dryers, and animal auction barns;

(D) point of storage: grain and rice elevators, compresses, and warehouses.

(2) The holder of an agricultural permit shall comply with all Commission regulations concerning safety, insurance, and otherwise, except to the extent such regulations are made expressly inapplicable herein. The holder shall be subject to administrative and other sanctions for failure to comply with applicable laws and regulations to the same extent as other motor carriers.

(3) The Commission shall, in implementing the provisions of this subsection, take into consideration its powers and duties to administer and enforce the Motor Carrier Act and shall prescribe such regulations for operations under authority of agricultural permits as the Commission deems necessary in the interest of the shipping and receiving public, provided that rulemaking authority granted under this paragraph shall be used to accomplish the overall purpose of this subsection.

(b) The Commission may issue agricultural permits without notice, hearing, or proof of public convenience and necessity. Each permit is valid for one year from the date of issuance unless a shorter period is requested by the applicant.

(c) An application for an agricultural permit must include:

(1) the applicant's full name and address;

(2) a complete list of all motor vehicles proposed to be used, including the make, unit number, and identification number of each vehicle; and

(3) a sworn statement by the applicant that he will transport under the permit only those agricultural commodities eligible to be transported under this section and will transport them only in intrastate commerce.

(d) An agricultural permit may not be sold, assigned, inherited, or otherwise transferred.

(e) An application for an agricultural permit must be accompanied by a Twenty-five Dollar (\$25) filing fee, which shall be retained by the Commission whether or not the permit is granted. This fee covers up to five (5) motor vehicles. If the permit is to cover more than five (5) motor vehicles, the applicant shall pay at the time the permit is issued an additional fee of Five Dollars (\$5) for each motor vehicle in excess of five (5) to be operated under the permit.

(f) The issuance of agricultural permits is exempt from the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) and from the requirements of Chapter

271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes).

(g) The Commission shall issue to each permittee an identification card for each motor vehicle covered by the permit. The card must be displayed within the cab of the vehicle. The card shall include the permit number and the name and address of the owner of the permit. A person may not use an identification card after the permit has expired. The Commission shall prescribe the form for the identification card and may include additional information on the card.

(h) The transportation of eligible agricultural commodities under a permit issued under this section is not subject to the ratemaking authority of the Commission, and the Commission may not adopt or enforce rates, fares, or charges for that transportation.

(i) The transportation of eligible agricultural commodities under a permit issued under this section is subject to the provisions of this Act and rules of the Commission adopted under this Act relating to insurance and bond requirements and to safety requirements.

(j) This section does not apply to any person transporting in the person's own vehicle agricultural commodities in their natural state, which that person owns, to and from the area of production and to and from the market or place of storage thereof.

Application for Permits; Specialized Motor Carrier Certificates; Transfer or Sale of Permits

Sec. 6. (a) No motor carrier now operating as a contract carrier or that may hereafter desire to engage in the business of a contract carrier shall so operate until it shall have received a permit from the Commission to engage in such business and such permit shall not be issued until the applicant shall have in all things complied with the requirements of this Act; nor shall such permit be issued unless the character of business being done or to be done by the applicant strictly conforms with the definition of a contract carrier. The Commission shall have the power to suspend for ten (10) days any existing permit after notice and hearing and to revoke any existing permit when it appears that such permit holder has disobeyed or violated any provision of this Act or of General Laws regulating motor vehicles or violated any rule or regulation of the Commission authorized by this Act.

(b) No application for a permit shall be considered by the Commission unless it be reduced to writing and set forth the following facts:

(1) It shall contain the name and address of the applicant and the names and addresses of its officers, if any, and shall give full information concerning the financial condition and physical properties of the applicant.

(2) The application shall set forth the nature of the transportation in which the applicant wishes to engage stating substantially the territory to be covered by the operation and including the condition and character of the roads over which the transportation is to be performed.

(3) It shall give a description of each vehicle which the applicant intends to use, including weight and size of vehicle and its carrying capacity.

(c) No application for permit shall be granted by the Commission until after a hearing nor shall any such permit be granted if the Commission shall be of the opinion that the proposed operation of any such contract carrier will impair the efficient public service of any authorized common carrier or common carriers then adequately serving the same territory.

(d) The Railroad Commission is hereby given authority to issue upon application to those persons who desire to engage in the business of transporting for hire over the highways of this State livestock, mohair, wool, milk, livestock feedstuff, household goods, used office furniture and equipment, oil field equipment, timber in its natural state, farm machinery and grain, "Specialized Motor Carrier" certificates when it is shown by substantial evidence that there exists (1) a public necessity for such service, and that (2) public convenience will be promoted by the granting of said application.

Such certificates shall be granted upon such terms, conditions and restrictions as the Railroad Commission may deem proper, and said Railroad Commission is authorized to make rules and regulations governing such operations, keeping in mind the protection of the highways and the safety of the traveling public.

Provided that the order of the Commission granting said application, and the certificate issued thereunder shall set forth in its order findings of fact on the issues of adequacy of the service of the existing carriers and the public need for such proposed service.

(e) Any permit held, owned, or obtained by any motor carrier operating under the provisions of Subsection (d) of this Section may be sold, assigned, leased, transferred, or inherited; provided, however, that any proposed sale, lease, assignment, or transfer shall be first presented in writing to the Commission for its approval or disapproval and the Commission may disapprove such proposed sale, assignment, lease, or transfer if it be found and determined by the Commission that such proposed sale, assignment, lease, or transfer is not in good faith or that the proposed purchaser, assignee, lessee, or transferee is not capable of continuing the operation of the equipment proposed to be sold, assigned, leased, or transferred in such a manner as to render the services demanded in the best interest of the public; the Commission in approving or disapproving any sale, assignment, lease, or transfer of any permit may take into consideration all of the

requirements and qualifications of a regular applicant required in this Section, and apply same as necessary qualifications of any proposed purchaser, assignee, lessee, or transferee; provided, however, that in case a permit is transferred that the transferee shall pay to the Commission a sum of money equal to ten (10) per cent of the amount paid as a consideration for the transfer of the permit which sum of ten (10) per cent shall be deposited in the State Treasury to the credit of the Highway Fund of the State; provided, further, that any permit obtained by any motor carrier or by any assignee or transferee shall be taken and held subject to the right of the State at any time to limit, restrict, or forbid the use of the streets and highways of this State to any holder or owner of such permit. Every application filed with the Commission for an order approving the lease, sale, or transfer of any permit shall be accompanied by a filing fee in the sum of Ten Dollars (\$10) which fee shall be in addition to other fees and taxes and shall be retained by the Commission whether the lease, sale, or transfer of the permit is approved or not.

(f) Any contract carrier permit held, owned, or obtained by any motor carrier operating under the provisions of Section 6 may be sold, assigned, leased, transferred, or inherited; provided, however, that any proposed sale, lease, assignment, or transfer shall be first presented in writing to the Commission for its approval or disapproval and the Commission may disapprove such proposed sale, assignment, lease, or transfer if it be found and determined by the Commission that such proposed sale, assignment, lease, or transfer is not in good faith or that the proposed purchaser, assignee, lessee, or transferee is not capable of continuing the operation of the equipment proposed to be sold, assigned, leased, or transferred in such a manner as to render the services demanded in the best interest of the public; the Commission in approving or disapproving any sale, assignment, lease, or transfer of any permit may take into consideration all of the requirements and qualifications of a regular applicant required in this Section, and apply same as necessary qualifications of any proposed purchaser, assignee, lessee, or transferee; provided, however, that in case a permit is transferred that the transferee shall pay to the Commission a sum of money equal to ten (10) per cent of the amount paid as a consideration for the transfer of the permit which sum of ten (10) per cent shall be deposited in the State Treasury to the credit of the Highway Fund of the State; provided, however, that any permit obtained by any motor carrier or by any assignee or transferee shall be taken and held subject to the right of the State at any time to limit, restrict, or forbid the use of the streets and highways of this State to any holder or owner of such permit. Every application filed with the Commission for an order approving the lease, sale, or transfer of any permit shall be accompanied by a filing fee in the sum of Ten Dollars (\$10) which fee shall be in addition to other fees and taxes and shall be retained by the

Commission whether the lease, sale, or transfer of the permit is approved or not.

Rules and Regulations for Contract Carriers

Sec. 6-aa. The Commission is hereby vested with power and authority and it is hereby made its duty to prescribe rules and regulations covering the operation of contract carriers in competition with common carriers over the highways of this State and the Commission shall prescribe minimum rates, fares and charges to be collected by such contract carriers which shall not be less than the rates prescribed for common carriers for substantially the same service.

Permits Not Granted as Contract Carrier to Person Operating as Common Carrier

Sec. 6-bb. No application for permit to operate as a contract carrier shall be granted by the Commission to any person operating as a common carrier and holding a certificate of convenience and necessity, nor shall any application for certificate of convenience and necessity be granted by the Commission to any person operating as a contract carrier nor shall any vehicle be operated by any motor carrier with both a permit and a certificate.

Hours of Labor

Sec. 6-cc. No motor carrier operating in whole or in part in this State under a certificate or permit issued by the Railroad Commission of Texas, or any officer or agent of such motor carrier, shall require or knowingly permit any truck driver or his helper to drive or operate a truck for a period longer than ten (10) consecutive hours; and whenever such driver or helper shall have been continuously on such duty for ten (10) hours, he shall be relieved and shall not be required or knowingly permitted to again go on duty until he has had at least eight (8) consecutive hours off duty; and no such driver or helper who has been on such duty ten (10) hours in the aggregate in any twenty-four hour period, shall be required or knowingly permitted to continue or again go on duty without having had at least eight (8) consecutive hours off duty; and venue for prosecution under this Section shall lie in any county where said offense or any part of same is committed; provided that in cases of emergency caused by the Act of God, or any other emergency over which the operator has no control, the foregoing restrictions as to hours shall not apply.

Fee for Each Motor Vehicle Operated

Sec. 7. For the purpose of defraying the expenses of administering this Act every motor carrier operating as a contract carrier shall, at the time of the issuance of a permit to him and annually thereafter on or between September 1st and September 15th of each calendar year pay a special fee of Ten Dollars (\$10.00) for each motor vehicle operated or to be operated by such motor carrier. If the permit herein referred to is issued after the month

of September of any year the fee paid shall be prorated to the remaining portion of the year ending August 31st following, but in no case less than one-fourth ($\frac{1}{4}$) the annual fee. Provided, that no person now authorized by law to operate as a Class "A" or Class "B" motor carrier, and who has paid annual vehicle fees required by law of the holders of certificates or permits for the year ending September 1, 1931, shall be required to pay any additional vehicle fees or additional fees incident to the issuance of certificates or permits required in this Act, for the year ending September 1, 1931, in lieu of those now required by law. Every application for a permit shall be accompanied by a filing fee in the sum of Ten Dollars (\$10.00) which fee shall be in addition to other fees and taxes and shall be retained by the Commission whether the permit be granted or not.

Commission to Determine if Necessity Exists for Service

Sec. 8. The Commission is hereby vested with power and authority, and it is hereby made its duty upon the filing of an application for a certificate of public convenience and necessity to ascertain and determine under such rules and regulations as it may promulgate, after considering existing transportation facilities, and the demand for, or need of additional service, if there exists a public necessity for such service, and if public convenience will be promoted by granting said application and permitting the operating of motor vehicles on the highways designated in such application as a common carrier for hire.

Interference With General Use of Highways

Sec. 9. The Commission shall ascertain and determine if a particular highway or highways designated in an application for a certificate of public convenience and necessity are of such type of construction or in such state of repair, or subject to such use as to permit of the use sought to be made by the applicant, without unreasonable interference with the use of such highways by the general public for highway purposes. And if the Commission shall determine, after hearing, that the service rendered by existing transportation facilities or agencies is reasonably adequate, or that public convenience would not be promoted by granting of said application, and the operation of motor vehicles on the public highways therein designated, or that such highway or highways are not in such state of repair, or are already subject to such use as would not permit of the use sought to be made by the applicant without unreasonable interference with the use of such highways by the general public for highway purposes then in either or any of such events said application may be denied and said certificate refused, otherwise the application shall be granted and the certificate issued upon such terms and conditions as said Commission may impose and subject to such rules and regulations as it has or may thereafter prescribe.

In determining whether or not a certificate should be issued to a motor carrier, the Commission shall give weight and due regard to:

- (1) Probable permanence and the quality of service offered by the applicant.
- (2) The financial ability and responsibility of the applicant and its organization and personnel.
- (3) The character of vehicles and the character and location of depots or termini proposed to be used.
- (4) The experience of the applicant in the transportation of property and the character of the bond or insurance proposed to be given to insure the protection of the public.

Contents of Written Application

Sec. 10. No application for a certificate of public convenience and necessity shall be considered by said Commission unless it be in writing and set forth the following facts:

- (1) It shall contain the name and address of the applicant and the names and addresses of its officers, if any, and shall give full information concerning the financial condition and physical properties of the applicant.
- (2) The complete route or routes over which the applicant desires to operate, together with the description of each vehicle which the applicant intends to use.
- (3) A proposed schedule of service and a schedule of rates to be charged between the several points or localities to be served.
- (4) It shall be accompanied by a plat or map showing the route or routes over which the applicant desires to operate, and shall point out the public necessity for the proposed service and in what particulars the public convenience would be promoted by the institution of the proposed service, and shall specify wherein additional facilities or service are required and would be secured by the granting of said application.

The Commission, in prescribing and adopting rules and regulations and in forming its conclusions and in prescribing its orders, shall invite the opinion of the State Department of Highways and Public Transportation on the conditions of the public highways involved and the ability of said highways to carry the existing and proposed additional traffic, and the Commission shall give due and proper consideration to the orders, regulations, ordinances or recommendations of the State Department of Highways and Public Transportation; provided, however, nothing herein contained shall be deemed to restrict the powers of the State Department of Highways and Public Transportation under existing laws. The Commission shall also give due and proper consideration to the recommendations of the Commissioners' Courts of the several Counties and to the recommendations of the local government of any municipi-

pality through or between which motor carriers operate.

Hearing at Austin; Notice to Existing Owners and to Highway Commission

Sec. 11. Upon the filing of said application for a certificate or permit, the Commission shall fix a time and place for hearing, and the place of hearing shall be in the City of Austin, Texas, unless otherwise ordered by the Commission. Notice of the filing of said application, and the time and place of hearing, shall be given by mail not less than ten (10) days, exclusive of the day of mailing before such hearing, addressed to the owner or owners of existing transportation facilities serving such territory as applicant seeks to serve, as well as to the Highway Commission of the State of Texas, the County Judge or Judges of the counties and to the mayor of any incorporated city or town through which such carrier seeks to operate.

Rules for Hearing; Appearance by Interested Persons and Highway Commission; Revocation of Permit

Sec. 12. (a) The hearing on an application for certificate or permit shall be conducted under such rules and regulations as the Commission may prescribe, and the parties interested, including the Highway Commission of this State, may appear either in person or by counsel and present such evidence and argument as they may desire and as the Commission may deem pertinent, in favor of or against the granting of such application. It shall be the duty of the Highway Commission, upon request of the Commission, to furnish information relating to the highway or highways designated in such application, as well as such other information as the Commission may deem pertinent to the hearing. After hearing and such investigation as the Commission may make, it shall be the duty of the Commission to grant or refuse the application, and, in any contested hearing, the Commission shall, along with its order, file a concise written opinion setting forth the facts and grounds for its action, and such opinion shall be admissible as evidence on any appeal taken therefrom; upon request of any party at interest in a contested hearing of any nature, the proceedings shall be taken down and reported by a reporter under the direction of the Commission.

(b) The Commission at any time after hearing, had, upon notice to the holder of any certificate or permit and after opportunity given such holder to be heard, may by its order revoke, suspend or amend any certificate or permit issued under the provisions of this Act, where in such hearing the Commission shall find that such certificate or permit holder has discontinued operation or has violated, refused or neglected to observe the Commission's lawful orders, rules, rates or regulations or has violated the terms of said certificate or permit; provided, that the holder of such certificate or permit shall have the right of appeal as provided in this

Act. The Commission may place on probation a person whose certificate or permit has been suspended, but if the Commission does place the certificate or permit holder on probation and does allow him to continue to operate, the fact that the certificate or permit has been suspended and the certificate or permit holder has been put on probation shall appear in the records of the Commission relating to the suspension and probation.

Bonds or Insurance to Cover Loss or Damages; Protection to Employees

Sec. 13. Before any permit or certificate of public convenience and necessity may be issued to any motor carrier and before any motor carrier may lawfully operate under such permit or certificate as the case may be, such motor carrier shall file with the Commission bonds and/or insurance policies issued by some insurance company including mutuals and reciprocals or bonding company authorized by law to transact business in Texas in an amount to be fixed by the Commission under such rules and regulations as it may prescribe, which bonds and insurance policies shall provide that the obligor therein will pay to the extent of the face amount of such insurance policies and bonds all judgments which may be recovered against the motor carriers so filing said insurance policies and bonds, based on claims for loss or damages from personal injury or loss of, or injury to property occurring during the term of said bonds and policies and arising out of the actual operation of such motor carrier; and such bonds and policies shall also provide for successive recoveries to the complete exhaustion of the face amount thereof and that such judgments will be paid by the obligor in said bonds and insurance policies irrespective of the solvency or insolvency of the motor carrier; provided, however, such bonds and policies shall not cover personal injuries sustained by the servants, agents or employees of such motor carrier. Provided further, that in the event the insured shall abandon his permit or certificate and leave the state, a claimant, asserting a claim within the provisions of said bonds or policies, may file suit against the sureties executing such bond or the company issuing such policies in a court of competent jurisdiction without the necessity of making the insured a party to said suit. Provided, however, that the Commission shall not require insurance covering loss of or damage to cargo in amount excessive for the class of service to be rendered by any motor carrier. Each such motor carrier shall, on or before the date of the expiration of the term of any policy or bond so filed by him, file a renewal thereof, or new bonds or policies containing the same terms and obligations of the preceding bonds and policies, and shall each year thereafter on or before the expiration date of the existing bonds and policies, file such renewal policies and bonds so as to provide continuous and unbroken protection to the public having legal claims against such motor carrier; and in the event such renewal bonds and policies are not so filed, the

Commission after notice to the motor carrier, and hearing, may, within its discretion if it shall find and determine that the ends of justice will be better subserved thereby, cancel such permit or certificate for failure to furnish and provide such bonds or insurance as herein required. The Commission may accept in lieu of the filing of the original policies of insurance, a certificate of insurance, in such form as may be prescribed by the Commission, which certificate, when filed with the Commission, will bind the obligor thereunder and satisfy the requirements of this section as if the original policies of insurance had been filed.

Each motor carrier shall also protect his employees by taking out workmen's compensation insurance, either as provided by the Workmen's Compensation Laws of the State of Texas, or in a reliable insurance company authorized to write workmen's compensation insurance approved by the Commission.

Commission to Approve Equipment

Sec. 13a. The Commission is vested with power and authority, and it is hereby made its duty, to approve or disapprove the nature and character of the equipment to be used under any permit or certificate and the amount and character of tonnage which may be hauled thereunder on any motor vehicle, trailer or semi-trailer used under such permit or certificate and in approving the amount and character of tonnage to be hauled on any such vehicles, trailers or semi-trailers under any permit or certificate, it may fix the number and size of boxes, packages, barrels or bales or any particular commodity to be transported on any such vehicles, trailers or semi-trailers under such permit or certificate, and the method of loading such boxes, packages, barrels or bales of such commodity on the motor vehicle, trailers and semi-trailers to be used under such permit or certificate; provided, however, said Commission shall not authorize the use of any equipment of greater dimensions than otherwise permitted by law, nor any tonnage of greater weight than otherwise permitted by law.

Provided, that if this section is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portions of this Act, and the Legislature hereby declares that it would have passed this Act, and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that this section be declared unconstitutional; provided further, that if this Act or any section, subsection, sentence, clause or phrase thereof is held to be unconstitutional and invalid by reason of the inclusion of this section, the Legislature hereby declares that it would have passed this Act and any such section, subsection, sentence, clause or phrase thereof without this section.

Approval of Deposits of United States Government Bonds or Cash in Lieu of Bonds and/or Insurance

Sec. 13aa. The Commission is hereby vested with power and authority to approve the deposit by a motor carrier of United States Government bonds or cash in lieu of bonds and/or insurance required in Section 13, in an amount to be fixed by the Commission under such rules and regulations as it may prescribe; and provided further that upon a full and proper showing of financial fitness and responsibility under and in compliance with rules and regulations prescribed and administered by the Commission such motor carrier may become self-insured in lieu of any coverage required other than the Workmen's Compensation Insurance which each motor carrier shall take out either as provided by the Workmen's Compensation Laws of the State of Texas or in a reliable insurance company authorized to write Workmen's Compensation Insurance approved by the Commission.

Accounts to be Kept; Reports to Commission

Sec. 13b. The Commission is hereby vested with power and authority and it is hereby made its duty to require all motor carriers to keep a set of accounts strictly in accordance with such classification of accounts and rules in respect thereto as may be established by the Commission and to file reports and such other data as the Commission may deem necessary, and which said accounts shall be open to the inspection of the Commission or its representatives or agents at all times; provided, however, that the Commission may, in its discretion, direct that the inspection or audit of the above described accounts and records of motor carriers, whose principal offices are located outside the State of Texas, be made at said principal office located outside the State of Texas.

Commission to Hear Applications, Complaints, and Compel Attendance of Witnesses; Examiner to Hear Applications Assigned by Commission and Report Thereon

Sec. 14. (a) The Commission shall have the power and authority under this Act to hear and determine all applications of motor carriers; to determine complaints presented to it by such carrier, by any public official, or by any citizen having an interest in the subject matter of the complaint, or it may institute and investigate any matter pertaining to motor carriers upon its own motion. The Commission, or any member thereof, or authorized representative or Examiner of the Commission, shall have power to compel the attendance of witnesses, swear witnesses, take their testimony under oath, make record thereof, and if such record is made under the direction of a Commissioner, or authorized representative or Examiner of the Commission, a majority of the Commission may, upon the record, render judgment as if the case had been heard before a majority of the members of the Commission. The Commission shall have the power and

authority under this Act to do and perform all necessary things to carry out the purpose, intent, and provisions of this Act, whether herein specifically mentioned or not, and to that end may hold hearings at any place in Texas which it may designate.

(b) To expedite the hearing and disposition of applications, the Examiner or authorized representative of the Commission shall have authority under orders of the Commission to hear applications which may be assigned to him by the Commission; after the hearing of an application has been concluded by such representative or Examiner, it shall be his duty promptly to make a written report to the Commission recommending disposition of said application. Such report and recommendation shall be accompanied by a brief narrative statement of the evidence, and shall contain such other information as such representative or Examiner may think advisable, or as may be required by the Commission. Unless required by the Commission, it shall not be necessary for the reporter to transcribe said evidence in full, but it shall be sufficient to make a brief narrative statement giving the correct summary of such evidence; provided, however, the Commission shall have the authority to require said evidence, or any part thereof, to be transcribed in full if deemed advisable or necessary.

Per Diem and Mileage of Witnesses; Process to Sheriff

Sec. 15. Every witness who shall be summoned to appear before the Commission, or a Commissioner or authorized representative outside the county of his residence shall receive for his attendance the same per diem and fees as now provided for witnesses in attendance in District Courts of this State in criminal cases; such fees and mileage shall be order¹ paid upon proper voucher, sworn to by such witness and approved by the Commission or the chairman thereof out of the monies or funds arising under this Act; provided that no witness shall be entitled to any witness fees or mileage who is directly or indirectly interested in any motor carrier involved or concerning which the investigation or hearing on account of which he is called, shall relate, and no witnesses furnished with free transportation shall receive pay for the distance he may have traveled on such free transportation. All process issued by the Commission for summoning witnesses or other purposes shall be directed to the sheriff or any constable of any county in the State of Texas, and any sheriff or constable of any county in this State shall promptly execute any subpoenas or other documents directed to him by the Commission and shall receive such fees for this service as is now paid for like services in the District Courts of this State, such payment to be made on accounts properly verified and approved by the Commission or the chairman thereof out of the fund provided in this Act.

¹ So in enrolled bill; probably should read "ordered."

Motor Carrier May Submit Names of Witnesses

Sec. 15a. Provided that any motor carrier at interest in any hearing may submit to the Commission the names and addresses of witnesses which he or it desires to use in such hearing, and it shall be the duty of the Commission to summon such witnesses.

Penalty for Violation of Act

Sec. 16. (a) Every officer, agent, servant or employee of any corporation and every other person who violates or fails to comply with or procures, aids or abets in the violation of any provision of this Act or who violates or fails to obey, observe or comply with any lawful order, decision, rule or regulation, direction, demand, or requirement of the Commission shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than Twenty-five Dollars (\$25.00), nor more than Two Hundred Dollars (\$200.00), and the violations occurring on each day shall each constitute a separate offense.

(b) Every officer, agent, servant or employee of any corporation and every other person who violates or fails to comply with or procures, aids or abets in the violation of any provision of this Act or who violates or fails to obey, observe or comply with any lawful order, decision, rule or regulation, direction, demand or requirement of the Commission shall in addition be subject to and shall pay a penalty not exceeding One Hundred Dollars (\$100.00), for each and every day of such violation. Such penalty shall be recovered in any Court of competent jurisdiction in the county in which the violation occurs. Suit for such penalty or penalties shall be instituted and conducted by the Attorney General of the State of Texas, or by the County or District Attorney in the county in which the violation occurs, in the name of the State of Texas.

(c) Upon the violation of any provision of this Act, or upon the violation of any rule, regulation, order or decree of the Commission promulgated under the terms of this act, any District Court of any county where such violation occurs shall have the power to restrain and enjoin the person, firm or corporation so offending from further violating the provisions of this Act or from further violating any of the rules, regulations, orders and decrees of the Commission. Such injunctive relief may be granted upon the application of the Commission, the Attorney General or any District or County Attorney. No bond shall be required when such injunctive relief is sought upon the application of the Commission, Attorney General or any District or County Attorney. Such relief may be granted in suits for penalties as provided in subdivision (b) of this Section, but a suit for penalty shall not be a condition precedent to the injunctive relief provided by this subdivision.

(d) Any License and Weight Inspector or other peace officer of the Department of Public Safety, shall have the power and authority to make arrests

without warrant for any violation of this Act except rate violations. Any authorized Rate Inspector of the Commission shall have power and authority to make arrests for any rate violation occurring under this Act, it being the intent herein to vest in the Department of Public Safety and its License and Weight Division the duty and responsibility for enforcement of the Act for all violations except rate violations, and vest in the Commission the duty and responsibility of enforcement of only rate violations. It shall be the duty of all judges and prosecuting attorneys of this State to assist in the enforcement of this Act.

(e) The Commission shall prescribe an identification card which must be displayed within the cab of each motor vehicle, setting out the certificate or permit number and giving the name and address of the owner of said certificate or permit. This card must be attached to the document of authority that states the route or territory over which the vehicle is authorized to operate. It shall be unlawful for the owner of said certificate or permit, his agent, servant or employee, or any other person to use or display said identification card after said certificate or permit has been cancelled or disposed of. The identification card provided for herein may be in such form and contain such information as required by the Railroad Commission.

(f) It shall be unlawful for any owner of a certificate or permit, his agent, servant or employee to display upon any motor vehicle the certificate or permit number, or other insignia of authority from the Railroad Commission after said certificate or permit has expired, or has been cancelled.

(g) It shall be unlawful for any motor carrier (common or contract), or the owner of a certificate or permit, or his agent, servant or employee, directly or indirectly, to offer, permit or give to any person, directly or indirectly, any commission or other consideration to induce such person to deliver to such motor carrier or certificate or permit owner, property to be transported; and it likewise shall be unlawful for any shipper or consignee or his agent, servant or employee, to receive from such motor carrier, directly or indirectly, any such commission or consideration as an inducement to secure the transportation of any such property. Any person violating any of the provisions of this section shall be guilty of a misdemeanor, and shall, upon conviction, be punished by a fine not to exceed Two Hundred (\$200.00) Dollars, and each such transaction shall constitute a separate offense.

(h) Any common carrier, motor carrier, his agent, servant or employee who directly or indirectly gives to any shipper any rebate, or any shipper, his agent, servant or employee who directly or indirectly receives any rebate, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed Two Hundred (\$200.00) Dollars for each offense, in any court of competent jurisdiction in this State. It being the intention of this Act that such motor

carriers shall in every instance collect and receive, and the shipper shall pay, only the rate or fee prescribed or approved by the Commission.

(i) If any motor carrier, or any officer, agent, clerk, servant, or employee, or receiver, or his agents, servants, or employee, of any motor carrier operating as a contract carrier in this State, shall, directly or indirectly, or by any special rate, rebate, draw-back, or other device, for or on behalf of such contract carrier, knowingly charge, demand, or contract for, collect or receive from any person, firm or corporation a less compensation for any service rendered or to be rendered by any such contract carrier than is prescribed for said service by said Commission, such contract carrier or any officer, clerk, servant, or employee, or receiver, his agents, servants, or employee, of such contract carrier shall be guilty of a misdemeanor and, upon conviction shall be fined in a sum not to exceed Two Hundred Dollars (\$200.00) for each offense; and every person who violates or fails to comply with, or procures, aids, or abets any contract carrier in the violation of the provisions hereof shall likewise be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than Two Hundred Dollars (\$200.00) for each offense.

(j) It shall be unlawful for any officer, agent, servant or employee of any corporation, and every other person, to issue, display or use, or to enter into a conspiracy or agreement with any other person, officer, agent, servant and employee of any corporation, to issue, display or use a false or fictitious bill of sale, bill of lading, or manifest on the commodities being transported over the highways of this State. Every bill of lading or manifest shall show the true name and address of the consignor or shipper, the consignee or receiver, the origin, the destination, and an exact description of the commodities goods, wares, or property transported or being transported for hire or compensation over the highways of this State. Every such bill of lading, manifest, or bill of sale or load of commodities being transported for hire over the highways of this State shall be made available for inspection at any time and place upon the request of any officer or agent authorized to enforce the provisions of this Act under Section (d) hereof. Any officer or agent authorized under Section (d) hereof, upon the failure of any person to permit inspection of the commodities being transported over the highways of this State under a bill of sale, bill of lading or manifest, shall be empowered to impound the load or commodities being transported and hold same until properly released without any liability whatever against such officer or agent of state or county. And every person who violates any of the provisions of this section shall be guilty of a misdemeanor and shall, upon conviction, be punished by a fine not to exceed Two Hundred (\$200.00) Dollars, and each such transaction shall constitute a separate offense.

No provision of this Act will apply to any person who is engaged in the bona fide business of buying,

selling and transporting any product or commodity when such person has in good faith purchased such product or commodity and at the time of and during the transportation thereof such person has and owns title to such product or commodity.

(k) Every corporation, association, partnership, firm or individual shall permit any officer, inspector or agent authorized under Section (d) of this act, upon written authority of the Attorney General or any District Judge of a District Court properly having venue under the laws of this State, to inspect and examine any of its books, records, accounts, letters, memoranda, documents, checks, vouchers, or telegrams and make such copies thereof as may be necessary to show or tend to show that said corporation, its officers, agents or employees, association or partnership or individual has violated any provision of this Act. Every person who fails or refuses to permit such inspection by any duly authorized officer or agent under this Act shall be guilty of a misdemeanor and shall, upon conviction, be punished by a fine not to exceed Two Hundred (\$200.00) Dollars, and each such transaction shall constitute a separate offense.

(l) A person holding a current, valid agricultural permit issued by the Commission under Section 5b of this Act or an officer, agent, servant, or employee of that person, who, without lawful authority, transports a commodity other than an eligible agricultural commodity commits an offense. An offense under this subsection is punishable by a fine of not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Dollars (\$200.00). Each violation is a separate offense.

Filing Fee Accompanying Application

Sec. 17. (a) For the purpose of defraying the expense of administering this Act, every common carrier motor carrier now regularly operating, or which shall hereafter regularly operate in this state, shall at the time of the issuance of a certificate of convenience and necessity, unless otherwise provided herein, and annually thereafter pay a special fee of ten dollars (\$10), for each motor propelled vehicle operated or to be operated by such motor carrier in the carriage of property. If the certificate of convenience and necessity herein referred to is issued after the month established for registration, the fee paid shall be prorated to the remaining portion of the registration year, but in no case less than one-fourth ($\frac{1}{4}$) the annual fee. In case of an emergency or unusual temporary demands for transportation the fee for additional motor propelled vehicles for less period shall be fixed by the Commission in such reasonable amounts as may be prescribed by general rule or temporary order. Every application for a certificate of convenience and necessity shall be accompanied by a filing fee in the sum of Twenty-five (\$25.00) Dollars, which fee shall be in addition to other fees and taxes and shall be retained by the Commission whether the certificate of convenience and necessity be granted or not.

(b) Every application filed with the Commission for an order approving the lease, sale or transfer of

any certificate of convenience and necessity shall be accompanied by a filing fee in the sum of Twenty-five (\$25.00) Dollars, which fee shall be in addition to the other fees and taxes and shall be retained by the Commission whether the lease, sale or transfer of the certificate of convenience and necessity is approved or not.

(c) All fees except fees allocated to the state highway fund accruing under the terms of this Act and all fines and penalties collected under the provisions of this Act shall be payable to the State Treasury at Austin and credited to the General Revenue Fund out of which all warrants and expenditures necessary in administering and enforcing this Act shall be paid.

Expiration of Registrations on Various Dates During Year; Adoption of System; Proration of Fees in Year of Change

Sec. 17A. The Commission, by rule, may adopt a system under which registrations expire on various dates during the year. For the year in which the registration expiration date is changed, registration fees payable under the existing system shall be prorated on a monthly basis so that each registrant shall pay only that portion of the registration fee that is allocable to the number of months during which the registration is valid. On renewal of the registration on the new expiration date, the total registration renewal fee is payable.

Cab Card and Identifying Marks

Sec. 18. (a) It shall be unlawful for any motor carrier as hereinbefore defined to operate any motor vehicle within this State unless there shall be in the cab of the motor vehicle a cab card to be furnished by the Commission. The cab card shall be designed so as to identify the vehicle as being a vehicle authorized to operate under the terms of this law and shall bear the certificate or permit number, vehicle unit number, and permanent vehicle identification number. It shall be the duty of the Commission to provide the cab card and each motor vehicle operating in this State shall carry it as soon as it is received. The cab card shall be issued annually thereafter and placed in each motor vehicle not later than September 1st of each year, or as soon thereafter as possible. The Commission shall be authorized to collect from the applicant a fee of one dollar (\$1) for each cab card issued, and all fees for cab cards shall be deposited in the State Treasury to the credit of the General Revenue Fund.

(b) A motor vehicle covered by this section must have in a conspicuous place on each side of the power unit in plainly legible print the name of the carrier, the unit number of the vehicle, and the number of the certificate or permit authorizing the service. These identifying marks must be in letters and numbers not less than two (2) inches in height and one-fourth ($\frac{1}{4}$) inch in width.

Reciprocity

Sec. 18a. Motor carriers of property for hire residing or domiciled outside of the State of Texas, who have authority from the Interstate Commerce

Commission to transport property for hire to, from or between points in Texas, and whose operations in this State are limited to the transportation of property for hire in interstate or foreign commerce only under such authority, shall not be required to pay the special fees provided for in Sections 7, 17(a), 18 and Section 5a(g) of this Act; provided, however, this exemption from the payment of said fees shall not apply unless the States in which such foreign motor carriers reside or are domiciled shall likewise extend to motor carriers residing or domiciled in Texas exemption from the payment of the same or similar fees or expenses in their respective States; such exemptions from the payment of such fees in Texas shall be effective when the governmental agency or the authorized representative thereof of such foreign States having jurisdiction over the operations of motor carriers for hire shall certify in writing to the Railroad Commission of Texas that the exemption from the payment of such fees and expenses by such Texas carriers has been granted, and is in full force and effect. Provided, further, however, that this exemption shall not apply to the payment of filing fees for applications for certificates or permits to operate in this State.

Nonresident motor carriers covered by this section are not required to display upon a vehicle external identification other than that required by the Interstate Commerce Commission.

**Commission May Employ Experts, Assistants, Etc.;
Payment of Expenses**

Sec. 19. The Commission shall have power to employ and appoint from time to time such experts, assistants, and other help, in addition to its present force, as may be deemed necessary to enable it at all times to properly administer and enforce this Act. Such persons and employees of the Commission shall be paid for the service rendered such sums as may be fixed and prescribed by the Commission in monthly installments, and no employee of the Commission shall ask or receive any fee from any person for the taking of acknowledgments or any other service except as herein provided, and such salaries, wages and all fees that may be paid to witnesses and officers shall be paid out of the General Revenue Fund by the State Treasurer on warrants of the Comptroller of Public Accounts on order or voucher approved by the Commission or the Chairman thereof. All actual and necessary traveling expenses of the members of the Commission and employees shall also be paid out of said Fund in the same manner as recurring operating expenses (including travel expense) when such accounts shall have been itemized and sworn to by the Commission or employee incurring the expenses and approved by the Commission or the Chairman thereof; provided, however, that when audits or inspections of records and accounts are made at out-of-state locations pursuant to the provisions of Section 13b of this Act, the Commission may, in its discretion, direct that all actual and necessary traveling expenses of the members of the Commission, its agents or representatives shall be paid by the inspected carrier. These traveling expenses shall be itemized and sworn to by the Commission or em-

ployee, representative or agent of the Commission incurring the expenses and approved by the Commission or the Chairman thereof. The amount of the necessary expenses shall be paid to the Railroad Commission of Texas and shall be deposited with the State Treasurer to the account of the General Revenue Fund.

**Review of Decisions of Commission by District Court
of Travis County; Appeals**

Sec. 20. If any motor carrier or other party at interest be dissatisfied with any decision, rate, charge, rule, order, act, or regulation adopted by the Commission, such dissatisfied person, association, corporation, or party after failing to get relief from the Commission may file a petition setting forth the particular objection to such decision, rate, charge, rule, order, act or regulations, or to either or all of them in the District Court in Travis County, Texas, against said Commission as defendant. Said action shall have precedence over all other causes on the docket of a different nature and shall be tried and determined as other civil causes in said court. Either party to said action may appeal to the Appellate Court having jurisdiction of said cause and said appeal shall be at once returnable to said Appellate Court having jurisdiction of said cause and said action so appealed shall have precedence in said Appellate Court over all causes of a different character therein pending; provided, that if the court be in session at the time such right of action accrues the suit may be filed during such term and stand ready for trial after ten days' notice. In all trials under this section the burden of proof shall rest upon plaintiff, who must show by the preponderance of evidence that the decisions, rates, regulations, rules, orders, classifications, acts, or charges complained of are unreasonable and unjust to it or them. The Commission shall not be required to give any appeal bond in any cause arising hereunder and no injunction shall be granted against any order of the Commission without hearing unless it shall clearly appear that irreparable injury will be done the complaining party if the injunction is not granted.

Ten Days as Reasonable Notice

Sec. 21. Whenever notice is required in this Act to be given ten days exclusive of the day of service and return shall be considered as reasonable notice; provided, that in case of emergency the Commission may hear any cause or complaint on less than ten days' notice.

Board of Control to Provide Office Space

Sec. 22. The State Board of Control is hereby authorized and directed to set aside such additional office space in the Capitol at Austin as may be deemed necessary by the Commission for the proper performance of its added duties as herein defined.

Cancellation of Certificate

Sec. 22a. Any certificate of public convenience and necessity shall be cancelled by the Commission if the owner or owners thereof shall in any manner avoid, fail or refuse to pay any gasoline or other tax imposed by law on such business.

General Policy

Sec. 22b. Declaration of Policy. The business of operating as a motor carrier of property for hire along the highways of this State is declared to be a business affected with the public interest. The rapid increase of motor carrier traffic, and the fact that under existing law many motor trucks are not effectively regulated, have increased the dangers and hazards on public highways and make it imperative that more stringent regulation should be employed, to the end that the highways may be rendered safer for the use of the general public; that the wear of such highways may be reduced; that discrimination in rates charged may be eliminated; that congestion of traffic on the highways may be minimized; that the use of the highways for the transportation of property for hire may be restricted to the extent required by the necessity of the general public, and that the various transportation agencies of the State may be adjusted and correlated so that public highways may serve the best interest of the general public.

Rate Setting; Consideration of Competitive Disadvantage

Sec. 22c. The Railroad Commission in setting rates may consider as a factor in rate setting the disadvantage to Texas-produced products from competition from other products because of interstate commerce freight rates.

Repeal of Conflicting Laws; Construction

Sec. 23. All laws and parts of laws in conflict herewith are hereby expressly repealed. Provided, however, that nothing in this act shall be construed as giving legislative sanction to any act that would violate the provisions of the Anti-Trust Laws of Texas except as otherwise provided in this Act. [Acts 1929, 41st Leg., p. 698, ch. 314. Amended by Acts 1929, 41st Leg., 2nd C.S., p. 38, ch. 24; Acts 1931, 42nd Leg., p. 480, ch. 277, §§ 1 to 22; Acts 1933, 43rd Leg., p. 135, ch. 65; Acts 1937, 45th Leg., p. 505, ch. 255, § 1; Acts 1937, 45th Leg., p. 645, ch. 316, § 1; Acts 1937, 45th Leg., p. 651, ch. 321, § 1; Acts 1939, 46th Leg., p. 89, § 1; Acts 1941, 47th Leg., p. 86, ch. 71, § 6; Acts 1941, 47th Leg., p. 245, ch. 173, § 2; Acts 1941, 47th Leg., p. 463, ch. 290, § 1; Acts 1941, 47th Leg., p. 713, ch. 442, §§ 2-4; Acts 1945, 49th Leg., p. 637, ch. 360, § 1; Acts 1947, 50th Leg., p. 455, ch. 257, § 1; Acts 1955, 54th Leg., p. 51, ch. 37, § 1; Acts 1955, 54th Leg., p. 1042, ch. 396, §§ 1 to 3; Acts 1957, 55th Leg., p. 263, ch. 123; Acts 1961, 57th Leg., p. 629, ch. 295; Acts 1963, 58th Leg., p. 28, ch. 21, § 1; Acts 1963, 58th Leg., p. 929, ch. 359, § 1; Acts 1963, 58th Leg., p. 1316, ch. 502, § 1; Acts 1965, 59th Leg., p. 116, ch. 44, § 1, eff. March 25, 1965; Acts 1965, 59th Leg., p. 432, ch. 219, § 1, eff. Aug. 30, 1969; Acts 1965, 59th Leg., p. 572, ch. 290, § 1, eff. May 31, 1965; Acts 1965, 59th Leg., p. 1252, ch. 573, § 1; Acts 1973, 63rd Leg., p. 1233, ch. 445, §§ 1, 2, eff. June 14, 1973; Acts 1975, 64th Leg., p. 1976, ch. 657, § 1, eff. June 19, 1975; Acts 1977, 65th Leg., p. 598, ch. 215, § 1, eff. Aug. 29, 1977; Acts 1977, 65th Leg., p. 2038, ch. 816, § 1, eff. July 16, 1977; Acts 1979, 66th Leg., p. 1874, ch. 757, § 1, eff. June 13, 1979; Acts 1981, 67th Leg., p. 69, ch. 30, §§ 2, 3, eff. April 10, 1981; Acts 1981, 67th Leg., p. 145, ch. 65, §§ 3 to 6, eff. Sept. 1, 1981; Acts 1981, 67th Leg., p. 2622, ch. 705, § 3, eff. Sept. 1, 1981; Acts 1983, 68th Leg., p. 1167, ch. 263, §§ 4, 10 to 13, 15, 15B, 16 to 18, 31, eff. Sept. 1, 1983.]

Saving Clause

Acts 1965, 59th Leg., p. 581, ch. 295, § 1 and Acts 1969, 61st Leg., p. 618, ch. 213, § 1, which amended art. 883, in § 2 thereof repealed conflicting laws but provided that nothing therein should affect the provisions of § 6aa of this article. See notes under art. 883.

Acts 1965, 59th Leg., p. 572, ch. 290, § 1 amended § 1(g) of this article. Sections 2 and 3 of the amendatory act of 1965 provided:

"Sec. 2. The provisions of this amendment shall not be construed so as to broaden the certificated operating authority of any specialized motor carrier; provided further, that to the extent of any conflict herewith the transportation of oil field equipment shall be governed by the provisions of Section 1(c) as amended by Acts 1963, 58th Legislature, Page 929, Chapter 359, Section 1 [art. 911b, § 1c]; provided further, this amendment shall in no way limit, impair or restrict any power or authority the Commission now has to fix rates and charges on movements between points within any one incorporated city, town or village or commercial zone when such transportation is incident to, or a part of, regulated transportation performed under a through bill of lading or by the same carrier as part of a continuous shipment to or from points beyond such areas.

"Sec. 3. Except as specifically provided in Section 2 hereof all laws in conflict herewith are hereby repealed."

Section 15A of the 1983 amendatory act provides:

"Declaration of Policy and Findings. The legislature hereby finds with respect to reenactment of Chapter 314, Acts of the 41st Legislature, Regular Session, 1929 (Article 911b, Vernon's Texas Civil Statutes), as amended heretofore and by Sections 15B, 16, 17, and 18 of this Act, that continuation of and improvement in effective regulation of the intrastate motor carrier system are required to achieve the objectives, purposes, and transportation policies of the legislature as stated heretofore and in this Act. The legislature further finds that the amendments enacted in Sections 15B, 16, 17, and 18 of this Act are required to help achieve uniformity in enforcement as between specialized motor carriers, regular route common carriers, and contract carriers."

Art. 911c. Unconstitutional

This article, derived from Acts 1935, 44th Leg., p. 746, ch. 325, §§ 1 to 9, regulating and licensing transportation agents, was held unconstitutional by the Court of Criminal Appeals in *Ex parte Talkington*, 132 Cr.R. 361, 104 S.W.2d 495, as arbitrary, unreasonable abridgment of citizens' rights and privileges and invasion of their liberty to engage in lawful business, because of unreasonable requirements, impossible to perform, not fairly applicable, and prohibitive.

Art. 911d. Regulation of Motor Bus Ticket Brokers**Definitions**

Sec. 1. (a) That the term "corporation" when used in this Act means a corporation, company, association or joint stock association.

(b) The term "person" when used in this Act means an individual, firm, or co-partnership.

(c) The term "motor bus company" when used in this Act means every corporation or person as herein defined, their lessees, trustees, receivers, or trustees appointed by any court whatsoever, owning, controlling, operating, or managing any motor propelled passenger vehicle, not usually operated on or over rails, and engaged in the business of transporting persons for compensation or hire over the public highways within the State of Texas, under certifi-

cates of public convenience and necessity issued by the Railroad Commission of Texas, whether operating over fixed routes or fixed schedules or otherwise; provided further, that the term "motor bus company" as used in this Act shall not include corporations or persons, their lessees, trustees, or receivers, or trustees appointed by any court whatsoever, insofar as they own, control, operate, or manage motor propelled passenger vehicles operated wholly within the limits of any incorporated municipal corporation, town or city and the suburbs thereof, whether separately incorporated or otherwise.

(d) The term "Commission" when used in this Act means the Railroad Commission of the State of Texas.

(e) The term "broker" as used in this Act shall mean any person, firm, corporation or association of persons whatsoever, who or which, as principal or agent, shall for compensation, sell or offer for sale, transportation for passengers of any character, or who or which make any contract, agreement, or arrangement to provide, furnish, or arrange for such transportation, directly or indirectly, whether by selling of tickets or of information, or the introduction of parties where a consideration is received or otherwise, or who or which shall hold himself or itself out by advertisement, solicitation or otherwise as one who sells, provides, procures, contracts, or arranges for such transportation, information or introduction; provided, however, the term "broker" shall not apply to or include any such person, firm, corporation or association of persons whatsoever unless and until the Railroad Commission of Texas, after notice and hearing, shall have determined, from credible and competent evidence introduced before it or before some person authorized by present laws to conduct hearings for it, that such person, firm, corporation or association of persons has so conducted himself or itself in the course of the acts, transactions and things mentioned in this Sub-section (e) as to bring about a reasonably continuous or customary competition with one or more "motor bus companies," holding one or more certificates of convenience and necessity, duly and properly issued by the Railroad Commission of Texas under Chapter 270, General Laws Fortieth Legislature, 1927, as amended at the First Called Session of the Forty-first Legislature and any and all present and future amendments thereto;¹ provided however, a carrier of passengers by rail shall never be considered a broker.

(e $\frac{1}{2}$) The Railroad Commission of Texas shall have and it is hereby given the power and authority, either upon motion of any interested person or upon its own motion to investigate through a public hearing any person, firm, corporation or association of persons thought to be or charged with being a "broker" as that term is defined herein and to make a determination of the fact question as to whether said status of "broker" actually exists.

The person, firm, corporation, or association of persons sought to be so investigated shall be given at least ten (10) days notice by mail of such hearing and all motor bus companies probably or possibly affected by the asserted competition of such person, firm, corporation or association of persons shall likewise be given the same character of notice by mail and shall be given an opportunity to be heard; and, in addition, the owner or owners of all other existing passenger transportation facilities serving all or a portion of the territory thought to be or charged with being served by the person, firm, corporation, or association of persons under investigation shall be given the same character of written notice and, they along with any other interested party, shall be given an opportunity to be heard. The notice mentioned shall be not less than ten (10) days exclusive of the day of mailing.

Before the Commission determines that a person, firm, corporation or association of persons is a "broker" as that term is defined herein, it shall make findings, based on competent and credible testimony that the said person, firm, corporation or association of persons has customarily or with reasonable continuity brought about competition in the transportation of persons for hire between one or more motor bus companies, which have theretofore been duly and properly issued one or more certificates of public convenience and necessity, on the one hand, and other motor vehicles, not so certificated, on the other hand.

(f) The term "license" as used herein means a license issued to a broker.

¹ Article 911a.

Certain Sales Prohibited

Sec. 2. It shall be unlawful for any broker or anyone else to sell any ticket or tickets for the transportation of passengers within this State over any motor bus company's line at any rates other than the rates legally authorized and approved by the Commission.

Broker's License Required

Sec. 3. No broker shall for compensation sell or offer for sale, transportation for passengers of any character, nor make any contract, agreement, or arrangement to provide, procure, furnish, or arrange for such transportation, directly or indirectly, whether by the selling of tickets, or of information, or the introduction of parties where a consideration is received or otherwise, nor shall hold himself or itself out by advertisement, solicitation, or otherwise as one who sells, provides, procures, contracts or arranges for such transportation or information unless such broker holds a broker's license issued by the Railroad Commission of Texas authorizing such activities; provided further that the provisions hereof shall not apply to transportation of passengers on steamship lines operating between ports of this State and ports of the United States and ports of any foreign company, and transportation of pas-

sengers of any authorized carrier or carriers operating in either interstate or intrastate transportation; and provided further that nothing herein contained shall in any manner affect the rights of private individuals as a mere incident to travel who are not brokers to enter into agreements or arrangements for transportation on a share-expense plan where in such negotiations or arrangements the services of an unlicensed broker, as herein defined, do not intervene or are not used.

License, To Whom Issued, Etc.

Sec. 4. A broker's license may be issued to any qualified applicant therefor upon application to the Commission in such form as the Commission shall prescribe, authorizing the whole or any part of the operation covered by the application, if it is found that the applicant is fit, willing, and able properly to perform the services proposed and to conform to the requirements, rules and regulations of the Commission promulgated hereunder, and within the limits hereof, and that the proposed service to the extent authorized by the license, is, or will be consistent with the public interest; otherwise, such application shall be denied. Any broker in bona fide operation when this Act takes effect shall have a period of thirty (30) days thereafter within which to apply for a broker's license, and if such application be filed such broker, if in bona fide operation when this Act takes effect may continue such operation under such rules and regulations, as the Commission may prescribe within the limits of this Act, until such application be by the Commission determined.

Nature and Effect of License

Sec. 5. The license herein provided for shall be personal in nature and shall not be sold, transferred, nor assigned. No broker shall be authorized to have more than one place of business, the location of which shall be designated in the license as issued by the Commission and no broker shall be authorized to change the location of his business without the approval of the Commission. If a broker dies, discontinues business for a period of thirty (30) days, or removes from the county where such license was issued, the license shall immediately become void and shall be by the Commission cancelled.

Tariff Rates Applicable to Brokers

Sec. 6. All brokers in transporting or causing to be transported passengers on the highways of Texas shall be bound by the tariffs, fares and rates approved of by the Railroad Commission of Texas covering the transportation for hire of persons over the highways of Texas; and shall not, directly or indirectly, transport or cause to be transported over State Highways any person at a greater or lesser fare or rate than that approved of by the Commission save and except that any broker shall be allowed a reasonable brokerage for his services but said brokerage and all details and particulars in connection therewith, including who shall pay such

brokerage, shall be first approved of by the Commission.

Rules and Regulations

Sec. 7. The Commission shall have power, after proper notice and hearing, in a manner hereinafter more particularly set forth, to make, adopt and enforce any reasonable rules and regulations, and to enforce the same, which may be necessary in assisting it to determine just who are and who are not brokers and in enforcing observance of its duly authorized and approved rates, tariffs and fares and in inspecting and approving brokerage charges to be charged by brokers for their services as such and in seeing to it that passengers are not transported in vehicles and under circumstances wherein and whereunder they are unprotected against injury and damage to person and property during such transportation or as a proximate result thereof and in assisting it in otherwise exercising the powers expressly given it or necessarily implied from and by this Act.

Broker's Bond

Sec. 8. Each broker, prior to the issuance of any license to him, shall file a bond or other security with the Commission and shall procure its approval of the same conditioned in such fashion that the State of Texas, through its Attorney General or any District or County Attorney, may proceed against said bond or other security and the principals and sureties thereon for a recovery of all money representing the difference between the money actually paid by any and all persons for such transportation arranged for by the broker, on the one hand, and the money which should have been paid under the applicable tariffs, rates and fares theretofore approved of by the Commission, on the other hand, plus a penalty of Twenty-five (\$25.00) Dollars for each person so transported at the instigation of the broker at a lesser or greater charge or fare than the Commission's duly and properly approved tariff, rate or fare; and further conditioned in such fashion that the Attorney General or any District or County Attorney may similarly proceed for a recovery of all money representing the difference between the money actually collected by said broker as for his brokerage, on the one hand, and the money which should have been collected by him as for brokerage under the Commission's duly approved rate of brokerage, on the other hand, plus a penalty of Twenty-five (\$25.00) Dollars on each passenger connected with the broker, but with respect to whom the broker failed, refused or neglected to collect the proper brokerage previously fixed or approved of by the Commission. All money recovered, either as differences between money actually collected and that which should have been collected as penalties under this Section 8, shall become the property of, and be owned by, the State of Texas, as a penalty and not as a forfeiture.

Vehicles to be Bonded for Damages Due to Injuries

Sec. 9. No broker shall have any part in transporting, or causing to be transported, any person, for hire, over the highways of Texas, except in a vehicle and under circumstances wherein and whereunder such passenger and his heirs, his estate and his beneficiaries are fully protected by security, bond or insurance, to be approved by the Commission, against damage, loss and injury resulting from loss of or damage to property possessed by such passenger during such transportation, or as a proximate result thereof; and, as well, against damage, loss and injury resulting from such passenger's personal injury or death during such transportation; or as a proximate result thereof; and, if any such passenger, his heirs, his estate or his beneficiaries, be damaged or injured in his person or rights or property as a result of such passenger's being transported in such unprotected manner, then those entitled to a recovery by reason of such unprotected transportation, in the event they cannot make themselves whole by proceeding against the actual hauler or carrier, shall be entitled to proceed against the broker, insurer, bond or other security and the principal and sureties thereon to the extent necessary to make them and each of them whole; and each broker's bond, insurance or other security shall be so conditioned; and each broker shall be required to furnish or renew such insurance, bond or other security as may be, and to the extent necessary from time to time, and as may be ordered by the Commission to effectuate all of the protection for the State and for such other persons as are mentioned in this Section; and such insurance, bond or other security shall be further conditioned in such fashion that, if and when any passenger, through no fault of his own, has not been carried over the route called for by the agreement with the broker, or has not been carried all of the way to the destination agreed upon with the broker, then the party or parties injured or damaged by such deviation from route or by such failure to carry the passenger through to his destination, in the event they cannot make themselves whole by proceeding against the actual hauler or carrier, shall be fully protected by, and shall be allowed to proceed against, the broker, insurance, bond or other security and the insurer, principal or sureties thereon to the extent necessary to make the injured or damaged party or parties whole.

Powers of Commission Concerning Rules, Etc.

Sec. 10. The Railroad Commission of Texas shall have and it is hereby given power and authority to adopt, approve, promulgate and enforce rules and regulations to the extent necessary, and only to the extent necessary, to aid and assist it in carrying out the express and necessarily implied powers granted it by this Act; but before adopting, approving, promulgating or enforcing any such rules and regulations, a copy thereof shall be sent by mail to each person, firm, corporation and association of persons

known or thought by the Commission to have an interest in the subject matter of such rules and regulations; and in addition such proposed rules and regulations shall be published on three successive days in a daily newspaper of general circulation in each of the Cities of San Antonio, Houston, Dallas, Fort Worth, El Paso, Texarkana, Amarillo and Brownsville, Texas, and in each such notice and publication the Commission shall give all interested persons, firms, corporations and associations of persons express notice that it intends to adopt, approve, promulgate, and enforce such proposed rules and regulations and that a public hearing will be held thereon in Austin, Texas, at a given hour and date, for the purpose of hearing any and all objections thereto and any and all evidence and statements and arguments in regard thereto and for the purpose of making any and all necessary changes, eliminations and amendments in and to such published and proposed rules and regulations; and in such notices and publications all interested parties shall be given notice to be and appear at the given time and place for the purpose of such a hearing. At any and all such hearings the Commission shall give all interested parties an opportunity to present evidence, statements and arguments for and against the adoption of the proposed rules and regulations. And the Commission shall adopt or reject such rules and regulations, in whole or in part, as it shall deem proper; but its action shall be reasonable, and shall be based upon the substantial effect of the record made at such hearing, or upon the substantial effect of its other records of which it may take notice under present laws. The hearing contemplated shall be held at least ten (10) days from the mailing of the notices exclusive of the day of mailing, and at least ten (10) days from the appearance of the last notice in said newspapers or either of them.

Broker's Records

Sec. 11. Each and every broker shall keep an accurate record of each and every contract, agreement, or arrangement for transportation which he or it may make with every person traveling, or desiring to travel, with whom the broker may contract or arrange transportation, on such form and containing such information as the Commission may prescribe and require. Such record shall be open to inspection to any sheriff, constable, County or District Attorney, and to any officer, agent, inspector, or other employee of the Railroad Commission at all times. Such records shall not be destroyed until after the expiration of three (3) years, and then only after an order of the Commission authorizing the destruction thereof.

Hearing and Fee for License

Sec. 12. No application for a broker's license shall be granted until after hearing thereof, notice of which shall be given to all motor bus companies serving the territory proposed to be served by applicant, and to the County Judge and District and County Attorney of the county in which applicant

resides, at least ten (10) days prior to the date of such hearing, at which hearing any interested party may appear and be heard. Each application for a broker's license shall be accompanied by a filing fee of Twenty-five (\$25.00) Dollars, which shall be payable to the State Treasurer at Austin, and shall be by the State Treasurer deposited in the State Treasury and credited to the fund known and designated as the "Motor Transportation Fund," and be used in administering this Act. Each person, firm, corporation, or association of persons holding a broker's license under the terms of this Act, shall on the first day of January of each and every year that such license is in effect, pay to the State Treasurer a fee of Twenty-five (\$25.00) Dollars, which shall be deposited in and become a part of the General Revenues of the State; and such brokers shall not be authorized to transact any business in any calendar year until such fee is paid, and if not paid on or before the first day of March of any year, such license shall be automatically cancelled.

Powers of Commission, In General

Sec. 13. The Commission shall have the power and authority under this Act to hear and determine all applications of brokers for a license; to determine complaints presented to it by brokers, by any public official or by any citizen having an interest in the subject matter of the complaints; or it may institute an investigation in any matter pertaining to brokers upon its own motion. The Commission, or any member thereof, or authorized representative of the Commission, shall have the power to compel the attendance of witnesses, swear witnesses, take their testimony under oath and make a record thereof, and if such record is made under the direction of a Commissioner, or authorized representative of the Commission, a majority of the Commission may, upon the record, render judgment as if the case had been heard before a majority of the members of the Commission. The Commission shall have the power and authority under this Act to do and perform all necessary things to carry out the purpose, intent, and provisions of this Act, and to that end may hold hearings at any place in Texas which it may designate.

Review of Commission's Orders or Decisions

Sec. 14. The applicant for a broker's license, any motor bus company, or any other interested person, if he or it be dissatisfied with any decision, rule, order, act, or regulation adopted by the Commission, such dissatisfied person, association, corporation, or party may file a petition setting forth the particular objection to such decision, rule, order, act or regulation, or to either or all of them in the district court of the plaintiff's residence or principal place of business, against said Commission as defendant. Said action shall have precedence over all other causes on the docket, of a different nature, and shall be tried and determined as other civil causes in said court; either party to said action may appeal to the appellate court having jurisdiction of

said cause, and said appeal shall be at once returnable to said appellate court having jurisdiction of said cause, and said action so appealed shall have precedence in said appellate court over all causes of a different character therein pending; provided, that if the court be in session at the time such right of action accrues, the suit may be filed during such term and stand ready for trial after ten days notice. In all trials under this Section, the burden of proof shall rest upon the plaintiff, who must show by the preponderance of the evidence that the decisions, regulations, rules, orders, and acts are unreasonable and unjust to it or them. The Commission shall not be required to give any appeal bond in any cause arising hereunder, and no injunction shall be granted against any order of the Commission without hearing, unless it shall clearly appear that irreparable injury will be done the complaining party if the injunction is not granted.

Violation of Act; Penalty

Sec. 15. Any person, corporation, or any officer, agent, servant, or employee of any such corporation, and every other person who violates or fails to comply with, or who procures, aids or abets in the violation of this Act, or any rule, regulation, order or decree of the Commission promulgated under the terms of this Act, shall be guilty of a misdemeanor; and upon conviction thereof, shall be punished by a fine of not less than One Hundred (\$100) Dollars and not to exceed Two Hundred (\$200) Dollars and the violations occurring on each day shall each constitute a separate offense. Any authorized inspector for the Railroad Commission, and all law enforcement officers of the State, shall have power and authority, and it shall be their duty, to make arrests for the violation of any of the provisions of this Act.

Cancellation of License

Sec. 16. The Railroad Commission may in its discretion, after ten days notice and a hearing, cancel any license issued under the provisions of this Act for the violation of this or any other statute of this State, the violation of any lawful order, rule or regulation promulgated by the Commission under authority hereof, or for any failure of any broker to discharge any and all claims or demands of any member of the public for which such broker may be legally liable, by reason of any act of such broker in selling, providing, procuring, contracting, or arranging for such transportation, information, or introduction under the terms of this Act.

Repeal of Conflicting Laws

Sec. 17. All laws and parts of laws in conflict herewith are expressly repealed.

Severability

Sec. 18. If any Section, sub-section, clause, sentence, or phrase of this Act is for any reason held to be unconstitutional and invalid, such decision shall

not affect the validity of the remaining portions of the Act. The Legislature hereby declares that it would have passed this Act and each Section, subsection, clause, sentence, or phrase thereof, irrespective of the fact that any one or more of the Sections, sub-sections, sentences, clauses, or phrases be declared unconstitutional.

Declaration of Policy

Sec. 19. The Legislature finds that there has grown up in this State a type of business in which transportation is sold or arranged for in various forms, consisting of the selling or giving of information with respect to travel and transportation, the introduction of parties, and various other methods and practices, which interferes with and obstructs the functions of the Railroad Commission of Texas in connection with its control of motor bus companies holding certificates of public convenience and necessity issued by said Commission, and which is hazardous and dangerous to the public health, morals and general welfare, and that passengers are often stranded by drivers of cars to whom they had paid money for transportation, and other fees or commissions, for being brought into contact with the drivers of such cars, and that this often occurs when such passengers are far from home and friends and left to complete their journey any way they can; that passengers after beginning a journey are often required to pay additional money or buy supplies in order to complete their journey; that passengers are often carried over long and circuitous routes contrary to representations made to them; that there has developed a class of irresponsible persons who operate automobiles from place to place with no destination and no motive except to transport persons as passengers for hire, who have no insurance to protect a passenger for personal injury or loss or damage to property, and who are unable to respond in damages; that passengers are subjected to indignities and insults; that irregularities and abuses require the regulations and policing of broker's operations, and that such regulation is necessary in the interest of the health, moral and general welfare of the people of this State.

[Acts 1939, 46th Leg., p. 672.]

Art. 911e. Unconstitutional

This article, derived from Acts 1941, 47th Leg., p. 606, ch. 375, was held unconstitutional by the Court of Criminal Appeals in Ex parte Garland, 154 S.W.2d 834.

Art. 911f. Motor Transportation Brokers of Fresh Citrus Fruits and Vegetables

Legislative Declaration; Regulation and Control of Intermediaries

Sec. 1. The Legislature declares that the public welfare requires the regulation and control of those persons, whether acting individually or as officers, commission agents, or employees of any person, firm, or corporation, who hold themselves out to act as intermediaries between the public and those mo-

tor carriers of fresh citrus fruits (as that term is defined by Acts 1963, 58th Legislature, page 312, Chapter 117)¹ and fresh vegetables (as that term is defined by Acts 1963, 58th Legislature, page 598, chapter 218)² operating over the public highways of the state, for compensation. Until the Congress of the United States acts, the public welfare requires the regulation and control of such intermediaries between the public and interstate motor carriers as well as between the public and intrastate carriers.

¹ Repealed; see, now, Agriculture Code, § 102.001 et seq.

² Repealed; see, now, Agriculture Code, § 101.001 et seq.

Definitions

Sec. 2. In this Act the following words shall mean:

(1) "Motor transportation broker"—any person who, acting either individually or as an officer, commission agent, or employee of a corporation, or as a member of a copartnership, or as a commission agent or employee of another person, sells or offers for sale, or negotiates for or holds himself out as one who sells, furnishes, or provides, transportation of fresh citrus fruits and fresh vegetables over the public highways of this state, when such transportation is furnished, or offered or proposed to be furnished, by a motor carrier.

(2) "Motor carrier"—any person, firm, or corporation, their lessee, trustees, receivers or trustees appointed by any court whatsoever, transporting or offering or proposing to transport fresh citrus fruits and fresh vegetables for compensation over any portion of the public highways of the state.

(3) "Commission"—the Railroad Commission of Texas.

Application of Act

Sec. 3. This Act shall not apply to the officers, agents, or employees of any carrier operating for compensation over the public highways of this state who is under the jurisdiction of the commission, or to a person, firm, or corporation engaged in transporting express when such transportation is incidental to the transportation of passengers.

The provisions of this Chapter shall apply whether the transportation sold, or offered to be sold, is interstate or intrastate.

License; Necessity; Power to Regulate Issuance of License

Sec. 4. It is unlawful for any person, firm, or corporation to engage in the business, or act in the capacity, of a motor transportation broker without first obtaining a license therefor. The commission may administer this Act, with full power to regulate and control the issuance and revocation of motor transportation broker licenses, and may perform all other acts and duties provided in this Act and necessary for its enforcement.

Copartnerships and Corporations; Agents or Employees; Joinder in Application

Sec. 5. The commission shall not issue a motor transportation broker license to any copartnership or corporation, it being the intent of this Act to require each person acting as a motor transportation broker to be individually licensed. If an applicant is an officer or commission agent or employee of a corporation, or a member of any copartnership, he shall so state in his application. The corporation, copartnership, or person of which the applicant is an officer, member, or employee, as the case may be, shall join in the applicant's application and shall set forth therein the relationship between the applicant and the person, copartnership, or corporation so joining.

Form of Application; Contents

Sec. 6. An application for a license as a motor transportation broker shall be made in writing to the commission. The application shall be verified and shall be in such form and contain such information as the commission from time to time requires.

Issuance of License; Refusal of License; Hearing

Sec. 7. The commission, without a hearing, may issue the license as prayed for. The commission, with a hearing, may refuse to issue the license or may issue it for the partial exercise of the privilege sought. The commission shall not issue a license when it determines that (a) the applicant is not a fit and proper person to receive the license, or (b) the motor carriers for whom the applicant proposes to sell transportation have not complied, or are not complying, or do not propose to comply, with state or federal laws, or all general orders of the commission, applicable to the operations of the motor carrier.

Bond

Sec. 8. No license shall be issued unless the applicant therefor provides a good and sufficient bond in the sum of Ten Thousand Dollars (\$10,000) executed by a solvent bonding company authorized to do business in the State of Texas, payable to the State of Texas or to any person to whom the applicant furnishes transportation, and be conditioned:

(a) Upon the faithful performance, by the motor carrier or motor carriers for whom the applicant is licensed to act, of the contract or agreement of transportation negotiated by the licensee; and

(b) Upon the honest and faithful performance by the applicant of any undertaking as a licensed motor carrier transportation agent under this Act.

Limitation on Liability; Actions on Bond

Sec. 9. Nothing in this Act shall be construed to impose upon the surety on any such bond a greater liability than the total amount thereof or the amount remaining unextinguished by any prior recovery.

No suit or action against the surety on any such bond given in compliance with this Act shall be brought later than one (1) year from the accrual of the cause of action thereon. The surety may terminate its liability under the bond by giving thirty (30) days written notice thereof, served either personally or by registered mail, to the principal and to the commission. Upon giving the notice the surety is discharged from all liability under the bond for any act or omission of the principal occurring after the expiration of thirty (30) days from the date of the service of the notice. Unless on or before the expiration of such period the principal files a new bond in like amount and conditioned as the original in substitution of the bond so terminated, the license of the principal shall likewise terminate upon the expiration of the period.

Transfer or Assignment of License

Sec. 10. No license issued pursuant to this Act gives authority to do any act for which the license is issued, to any person, other than the licensee. The license is not transferable or assignable. No such license authorizes the licensee to do business except in the location stipulated in the license.

Fees

Sec. 11. The fees for licenses, and each renewal thereof, are Five Dollars (\$5) a year, or fraction thereof. All applications for licenses shall be accompanied by the fee, and all licenses, subject to the provisions for renewal, which the commission prescribes, shall expire on September 30th of each year.

All fees charged and collected under this Act shall be deposited at least once a month in the State Treasury to the credit of the commission and in augmentation of the current appropriation for the support of the commission, and may be expended by the commission for the administration of this Act.

Insuring Property

Sec. 12. Each broker licensee provided for in this Act shall insure any property for which he has sold transportation with a solvent insurer authorized to do business in the State of Texas, for the protection of both the shipper and receiver of such property.

Powers of Commission; Proceedings

Sec. 13. All powers vested in the commission relating to hearing and determining matters presented to it, are made applicable to the proceedings under the provisions of this Act.

Suspension or Revocation of License

Sec. 14. The commission may suspend or revoke any license if it determines that the licensee is not a fit and proper person to hold the license, or if the commission determines that the licensee, in acting as motor transportation broker, has engaged in false advertising and false representation in viola-

tion of the laws of this state, or any political subdivision thereof, or has sold, offered for sale, or negotiated for sale, transportation by any carrier that under the laws of this state is conducted in a manner contrary to the public interest, or without proper authority, or in violation of the provisions of this Act or the general orders or rules of the commission pertaining thereto.

Complaints for Violations; Prosecutions

Sec. 15. The commission may prefer a complaint for violation of this Act before any court of competent jurisdiction and the commission and its counsel, or other official representatives, may assist in presenting facts at the trial. It is the duty of the district attorney of each county in this state to prosecute all violations of the provisions of this Act in their respective counties in which the violations occur, either with or without the request of the commission.

Records; Inspection

Sec. 16. All motor transportation brokers shall maintain and keep for a period of two (2) years an exact and permanent record of all transactions had by them as such brokers, including the amount paid to the broker for all property transported, the point of destination, and the name of the person, firm or corporation acting as motor carrier. The records shall at all reasonable times be open to inspection by any officer or agent of the state or of any county within the state.

Acting as Motor Transportation Broker

Sec. 17. Any person, firm, or corporation, shall be understood to be acting as a motor transportation broker who:

(a) Orally or by card, circular, pamphlet, newspaper, radio, sign, billboard, or any other way, advertises himself, or itself, as one who sells, furnishes, negotiates for, or provides transportation over the public highways of this state when the transportation is furnished or offered, or proposed to be furnished, by motor carriers.

(b) Manages or conducts as a manager, conductor, agent, proprietor, lessor, lessee, or otherwise, a place where transportation is, or is offered, or proposed to be, sold, furnished, negotiated for, or provided by a motor carrier.

(c) Aids and abets, or without being present advises and encourages any person, firm, or corporation in acting as, or to act as, a motor transportation broker.

One act of the nature set forth in this Section shall constitute a person, firm, or corporation doing or committing the act, a motor transportation broker.

Acting Without License; Punishment

Sec. 18. Any person, firm, or corporation, acting as a motor transportation broker without a license

is, upon conviction of a first offense thereof, if a person, punishable by a fine of not to exceed Five Hundred Dollars (\$500), or by imprisonment in the county jail for a term not to exceed six (6) months, or both, or if a corporation, punishable by a fine of not to exceed Two Thousand Five Hundred Dollars (\$2,500); and for a second and subsequent offense is, upon conviction, if a person, punishable by a fine of not to exceed One Thousand Dollars (\$1,000), or by imprisonment in the county jail or state prison for a term not to exceed one (1) year, or both, or, if a corporation, is punishable by a fine of not to exceed Five Thousand Dollars (\$5,000).

Violation of Act; Punishment

Sec. 19. Any person, licensed as a motor transportation broker, who violates any of the provisions of this Act, is upon conviction, punishable by a fine not to exceed Five Hundred Dollars (\$500), or by imprisonment in a county jail not to exceed six (6) months, or both; and in addition thereto, the license as motor transportation broker shall be revoked by the commission.

Right of Action by State or Commission; Cumulative Penalties

Sec. 20. This Act shall not have the effect to release or waive any right of action by the state, the commission, or any person or corporation, for any fine, penalty, or forfeits which may have arisen or accrued, or may hereafter arise or accrue, under any laws of this state. All penalties accruing under this Act are cumulative.

[Acts 1965, 59th Leg., p. 1153, ch. 544.]

Art. 911g. Motor Transportation of Migrant Agricultural Workers

Definitions

Sec. 1. As used in this Act, unless the context otherwise requires:

(a) "Migrant agricultural worker" means any person performing or seeking to perform farm labor and who is a seasonal worker and who occupies living quarters other than his own permanent home during the period of employment. For this purpose, the term "farm labor" includes that necessary to the processing of agricultural food products.

(b) "Carrier of migrant agricultural workers by motor vehicle" means any person, including any "contract by motor vehicle," but not including any "common carrier by motor vehicle," who or which transports within this state at any one time five or more migrant agricultural workers to or from their employment by any motor vehicle other than a passenger automobile or station wagon, except a migrant agricultural worker transporting himself or his immediate family.

(c) "Motor carrier" means any carrier of migrant agricultural workers by motor vehicle as defined in Paragraph (b) above.

(d) "Motor vehicle" means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property, or any combination thereof, but does not include a passenger automobile or station wagon, any vehicle, locomotive, or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation in street-railway service.

(e) "Bus" means any motor vehicle designed, constructed, and used for the transportation of passengers, except passenger automobiles or station wagons other than taxicabs.

(f) "Truck" means any self-propelled motor vehicle except a truck tractor, designed and constructed primarily for the transportation of property.

(g) "Truck tractor" means a self-propelled motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

(h) "Semitrailer" means any motor vehicle other than a "pole trailer" with or without motive power, designed to be drawn by another motor vehicle and so constructed that some part of its weight rests upon the towing vehicle.

(i) "Driver or operator" means any person who drives a motor vehicle.

(j) "Highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular traffic.

Application of Act

Sec. 2. The regulations prescribed in this Act shall be applicable to motor carriers of migrant agricultural workers only in the case of transportation of any migrant worker for a total distance of more than 50 miles.

Drivers; Requirements

Sec. 3. Every motor carrier of migrant agricultural workers and its officers, agents, representatives and employees who drive motor vehicles or are responsible for the hiring, supervision, training, assignment or dispatching of drivers shall comply with and be conversant with the requirements listed herein.

(a) Minimum physical requirements. No person shall drive, nor shall any motor carrier require or permit any person to drive, any motor vehicle unless he possesses the following minimum qualifications:

- (1) No loss of foot, leg, hand, or arm.
- (2) No mental, nervous, organic, or functional disease, likely to interfere with safe driving.
- (3) No loss of fingers, impairment of use of foot, leg, fingers, hand or arm, or other structural defect or limitation likely to interfere with safe driving.

(4) Eyesight: Visual acuity of at least 20/40 (Snellen) in each eye either without glasses or by correction with glasses; form field of vision in the horizontal median shall not be less than a total of 140 degrees; ability to distinguish colors, red, green and yellow; drivers requiring correction by glasses shall wear properly prescribed glasses at all times when driving.

(5) Hearing: Hearing shall not be less than 10/20 in the better ear, for conversational tones, without a hearing aid.

(6) Liquor, narcotics and drugs: Shall not be addicted to the use of narcotics or habit forming drugs, or the excessive use of alcoholic beverages or liquors.

(7) Initial and periodic physical examination of drivers: No person shall drive nor shall any motor carrier require or permit any person to drive any motor vehicle unless within the immediately preceding 36-month period such person shall have been physically examined and shall have been certified in accordance with the provisions of Subparagraph (8) hereof by a licensed doctor of medicine or osteopathy as meeting the requirements of this subsection.

(8) Certificate of physical examination: Every motor carrier shall have in its files at its principal place of business for every driver employed or used by it a legible certificate of a licensed doctor of medicine or osteopathy based on a physical examination as required by Subparagraph (7) hereof or a legible photographically reproduced copy thereof, and every driver shall have in his possession while driving, such a certificate or a photographically reproduced copy thereof covering himself.

(9) Doctor's certificate: The doctor's certificate shall certify as follows:

"Doctor's Certificate

(Driver of Migrant Agricultural Workers)

This is to certify that I have this day examined _____ in accordance with the Texas law governing physical qualifications of drivers of migrant agricultural workers and that I find him

Qualified under said law

Qualified only when wearing glasses

I have kept on file in my office a completed examination.

(Date)

(Place)

(Signature of Examining Doctor)

(Address of Doctor)

Signature of Driver _____

Address of Driver _____"

(b) Minimum age and experience requirements. No person shall drive nor shall any motor carrier

require or permit any person to drive, any motor vehicle unless such person possesses the following minimum qualifications:

- (1) Age: Minimum age shall be 21 years.¹
- (2) Driving skill: Experience in driving some type of motor vehicle (including private automobiles) for not less than one year, including experience throughout the four seasons.
- (3) Knowledge of regulations: Familiarity with the rules and regulations prescribed in the law pertaining to the driving of motor vehicles.
- (4) Driver's permit: Possession of a valid permit qualifying the driver to operate the type of vehicle driven by him in the jurisdiction by which the permit is issued.

¹ Arts 1973, 63rd Leg., p. 1722, ch. 626, classified as art. 5923b, changed the age of majority to eighteen.

Safety Regulations

Sec. 4. Every motor carrier shall comply with the requirements of this section, shall instruct its officers, agents, representatives and drivers with respect thereto, and shall take such measures as are necessary to insure compliance therewith by such persons. All officers, agents, representatives, drivers and employees of motor carriers directly concerned with the management, maintenance, operation, or driving of motor vehicles, shall comply with and be conversant with the requirements of this section.

(a) Driving rules to be obeyed. Every motor vehicle shall be driven in accordance with the laws, ordinances, and regulations of the jurisdiction in which it is being operated, unless such laws, ordinances and regulations are at variance with specific regulations in this law which impose a greater affirmative obligation or restraint.

(b) Driving while ill or fatigued. No driver shall drive or be required or permitted to drive a motor vehicle while his ability or alertness is so impaired through fatigue, illness, or any other cause as to make it unsafe for him to begin or continue to drive, except in case of grave emergency where the hazard to passengers would be increased by observance of this section and then only to the nearest point at which the safety of the passengers is assured.

(c) Schedules to conform with speed limits. No motor carrier shall permit nor require the operation of any motor vehicle between points in such a period of time as would necessitate the vehicle being operated at speeds greater than those prescribed by the jurisdictions in or through which the vehicle is being operated.

(d) Equipment and emergency devices. No motor vehicle shall be driven unless the driver thereof shall have satisfied himself that the following parts, accessories, and emergency devices are in good working order; nor shall any driver fail to use or make use of such parts, accessories, and devices when and as needed:

Service brakes, including trailer brake connections.

Parking (hand) brake.

Steering mechanism.

Lighting devices and reflectors.

Tires.

Horn.

Windshield wiper or wipers.

Rear-vision mirror or mirrors.

Coupling devices.

Fire extinguisher, at least one properly mounted.

Road warning devices, at least one red burning fusee and at least three red flares (oil burning pot torches), red electric lanterns, or red emergency reflectors.

(e) Safe loading. (1) Distribution and securing of load: No motor vehicle shall be driven nor shall any motor carrier permit or require any motor vehicle to be driven if it is so loaded, or if the load thereon is so improperly distributed or so inadequately secured, as to prevent its safe operation.

(2) Doors, tarpaulins, tailgates and other equipment: No motor vehicle shall be driven unless the tailgate, tailboard, tarpaulins, doors, all equipment and rigging used in the operation of said vehicle, and all means of fastening the load, are securely in place.

(3) Interference with driver: No motor vehicle shall be driven when any object obscures his view ahead, or to the right or left sides; or to the rear, or interferes with the free movement of his arms or legs, or prevents his free and ready access to the accessories required for emergencies, or prevents the free and ready exit of any person from the cab or driver's compartment.

(4) Property on motor vehicles: No vehicle transporting persons and property shall be driven unless such property is stowed in a manner that will assure:

(i) unrestricted freedom of motion to the driver for proper operation of the vehicle;

(ii) unobstructed passage to all exits by any person; and

(iii) adequate protection to passengers and others from injury as a result of the displacement or falling of such articles.

(5) Maximum passengers on motor vehicle: If the trip is for a total of 50 miles or more, no motor vehicle shall be driven if the total number of passengers exceeds the seating capacity which will be permitted on seats prescribed in Section 5 when that section is effective. All passengers carried on such vehicle shall remain seated while the motor vehicle is in motion.

(f) Rest and meal stops. Every carrier shall provide for reasonable rest stops at least once between meal stops. Meal stops shall be made at intervals not to exceed six hours and shall be for a period of not less than 30 minutes duration.

(g) Kinds of motor vehicles in which agricultural workers may be transported. Workers may be transported in or on only the following types of motor vehicles: a bus, a truck with no trailer attached, or a semitrailer attached to a truck tractor provided that no other trailer is attached to the semitrailer. Closed vans without windows or means to assure ventilation shall not be used.

(h) Limitation on distance of travel in trucks. Any truck when used for the transportation of migrant workers, if such workers are being transported in excess of 500 miles, shall be stopped for a period of not less than eight consecutive hours either before or upon completion of 500 miles of travel, and either before or upon completion of any subsequent 500 miles of travel to provide rest for drivers and passengers.

(i) Lighting devices and reflectors. No motor vehicles shall be driven when any of the required lamps or reflectors are obscured by the tailboard, by any part of the load, by dirt, or otherwise, and all lighting devices required by law shall be lighted during darkness or at any other time when there is not sufficient light to render vehicles and persons visible upon the highway at a distance of 500 feet.

(j) Ignition of fuel; prevention. No driver or any employee of a motor carrier shall: (1) fuel a motor vehicle with the engine running, except when it is necessary to run the engine to fuel the vehicle; (2) smoke or expose any open flame in the vicinity of a vehicle being fueled; (3) fuel a motor vehicle unless the nozzle of the fuel hose is continuously in contact with the intake pipe of the fuel tank; (4) permit any other person to engage in such activities as would be likely to result in fire or explosion.

(k) Reserve fuel. No supply of fuel for the propulsion of any motor vehicle or for the operation of any accessory thereof shall be carried on the motor vehicle except in a properly mounted fuel tank or tanks.

(l) Driving by unauthorized person. Except in case of emergency, no driver shall permit a motor vehicle to which he is assigned to be driven by any person not authorized to drive such vehicle by the motor carrier in control thereof.

(m) Protection of passengers from weather. No motor vehicle shall be driven while transporting passengers unless the passengers therein are protected from inclement weather conditions such as rain, snow, or sleet, by use of the top or protective devices required in Section 5 hereof.

(n) Unattended vehicles; precautions. No motor vehicle shall be left unattended by the driver until the parking brake has been securely set, the wheels

chocked, and all reasonable precautions have been taken to prevent the movement of such vehicle.

(o) Railroad grade crossings; stopping required; sign on rear of vehicle. Every motor vehicle carrying migrant agricultural workers as defined in this Act, shall, upon approaching any railroad grade crossing, make a full stop not more than 50 feet, nor less than 15 feet from the nearest rail of such railroad grade crossing, and shall not proceed until due caution has been taken to ascertain that the course is clear; except that a full stop need not be made at:

(1) A streetcar crossing within a business or residence district of a municipality.

(2) A railroad grade crossing where a police officer or a traffic-control signal (not a railroad flashing signal) directs traffic to proceed.

(3) An abandoned or exempted grade crossing which is clearly marked as such by or with the consent of the proper state authority, when such marking can be read from the driver's position.

All such motor vehicles shall display a sign on the rear reading, "This Vehicle Stops at Railroad Crossings."

Vehicles; Equipment

Sec. 5. Every motor carrier engaged in transporting migrant workers, its officers, agents, drivers, representatives, and employees directly concerned with the installation and maintenance of equipment and accessories, shall comply and be conversant with the requirements and specifications of this section, and no motor carrier engaged in transporting migrant workers shall operate any motor vehicle, or cause or permit it to be operated, unless it is equipped in accordance with said requirements and specifications.

(a) Lighting devices. Every motor vehicle shall be equipped with the lighting devices and reflectors required by law in this state.

(b) Brakes. Every motor vehicle shall be equipped with brakes as required by the laws of this state.

(c) Coupling devices; fifth wheel mounting and locking. The lower half of every fifth wheel mounted on any truck tractor or dolly shall be securely affixed to the frame thereof by U-bolts of adequate size, securely tightened, or by other means providing at least equivalent security. Such U-bolts shall not be of welded construction. The installation shall be such as not to cause cracking, warping, or deformation of the frame. Adequate means shall be provided positively to prevent the shifting of the lower half of the fifth wheel on the frame to which it is attached. The upper half of every fifth wheel shall be fastened to the motor vehicle with at least the security required for the securing of the lower half to the truck tractor or dolly. Locking means shall be provided in every fifth wheel mechanism including adapters when used, so that the upper and

lower halves may not be separated without the operation of a positive manual release. A release mechanism operated by the driver from the cab shall be deemed to meet this requirement. On fifth wheels designed and constructed as to be readily separable, the fifth wheel locking devices shall apply automatically on coupling for any motor vehicle the date of manufacture of which is subsequent to December 31, 1952.

(d) Tires. Every motor vehicle shall be equipped with tires of adequate capacity to support its gross weight. No motor vehicle shall be operated on tires which have been worn so smooth as to expose any tread fabric or which have any other defect likely to cause failure. No vehicle shall be operated while transporting passengers while using any tire which does not have tread configurations on that part of the tire which is in contact with the road surface. No vehicle transporting passengers shall be operated with regrooved, recapped, or retreaded tires on front wheels.

(e) Passenger compartment. Every motor vehicle transporting passengers, other than a bus, shall have a passenger compartment meeting the following requirements:

(1) Floors: A substantially smooth floor, without protruding obstructions more than two inches high, except as are necessary for the securing of seats or other devices to the floor, and without cracks or holes.

(2) Sides: Side walls and ends above the floor at least 60 inches high, by attachment of sideboards to the permanent body construction if necessary. Stake body construction shall be construed to comply with this requirement only if all six-inch or larger spaces between stakes are suitably closed to prevent passengers from falling off the vehicle.

(3) Nails, screws, splinters: The floor and the interior of the sides and ends of the passenger-carrying space shall be free of inwardly protruding nails, screws, splinters, or other projecting objects, likely to be injurious to passengers or their apparel.

(4) Seats: On and after November 1, 1969, a seat shall be provided for each worker transported if the total trip is for 100 miles or more. The seats shall be: securely attached to the vehicle during the course of transportation; not less than 16 inches nor more than 19 inches above the floor; at least 13 inches deep; equipped with backrests extending to a height of at least 36 inches above the floor, with at least 24 inches of space between the backrests or between the edges of the opposite seats when face to face; designed to provide at least 18 inches of seat for each passenger; without cracks more than one-fourth inch wide, and the backrests, if slatted, without cracks more than two inches wide, and the exposed surfaces, if made of wood, planed or sanded smooth and free of splinters.

(5) Protection from weather: Whenever necessary to protect the passengers from inclement

weather conditions, be equipped with a top at least 80 inches high above the floor and facilities for closing the sides and ends of the passenger-carrying compartment. Tarpaulins or other such removable devices for protection from the weather shall be secured in place.

(6) Exit: Adequate means of ingress and egress to and from the passenger space shall be provided on the rear or at the right side. Such means of ingress and egress shall be at least 18 inches wide. The top and the clear opening shall be at least 60 inches high, or as high as the side wall of the passenger space if less than 60 inches. The bottom shall be at the floor of the passenger space.

(7) Gates and doors: Gates or doors shall be provided to close the means of ingress and egress and each such gate or door shall be equipped with at least one latch or other fastening device of such construction as to keep the gate or door securely closed during the course of transportation; and readily operative without the use of tools.

(8) Ladders or steps: Ladders or steps for the purpose of ingress and egress shall be used when necessary. The maximum vertical spacing of footholds shall not exceed 12 inches, except that the lowest step may be not more than 18 inches above the ground when the vehicle is empty.

(9) Handholds: Handholds or devices for similar purpose shall be provided to permit ingress and egress without hazard to passengers.

(10) Emergency exit: Vehicles with permanently affixed roofs shall be equipped with at least one emergency exit having a gate or door, latch and hold as prescribed in this section and located on a side or rear not equipped with the exit described in Subparagraph (6) of this subsection.

(11) Communication with driver: Means shall be provided to enable the passengers to communicate with the driver. Such means may include telephone, speaker tubes, buzzers, pull cords, or other mechanical or electrical means.

(f) Protection from cold. Every motor vehicle shall be provided with a safe means of protecting passengers from cold or undue exposure, but in no event shall heaters of the following types be used:

(1) Exhaust heaters: Any type of exhaust heater in which the engine exhaust gases are conducted into or through any space occupied by persons or any heater which conducts engine compartment air into any such space.

(2) Unenclosed flame heaters: Any type of heater employing a flame which is not fully enclosed.

(3) Heaters permitting fuel leakage: Any type of heater from the burner of which there could be spillage or leakage of fuel upon the tilting or overturning of the vehicle in which it is mounted.

(4) Heaters permitting air contamination: Any heater taking air, heated or to be heated, from the engine compartment or from direct contact with any

portion of the exhaust system; or any heater taking air in ducts from the outside atmosphere to be conveyed through the engine compartment, unless said ducts are so constructed and installed as to prevent contamination of the air so conveyed by exhaust or engine compartment gases.

(5) Any heater not securely fastened to the vehicle.

Hours of Service of Drivers; Maximum Driving Time

Sec. 6. No person shall drive nor shall any motor carrier permit or require a driver employed or used by it to drive or operate for more than 10 hours in the aggregate (excluding rest stops and stops for meals) in any period of 24 consecutive hours, unless such driver be afforded eight consecutive hours rest immediately following the 10 hours aggregate driving. The term "24 consecutive hours" as used in this section means any period starting at the time the driver reports for duty.

Inspection and Maintenance of Motor Vehicles

Sec. 7. Every motor carrier shall systematically inspect and maintain or cause to be systematically maintained, all motor vehicles and their accessories subject to its control, to insure that such motor vehicles and their accessories are in safe and proper operating condition.

Enforcement; Penalty

Sec. 8. Any peace officer in this state is authorized to enforce the provisions of this Act, and any carrier of migrant agricultural workers who fails to comply with the provisions of this Act shall be guilty of a misdemeanor, and upon conviction shall be fined not less than \$5 nor more than \$50.

ICC Certificate of Compliance; Effect

Sec. 9. Any carrier of migrant agricultural workers who possesses a certificate of compliance with the Interstate Commerce Commission regulations governing the transportation of migrant workers in interstate commerce issued to said person by the Interstate Commerce Commission and valid during the period of inspection by any peace officer in this state shall be deemed to have complied with the provisions of this Act.

Cumulative Effect

Sec. 10. The provisions of this Act are cumulative of existing laws and shall not be construed as repealing or replacing any of the provisions of the Uniform Act Regulating Traffic on Highways¹ or any other existing law.

[Acts 1969, 61st Leg., p. 1382, ch. 421, eff. June 2, 1969.]

¹ Article 6701d.

Art. 911h. Agreement Requiring Carrier to Pay Charge Contingent Upon Use of Another Mode of Transportation

Sec. 1. Any part of any agreement, arrangement or other device entered into shall be unlawful and void which as a condition to the transportation of property requires or permits a regulated for hire carrier of property, freight forwarder, private carrier or other carrier or shipper or association or group of shippers to pay a levied charge, allowance, assessment or compensation to any person or organization if such levied charge, allowance, assessment or compensation is dependent or contingent upon the use of another mode of transportation in addition to motor transportation for movement of such property.

Sec. 2. Should any person, firm, partnership, organization, or association of persons violate any of the provisions of this Act, they shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500), or by imprisonment for not less than thirty (30) days nor more than ninety (90) days, or by both such fine and imprisonment. Each day of the violation of any of the provisions of this Act shall constitute a separate offense.

[Acts 1961, 57th Leg., 1st C.S., p. 47, ch. 19, eff. Aug. 11, 1961.]

Art. 911i. Transporting by Motor Vehicle for Hire Without Permit

Any person, firm, corporation, organization, officer, agent, servant, or employee required by statute to have a permit or certificate from the Railroad Commission of Texas authorizing transportation by motor vehicle for compensation or hire who engages in transportation by motor vehicle for compensation or hire without first having obtained such certificate or permit from the Railroad Commission of Texas, or who aids or abets any such operation, shall be guilty of a misdemeanor, and, upon conviction therefor, shall be punished by a fine of not less than \$100 nor more than \$200, and each violation shall constitute a separate offense.

[Acts 1967, 60th Leg., p. 168, ch. 88, § 1, eff. Aug. 28, 1967. Amended by Acts 1969, 61st Leg., p. 72, ch. 30, § 1, eff. Sept. 1, 1969.]

Art. 911j. Transportation of Persons for Hire; Agencies for Obtaining Co-Travelers to Share Expenses; License; Penalty

Sec. 1. It shall be unlawful for any person, firm, corporation, company, partnership, association or joint stock association, or organization or association of persons, firms, or corporations to engage in the business of transporting persons for hire or compensation over the public roads, highways and bridges of this State, whether as a common carrier, contract or charter carrier, or as a transportation agency, or as a travel bureau or as a broker for hire to obtain a co-traveler or co-travelers to share the

expense of the trip proportionately or otherwise, as to distance covered or as to money expended or in any other manner, or to act as an intermediary in connection therewith or as a broker for hire, agent or otherwise, whereby the expense of a trip or trips is to be shared with a co-traveler or co-travelers, unless the person, operator, driver or chauffeur in charge of the motor vehicle to be used on or in connection with said trip shall first have obtained a chauffeur's, operator's or driver's license in accordance with the existing laws of the State of Texas, and unless the motor vehicle used in connection therewith is properly equipped with a license plate issued by the Railroad Commission of the State of Texas, under the laws of the State of Texas, and unless the owner of said vehicle has complied in all respects with the law of the State of Texas in connection with the transportation of passengers over the public roads, highways and bridges of this State.

Sec. 2. This Act shall not apply to the owner, lessee or operator of vehicles operated exclusively within the boundaries of any incorporated city or town, and within a radius of five (5) miles from such city or town; and shall also not apply to the owner, lessee or operator of any vehicle who is not engaged in the business of transporting persons for hire or compensation over the public roads, highways and bridges of this State.

Sec. 3. That it shall be the duty of any person, firm, corporation, company, partnership, association

or joint stock association, or organization or association of persons, firms, or corporations before entering into any contract with the owner, lessee, driver, or chauffeur of any motor vehicle whereby the expenses of the trip or trips are to be shared by the co-traveler or co-travelers to first make an examination of the public records of the State of Texas in order to ascertain whether or not the owner, lessee, chauffeur or operator of the motor vehicle to be used in the transportation of persons for hire has properly complied with the laws of the State of Texas as to chauffeurs', drivers' or operators' licenses, and to ascertain whether or not such owner, chauffeur or operator has complied with the laws of the State of Texas regulating the operation of motor vehicles for hire.

Sec. 4. Should any person, firm, corporation, company, partnership, association or joint stock association, or organization or association of persons, firms or corporations violate any of the provisions of this act, the same shall be a misdemeanor and shall be punishable by fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) for each offense or by imprisonment for not less than thirty (30) days nor more than ninety (90) days, or both, at the discretion of the court. Each day of the violation of any of the provisions of this Act shall constitute a separate offense and may be punishable as such.

[Acts 1933, 43rd Leg., 1st C.S., p. 316, ch. 114.]

TITLE 26

CEMETERIES

- Art.**
 912. Repealed.
 912a-1. Definitions.
 912a-2. Operation of Cemeteries Unlawful Unless Provisions Complied With.
 912a-3. Receipt and Disbursement of Filing Fees, Examination Fees, Penalties and Revenues.
 912a-4. Powers and Duties of Enforcement Officers.
 912a-5. Authority to Corporations.
 912a-6. Rights of Lot Owners in Cemeteries Operated by Nonprofit Corporations.
 912a-7. Meeting to Organize Nonprofit Cemetery Corporations.
 912a-8. No Crematory Without Provision for Completion of Permanent Disposition.
 912a-9. Acquisition of Property.
 912a-10. Dedication.
 912a-11. Dedication Supreme Until Removed by Court.
 912a-12. Sale of Property for Interment Purposes and Property Rights.
 912a-13. Rights in Plot of an Individual Owner; Conveyance of Exclusive Right of Sepulture Therein; Conveyances Subject to the Rules and Regulations of the Cemetery Association; Filing and Recording of Conveyances in the Office of the Cemetery Association; Designation of Representative by Co-owners in a Plot.
 912a-14. Rules and Regulations.
 912a-15. Establishment and Maintenance of Perpetual Care.
 912a-16. Requirements of Perpetual Care Cemeteries.
 912a-17. Investment of Perpetual Care Funds.
 912a-18. Special Care.
 912a-19. Cemeteries Placed in Receivership.
 912a-20. Duty of Interring and Right to Control Disposition of Remains.
 912a-21. Records of Interments.
 912a-22. Removals.
 912a-23. May Contract Pecuniary Indebtedness but All Liens Subordinate to Dedication.
 912a-24. Location of Cemetery.
 912a-25. Abatement of Nuisances.
 912a-26. Police Power to Sexton.
 912a-26a. Perpetual Care.
 912a-27. Constitutionality.
 912a-28. Articles of Incorporation; Requisites and Contents.
 912a-29. Perpetual Care and Maintenance Guarantee Fund; Minimum; Necessity and Requisites.
 912a-30. Cancellation of Charter for Failure to Operate Thereunder; Recision of Cancellation.
 912a-31. Examinations of Cemetery Associations' Perpetual Care Trust Funds and Records; Fees and Expenses.
 912a-32. Compliance Required; Books, Records, and Funds to Be Maintained Within State; Examination.
 912a-33. Annual Report; Liability for Failure to Make.
 912a-34. Interment; Discrimination.

- Art.**
 913 to 930a. Repealed.
 930a-1. Feed Pens or Slaughter Pens Near Cemetery in Certain Counties a Nuisance; Injunction; Old Abandoned or Neglected Cemeteries; Abatement of Nuisances.
 930b to 931b. Repealed.
 931b-1. Depth of Burial Graves; Exceptions; Penalty.
 931c. Abandonment of Lots in Private Cemeteries.

Art. 912. Repealed by Acts 1945, 49th Leg., p. 559, ch. 340, § 29

Art. 912a-1. Definitions

Words used in this Act in the present tense include the future as well as the present; words used in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural the singular; "writing" includes "printing" and "typewriting"; "oath" includes "affirmation." When used in this Act, the following terms shall, unless the context otherwise indicates, have the following respective meanings:

The term "cemetery", within the meaning of this title, is hereby defined as a place dedicated to and used and intended to be used for the permanent interment of the human dead. It may be either a burial park, for earth interments; a mausoleum for vault or crypt interments, a crematory, or crematory and columbarium for cinerary interments, or a combination of one or more thereof.

The term "perpetual care cemetery" shall mean a cemetery for the benefit of which a perpetual care fund shall have been established in accordance with the provisions of this Act.

The term "nonperpetual care cemetery" shall mean a cemetery for the benefit of which no perpetual care fund has been established in accordance with the provisions of this Act.

The term "perpetual care" shall mean to keep the sod in repair, to keep all places where interments have been made in proper order, and to care for trees and shrubs, providing for the administration of perpetual care funds in instances wherein those administering such funds fail or refuse to act.

"Burial Park" means a tract of land which has been dedicated to the purposes of and used, and intended to be used, for the interment of the human dead in graves.

"Grave" means a space of ground in a burial park intended to be used for the permanent interment in the ground of the remains of a deceased person.

"Mausoleum" means a structure or building of most durable and lasting fireproof construction used, or intended to be used, for the permanent interment in crypts and vaults therein of the remains of deceased persons.

"Crypt" or "Vault" as herein used means the chamber in a mausoleum of sufficient size to inter the uncremated remains of a deceased person.

"Lawn Crypts" or "Garden Crypts," sometimes called cryptoriums, means subsurface concrete and reinforced steel receptacles installed in multiple units, for burial of the remains of a deceased person in a casket.

"Columbarium" means a structure or room or other space in a building or structure of most durable and lasting fireproof construction or a plot of earth, containing niches, used, or intended to be used, to contain cremated human remains.

"Crematory" means a building or structure containing one or more furnaces used, or intended to be used, for the reduction of bodies of deceased persons for cremated remains.

"Crematory and columbarium" means a building or structure of most durable and lasting fireproof construction containing both a crematory and columbarium, used, or intended to be used, for the permanent interment therein by inurnment of the remains of deceased persons.

"Niche" is a recess in a columbarium, used, or intended to be used, for the permanent interment of the cremated remains of one or more deceased persons.

"Lot" or "plot" or "burial space" means space in a cemetery owned by one or more individuals, an association, or fraternal or other organization and used, or intended to be used, for the permanent interment therein of the remains of one or more deceased persons. Such terms include and shall apply with like effect to one, or more than one, adjoining graves; one, or more than one, adjoining crypts or vaults; or one, or more than one, adjoining niches.

"Temporary receiving vault" as herein used means a vault in a structure of most durable and lasting construction used and intended to be used for the temporary deposit therein for a reasonable time only of the remains of a deceased person.

"Interment" means the permanent disposition of the remains of a deceased person by cremation, inurnment, entombment or burial.

"Cremation" as herein used means the interment of a body of a deceased person by reduction to cremated remains in a crematory and the deposit of the cremated remains in a grave, vault, crypt, or niche.

"Inurnment" means placing the cremated remains in an urn and permanently depositing the same in a niche.

"Entombment" means the permanent interment of the remains of a deceased person in a crypt or vault.

"Remains" means the body of a deceased person.

"Cremated remains" means remains of a deceased person after incineration in a crematory.

"Cemetery business," "cemetery businesses" and "cemetery purposes" are herein used interchangeably and shall mean any and all business and purposes requisite or necessary for or incident to establishing, maintaining, managing, operating, improving, and conducting a cemetery and the interring of the human dead, and the care, preservation and embellishment of cemetery property.

The terms "cemetery association" and "association" are herein used interchangeably and shall mean any corporation now or hereafter organized, or any association not operated for a profit, which is or shall be authorized by its articles to conduct any one or more or all of the businesses of a cemetery.

"Directors" as herein used, means the board of directors, board of trustees, or other governing body of the cemetery association.

The term "plot owner," "owner," or "lot proprietor" as used herein means any person in whose name a burial plot stands, as owner of the exclusive right of sepulture therein, in the office of the association, or who holds from such association a conveyance of the exclusive right of sepulture, or a certificate of ownership of the exclusive right of sepulture, in a particular lot, plot, or space.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 1. Amended by Acts 1975, 64th Leg., p. 86, ch. 40, § 1, eff. Sept. 1, 1975.]

Art. 912a-2. Operation of Cemeteries Unlawful Unless Provisions Complied With

The operation of any perpetual care cemetery within this State shall hereafter be unlawful unless such cemetery shall comply with all applicable provisions of this Act. The operation of any cemetery as a perpetual care, permanent maintenance, or free care cemetery shall hereafter be unlawful unless such cemetery shall have created and shall maintain a perpetual care fund in accordance with the provisions of this Act.

Each perpetual care cemetery as defined in this Act shall file in its office and as well in the office of the Banking Commission of Texas, a statement in duplicate which shall contain the following information:

- (1) Amount of principal of the perpetual care funds.
- (2) Total amount invested in bonds and other securities, the total amount of cash on hand not invested, and such other items which shall actually show the financial condition of the trust.
- (3) Number of square feet of grave space, and number of crypts, and number of niches disposed of

under perpetual care, prior to and subsequent to March 15, 1934, each separately set forth.

(4) Number of square feet of grave space, and number of crypts, and number of niches sold or disposed of subsequent to March 15, 1934, for which the minimum amounts of perpetual care as provided by this Act have not been paid into the perpetual care fund.

All of the information appearing on said statements shall be verified by the President and Secretary, or two (2) principal officers of the cemetery corporation. All the information appearing on said statements shall be revised and so posted and filed annually on or before March first of each year.

Within thirty (30) days after the filing of the aforesaid statement in the office of the Banking Commissioner a true copy thereof shall be published in at least one (1) newspaper of general circulation in the county in which said cemetery is located.

Upon the failure of any perpetual care cemetery to file with the Banking Commissioner on or before March first of each year the statements of its perpetual care funds as required hereby, or to pay the filing fee required by this Act, its corporate charter shall be subject to forfeiture, and such failure to report shall be prima-facie evidence that the cemetery's perpetual care fund does not conform to the requirements of law; the Banking Commissioner of Texas shall notify the Attorney General of Texas, who shall proceed to institute suit as required by the provisions of this Act.

It is provided, however, that the provisions of this Article shall not apply to any family, fraternal or community cemetery, or any association of cemetery lot owners not operated for profit, or any religious corporation, church, religious society or denomination, or corporation solely administering the temporalities of any religious denomination, society or church, now existing or hereafter organized.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 2. Amended by Acts 1947, 50th Leg., p. 372, ch. 210, § 1; Acts 1951, 52nd Leg., p. 415, ch. 260, § 1.]

Art. 912a-3. Receipt and Disbursement of Filing Fees, Examination Fees, Penalties and Revenues

At the time of the filing of the statement of its perpetual care fund each cemetery filing same which serves a city the population of which is twenty-five thousand (25,000) inhabitants or less according to the last preceding Federal Census shall pay to the Banking Commissioner of Texas each year a filing fee of Fifty Dollars (\$50.00), and each cemetery filing same which serves a city the population of which is greater than twenty-five thousand (25,000) inhabitants according to the last preceding Federal Census shall pay to the Banking Commissioner of Texas each year a filing fee of One Hundred Dollars (\$100.00). Filing fees, examination fees, penalties and other revenues collected under

this Act shall be received and disbursed by the Banking Department of Texas as provided by and in accordance with Article 12 of Chapter I, the Texas Banking Code of 1943, as amended,¹ in the administration and enforcement of the laws relating to the operation of perpetual care cemeteries and to the creation, investment, and expenditure of cemetery perpetual care funds and for investigations either on its own initiative or on complaints made by others with reference to the operation of perpetual care cemeteries and the creation, investment, and expenditure of cemetery perpetual care funds; provided, that a reasonable part of the amount transferred each year of the biennium by the Banking Department to the General Revenue Fund, to cover the cost of governmental service rendered by other departments, may be made up from fees, penalties and other revenues collected under the provision of this Act.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 3. Amended by Acts 1951, 52nd Leg., p. 233, ch. 139, § 6; Acts 1951, 52nd Leg., p. 415, ch. 260, § 1; Acts 1955, 54th Leg., p. 574, ch. 190, § 1; Acts 1963, 58th Leg., p. 1298, ch. 595, § 1; Acts 1975, 64th Leg., p. 86, ch. 40, § 2, eff. Sept. 1, 1975.]

¹ Article 342-112.

Art. 912a-4. Powers and Duties of Enforcement Officers

The Banking Commissioner of Texas shall have authority to require as often as he deems necessary that the custodian of any cemetery perpetual care fund make under oath a detailed report of the condition of said fund, setting forth a detailed description of the assets of said fund, a description of the securities held by said fund, a description of any property upon which any such security constitutes a lien, the cost of acquisition of any such security, the market value of any security at the time of its acquisition, the current market value thereof, the status thereof with reference to default, that the same are not in any way encumbered by debt, that none of the assets of said cemetery perpetual care fund constitute loans to the cemetery for which the funds were established, or to any officer or director thereof and any other information he deems pertinent. When the Banking Commissioner of Texas finds that a cemetery perpetual care fund does not conform to the requirements of law, or when the custodian of said fund fails to make within thirty (30) days after request a report to the Banking Commissioner of Texas of the condition of said fund, the Banking Commissioner of Texas shall notify the custodian of the cemetery perpetual care fund, the cemetery for the benefit of which said fund is established, and the Attorney General of Texas thereof, and it shall be the duty of the Attorney General of Texas to institute within ninety (90) days after the receipt of such notice, unless he shall prior to that time be notified by the Banking Commissioner of Texas that such failure to conform to the requirements of the law or to report has been corrected, suit or quo warranto proceedings in the District Court of any county of this State in which

such cemetery is operated, for the forfeiture of the charter of the cemetery corporation if such cemetery has failed to meet the requirements of this Act, and for the dissolution of its corporate existence. If the custodian of such trust fund shall fail to meet the requirements of this Act, then it shall be the duty of the Attorney General of Texas to apply to the District Court of the county, in which such cemetery is operating and for which it has created a permanent trust fund, for proper legal writs to require a report of the perpetual care fund of said cemetery, and if the same has been misappropriated by such custodian, and not being handled as required by law, to have a Receiver appointed by the Court to take custody of said trust funds for the benefit of the cestui que trust; said Receiver is hereby vested with full power to file such suits against such defaulting trustee as may be necessary to require a full accounting and restoration of such endowment funds and turn the residue over to such trustee as the cemetery corporation shall select, in conformity with this Act as the new custodian of its endowment funds; and for such purposes venue is hereby conferred upon the District Courts of this State.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 4. Amended by Acts 1947, 50th Leg., p. 372, ch. 210, § 2; Acts 1951, 52nd Leg., p. 415, ch. 260, § 1.]

Art. 912a-5. Authority to Corporations

Corporations may hereafter be formed only under this Act for the purpose of establishing, managing, maintaining, improving, and/or operating public or private cemeteries and conducting any one or more or all of the businesses of a public or private cemetery, including the selling of lots or parts of lots for burial purposes. Such corporations shall be formed either as non-profit corporations organized by cemetery lot owners, or in the manner as now provided under Section A or Section B, Article 1396-3.01, Texas Non-Profit Corporations Act, or as private corporations to be operated for profit, but not as both. The charter of each such corporation hereafter formed shall specifically state whether such corporation is to be a non-profit corporation, or whether such corporation is to be a private corporation to be operated for profit. The charter of each such corporation shall also specifically state whether the same is to operate a perpetual care or a non-perpetual care cemetery. Corporations heretofore formed to maintain and operate cemeteries under statutory authority other than this Act shall hereafter be governed by and shall be under the provisions of this Act, except where and only to the extent the charter or articles of incorporation of such associations or corporations conflict with this Act. It shall hereafter be unlawful for any corporation, copartnership, firm, trust, association, or individual to engage in or transact any of the businesses of a cemetery within this state except by means of a corporation duly organized for such purposes; provided, however, that the provisions of this Section shall not apply to any corporation heretofore

chartered by the State of Texas to operate a cemetery, which under its charter, bylaws, or its dedication has heretofore provided for the creation of a perpetual care fund, and is maintaining the same in accordance with its trust agreement and the provision of this Act, and any such corporation may continue to operate a perpetual care cemetery in the same manner as if it had been incorporated under this Section without the necessity of amending its corporate charter, and provided further that the provisions of this Act shall not apply to any family, fraternal, or community cemetery not exceeding ten (10) acres in area, or any association of cemetery lot owners not operated for profit, or any religious corporation, church, religious society, denomination, corporation solely administering the temporalities of any religious denomination, society or church, now existing or hereafter organized, or any public cemetery belonging to the state, or any county, city or town within the state.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 5. Amended by Acts 1947, 50th Leg., p. 372, ch. 210, § 3; Acts 1963, 58th Leg., p. 1298, ch. 495, § 2.]

Art. 912a-6. Rights of Lot Owners in Cemeteries Operated by Nonprofit Corporations

All owners of lots purchased of any nonprofit cemetery corporation shall become members thereof and be entitled to vote in the election of its officers and upon any other matters to the same extent as stockholders in other corporations. Each owner of a lot or lots embraced in any cemetery operated by a nonprofit cemetery corporation shall be a shareholder in any corporation to which the land may belong and shall be entitled to all rights and privileges of a shareholder, whether the title to the lot or lots was acquired from the corporation or was owned before its organization. Nonprofit cemetery corporations organized by cemetery lot owners shall have the power to divide the land of the cemetery into lots and subdivisions for cemetery purposes and to tax the property for the purpose of its general improvement and upkeep.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 6.]

Art. 912a-7. Meeting to Organize Nonprofit Cemetery Corporations

When it is desired to create a nonprofit corporation organized by cemetery lot owners to receive title to lands theretofore dedicated to cemetery purposes notice of the time and place of meeting shall be published in a newspaper in the county, if there be one, for thirty (30) days prior thereto; and written notices shall be posted at and upon such cemetery for thirty (30) days prior to the time fixed for said meeting. When the lot owners uniting in the formation of said nonprofit corporation shall assemble, the majority of those present and voting shall decide on the question of incorporation, and the conveyance of the land to such nonprofit corporation. Such meeting shall select the board of di-

rectors to be named in the charter, which must consist of cemetery lot owners alone.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 7.]

Art. 912a-8. No Crematory Without Provision for Completion of Permanent Disposition

No crematory shall be constructed, established, or maintained except within a burial park, nor unless there be in connection therewith in the same fireproof building or structure or in a separate fireproof building within the same cemetery or burial park within which the same is situated or in said cemetery, either a columbarium amply equipped for the permanent deposit therein of cremated remains of the bodies cremated thereat, or plot of ground or a mausoleum wherein the cremated remains may be placed in completion of the permanent interment thereof, and all cremated remains not removed for permanent deposit elsewhere shall be permanently interred in either a grave, crypt, or niche within thirty (30) days after the date of such cremation.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 8.]

Art. 912a-9. Acquisition of Property

Cemetery associations, whether incorporated or unincorporated, may take by purchase, donation or devise, property, consisting of lands, mausoleums, crematories and columbariums, and/or other property within which the permanent interment of the dead shall be authorized by law. Such cemetery association may execute a declaration acknowledged by the president and secretary or other authorized officer or officers, so as to entitle it to be recorded, describing said property and declaring its intention to use said property or any part thereof for interment purposes, which declaration it may file for record in the office of the County Clerk of the county wherein the property is situated, and from the date of such filing the same shall be constructive notice of the use for which such property is intended. Such property may also be acquired by condemnation proceedings and the acquisition of such property is hereby declared to be for a public purpose.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 9.]

Art. 912a-10. Dedication

Every cemetery association, from time to time as its property may be acquired for interment purposes, shall:

(a) In case of land, survey and subdivide such land into sections, blocks, lots, avenues, walks and/or other subdivisions; make a good and substantial map or plat thereof showing said sections, lots, avenues, walks and/or other subdivisions, with descriptive names or numbers; and/or

(b) In case of a mausoleum and/or crematory and columbarium, make a good and substantial map or plat thereof on which shall be delineated the sections, hall, rooms, corridors, elevators and/or other

divisions thereof with their descriptive names and numbers; and shall file such map or plat in the office of the County Clerk of the county in which such property or some part thereof is situated, and shall also file for record in such County Clerk's office a written certificate or declaration of dedication of the property delineated, on said plat or map, dedicating the same exclusively to cemetery purposes. Such certificate or declaration shall be in such form as the directors or officers may prescribe, and shall be subscribed by the president or vice president and the secretary of the association, or such other person or persons as the board of directors may authorize and acknowledge so as to entitle it to be recorded; and upon the filing of said plat and the filing of said certificate for record, the dedication of said property shall be complete for all the purposes of this Act, and thereafter such property shall be held, occupied and used exclusively for a cemetery and for cemetery purposes. Provided, however, that when reservation is made therefor in the certificate or declaration of dedication, any part or subdivision of the property so mapped and platted may, by order of the directors, be resurveyed and altered in shape and size and an amended map or plat thereof filed, so long as such change does not disturb the remains of any deceased person interred therein. Such filed map and recorded declaration shall constitute and be constructive notice to all persons of the dedication of such property to interment purposes.

It shall be the duty of the County Clerk of the county in which such map or plat is filed to number and file such map or plat and to index the same in the general map index, giving reference to date of filing and number so that the same may be easily found, for which service the recorder shall receive a fee of One Dollar (\$1).

It shall also be the duty of the County Clerk of the county in which such declaration of dedication is filed to record the same in the deed records of said county and index the same in the general index for which service the recorder shall receive a fee of One Dollar (\$1).

[Acts 1945, 49th Leg., p. 559, ch. 340, § 10.]

Repeals

Acts 1971, 62nd Leg., p. 2721, ch. 886, effective June 14, 1971, relating to the microfilming of records by counties, and classified as article 1941(a), provided in section 2 that all laws or parts of laws in conflict with the provisions of this Act are hereby repealed, to the extent of conflict only, including but not limited to this article.

Repeal of fees provided for county clerks in laws, or parts of laws, conflicting with the provisions of article 3930, see note under article 3930.

Art. 912a-11. Dedication Supreme Until Removed by Court

(a) After such property is so dedicated to cemetery purposes, neither the dedication nor the title to the exclusive right of sepulture of a plot owner, shall ever be affected by the dissolution of the association, or by nonuser on its part, or by alienations of the property, or by any encumbrances thereon, or by forced sale under execution or otherwise, and such dedication shall not be deemed or held invalid as violating any existing laws against perpetuities or the suspension of the power of alienation of title to or use of property, but such dedication is hereby expressly permitted and shall be deemed to be in respect for the dead, a provision for the disposition of the bodies of deceased persons, and a duty to, and for the benefit of, the general public; and said property shall be held and used exclusively for cemetery purposes, unless and until the dedication shall be removed by an order and decree of the district Court of the county in which the same is situated in a proceeding brought therefor by the governing body of the city, if said cemetery is within, or within five (5) miles from, the city limits of any city of more than twenty-five thousand (25,000) inhabitants according to the last preceding Federal census, or by the district attorney, if said cemetery is not within, or within five (5) miles of, the city limits of a city of more than twenty-five thousand (25,000) inhabitants, according to the last preceding Federal census, or by the owner of property so situated that its value is affected by said cemetery, upon notice and proof satisfactory to the Court that all bodies have been removed therefrom or that no interments were made therein, and that the same is no longer used or required for interment purposes; or until the maintenance of said cemetery is enjoined or abated as a nuisance as hereinafter provided for. After such dedication and so long as said property shall remain dedicated to cemetery purposes, no railroad, street, road, alley, pipe line, telephone, telegraph, or electric line, or other public utility or thoroughfare whatsoever shall ever be laid out through, over, or across any part thereof, without the consent of the directors of the cemetery association owning or operating the same, or of not less than two-thirds of the owners, of burial plots therein, and all of such property, including road, alleys, and walks therein, shall be exempt from public improvements assessments, and all public taxation, and shall not be liable to be sold on execution or applied in payment of debts due from individual owners and burial plots therein.

(b) In the event the United States of America, or the State of Texas, or a county in Texas, or a municipality or any other duly constituted governmental subdivision has made definite determination that a new highway, thoroughfare, road, or street shall be constructed along a definite proposed route, or that an existing highway, thoroughfare, road, or street shall be widened, and such determination is a matter of public record, and if after such determina-

tion any property lying within the confines of such proposed route is dedicated for cemetery purposes, such dedication for cemetery purposes shall be presumed to have been made in fraud of the rights of the public and as being made for the sole purpose of enhancing the value of property to be condemned, and the district court of the county in which such land or any part of such land so dedicated lies may, in a suit filed by such governmental subdivision to remove such dedication, remove such dedication for cemetery purposes insofar as such dedication covers land lying within the confines of such proposed highway, thoroughfare, road, or street.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 11. Amended by Acts 1973, 63rd Leg., p. 572, ch. 245, § 1, eff. Aug. 27, 1973.]

Art. 912a-12. Sale of Property for Interment Purposes and Property Rights

After filing the map or plat and recording the certificate or declaration of dedication, but not prior thereto, and subject to its rules and regulations and/or to such limitations, conditions, and restrictions, as may be inserted in or by reference made a part of the instrument of conveyance, the cemetery association may sell and convey the exclusive right to sepulture in the burial plots to purchasers. No license of any kind or character shall be required of any person, firm or corporation on account of or to authorize the sale of lots, graves or interment space in any dedicated cemetery. All lots, sections, or parts thereof, the use of which has been so conveyed by certificate of ownership as a separate plot, shall be indivisible except with the consent of the cemetery association, or as shall be provided by law. All conveyances of such exclusive right of sepulture made by the cemetery association shall be signed by the president or the vice president and secretary or other officers authorized by the cemetery association. All lots, plots, and burial space in which the exclusive right of sepulture has been conveyed shall be presumed to be the sole and separate property of the person or persons named as grantee in the instrument of conveyance; provided, however, that the wife or husband shall have a vested right of interment of his or her body in any burial plot in which the exclusive right of sepulture has been conveyed to the other, which right shall continue as long as he or she shall remain the wife or husband of the plot owner or shall be his or her wife or husband at the time of such plot owner's demise. No conveyance or other action without the joinder therein or by written consent attached thereto shall divest such husband or wife of such vested right of interment; provided, however, that a final decree of divorce between them shall terminate such vested right of interment unless it shall be otherwise provided by such decree of divorce.

A vested right of interment as in this section provided may be waived and shall be terminated

upon the interment elsewhere of the remains of a person entitled thereto under this section.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 12.]

Art. 912a-13. Rights in Plot of an Individual Owner; Conveyance of Exclusive Right of Sepulture Therein; Conveyances Subject to the Rules and Regulations of the Cemetery Association; Filing and Recording of Conveyances in the Office of the Cemetery Association; Designation of Representative by Co-owners in a Plot

If the exclusive right of sepulture in a plot has been conveyed to an individual owner who is interred therein, then, unless such owner has made specific disposition of such plot either by will having express reference thereto, or by written declaration duly filed and recorded in the office of the cemetery association, then one grave, niche or crypt shall be reserved for the surviving spouse, if any, of such owner, and in those spaces remaining, if any, the children of such deceased owner in the order of need, may be interred without the consent of any person claiming any interest therein. Any surviving spouse of such owner, and any child of such deceased owner, may waive his or her right to interment in said plot in favor of any other relative of such deceased owner, or the owner's spouse, and upon such waiver, the person in whose favor the waiver is made may be interred therein. The exclusive right of sepulture in any unused grave, niche or crypt in the plot may be conveyed only by a conveyance executed by the surviving spouse, if any, of such deceased owner and the children of the deceased owner, or if there is no surviving child of such deceased owner, by the surviving spouse, if any, and the heirs-at-law of such deceased owner.

If the exclusive right of sepulture in a plot has been conveyed to an individual owner who is not interred therein, then, unless such owner has made specific disposition of such plot either by will having express reference thereto, or by written declaration duly filed and recorded in the office of the cemetery association, the exclusive right of sepulture in the whole of said plot, except the one grave, niche, or crypt which is reserved to the surviving spouse, if any, shall upon the death of such owner, vest in the heirs-at-law of such deceased owner. Such exclusive right of sepulture to any unused grave, niche or crypt in the plot may be conveyed, subject to the right of the surviving spouse, if any, to a right of interment in one space, by such heirs-at-law of the deceased owner.

All conveyances of the exclusive right of sepulture shall be subject to the rules and regulations of the cemetery association, and shall be duly filed and recorded in the office of the cemetery association.

When there are two (2) or more owners of a plot, then such owners may designate one or more persons to represent said plot and file written notice of

such designation with the cemetery association; in the absence of such notice, the cemetery association is duly authorized to inter or permit an interment therein upon the request or direction of any registered co-owner of such plot.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 13. Amended by Acts 1971, 62nd Leg., p. 1857, ch. 545, § 1, eff. June 1, 1971.]

Art. 912a-14. Rules and Regulations

The cemetery association may make, adopt and enforce rules and regulations for the use, care, control, management, restriction, and protection of its cemetery, and of all parts and subdivisions thereof; for restricting and limiting the use of all property within its cemetery; for regulating the uniformity, class, and kind of all markers, monuments, and other structures within said cemetery and subdivisions thereof and/or prohibiting the erection of monuments, markers and/or other structures in or upon any and/or all portions of such property; for regulating and/or preventing monuments, effigies and structures within any and/or all portions of the cemetery grounds and for the removal thereof; for regulating or preventing the introduction and/or care of plants or shrubs within such grounds; for the prevention of interment in any part thereof of a body not entitled to interment therein; for preventing the use of burial plots for purposes violative of its restrictions; for regulating the conduct of persons and preventing improper assemblages therein; and for all other purposes deemed necessary by the board of directors for the proper conduct of the business of the association and the protection and safeguarding of the premises, and the principles, plans, and ideals on which the cemetery was organized; and from time to time may amend, add to, revise, change and/or modify such rules and regulations. Such rules and regulations shall be plainly printed or typewritten and maintained subject to inspection in the office of the association or in such place or places within the cemetery as the directors may prescribe. The directors may prescribe penalties for the violation of any rule or regulation which penalties may be recoverable by the association in a civil action.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 14.]

Art. 912a-15. Establishment and Maintenance of Perpetual Care

Every cemetery association which has established and is now maintaining, operating or conducting a perpetual care cemetery and every association which shall hereafter establish, maintain, operate or conduct a perpetual care cemetery within this state, pursuant to this Act, shall establish with a trust company or a bank with trust powers, no two (2) of the directors of which shall be directors of the cemetery association for the benefit of which such fund is established, an endowment fund of which the income only can be used for the general perpetual care of its cemetery and to place its cemetery

under perpetual care; provided, however, that if there is no such trust company or bank with trust powers, qualified and willing to accept such trust funds at the regular fees established by the Texas Trust Code (Subtitle B, Title 9, Property Code),¹ located within the county within which such cemetery association is located, then and only then, such endowment fund may be established with a Board of Trustees composed of three (3) or more persons, no two (2) of the trustees of which shall be directors of such cemetery association. The principal of such fund for perpetual care shall never be voluntarily reduced, but shall remain inviolable and shall forever be maintained separate and distinct by the trustee or trustees from all other funds. Any such trustee or trustees and the perpetual care trust operated by them shall in all respects be governed by the provisions of the Texas Trust Code. The principal of such fund shall be invested, from time to time reinvested, and kept invested as required by law for the investment of such funds, and the net income arising therefrom shall be used solely for the general care and maintenance of the property entitled to perpetual care in the cemetery for which the fund is established, and shall be applied in such manner as the Board of Directors may from time to time determine to be for the best interest of the cemetery for which such fund is established, but shall never be used for improvement or embellishment of unsold property to be offered for sale. In the event the Board of Directors shall fail to generally care for and maintain that portion of the cemetery entitled to perpetual care, as hereinbefore provided, any five (5) or more lot owners in said cemetery whose lots are entitled to perpetual care shall have the right by suit for mandatory injunction or for a Receiver to take charge of and expend said net income, filed in the District Court of the county in which the cemetery is located, to compel the expenditure either by the Board of Directors or by such Receiver of the net income from the perpetual care fund for the purpose hereinabove set forth.

If a cemetery association is operating a cemetery without provision for perpetual care, and if it is authorized by law and wishes to operate said cemetery as a perpetual care cemetery, it shall so notify the Banking Commission of the State of Texas and shall, in accordance with the foregoing provisions hereof, establish a perpetual care fund equal to the amount which would have theretofore been paid into such a fund, in accordance with provisions of this Act,² if such cemetery had been operated as a perpetual care cemetery from and after the date of the first sale of burial space therein, or the minimum amount provided in Section 29 of this Act, whichever is the greater. If the amount of the perpetual care fund so established is the minimum amount provided in Section 29 of this Act, such cemetery association or corporation shall be entitled to a credit against amounts hereafter required by the provisions of this Act to be paid by it unto such perpetual care fund equal to the excess of the amount of such perpetual care fund, as originally

established by it, over what would have been the amount thereof if its amount had been determined without regard to Section 29 of this Act.

In establishing its perpetual care trust fund the association may from time to time adopt plans for the general care, maintenance and embellishment of its cemetery.

A cemetery association which has established a perpetual care fund may also take, receive, and hold therefor and as a part thereof or as an incident thereto any property, real, personal or mixed, bequeathed, devised, granted, given or otherwise contributed to it therefor.

The perpetual care trust fund authorized by this Section and all sums paid therein or contributed thereto are, and each thereof is hereby, expressly permitted and shall be and be deemed to be for charitable and eleemosynary purposes. Such perpetual care shall be deemed to be a provision for the discharge of a duty due from the person or persons contributing thereto to the persons interred and to be interred in the cemetery and likewise a provision for the benefit and protection of the public by preserving and keeping cemeteries from becoming places of disorder, reproach, and desolation in the communities in which they are situated. No payment, gift, grant, bequest, or other contribution for such general perpetual care shall be or be deemed to be invalid by reason of any indefiniteness or uncertainty of the persons designated as beneficiaries in the instruments creating said trust, nor shall said fund or any contribution thereto be or be deemed to be invalid as violating any law against perpetuities or the suspension of the power of alienation of title to property.

Each perpetual care cemetery shall deposit in its perpetual care trust fund an amount equivalent to such amount as may have been stipulated in any contract under which perpetual care property was sold prior to March 15, 1934, plus a minimum of twenty cents (20¢) per square foot of ground area sold or disposed of as perpetual care property after March 15, 1934, until such fund reaches a minimum of One Hundred Thousand Dollars (\$100,000.00), after which each such cemetery shall deposit an amount equivalent to a minimum of ten cents (10¢) per square foot of ground area sold or disposed of as perpetual care property after March 15, 1934, until September 3, 1945. Each such cemetery shall deposit in its perpetual care trust fund an amount equivalent to a minimum of twenty cents (20¢) per square foot of ground area sold or disposed of as perpetual care property after September 3, 1945, until July 1, 1963. A minimum of Fifteen Dollars (\$15.00) per each crypt interment right for mausoleum interment sold or disposed of as perpetual care property and a minimum of Five Dollars (\$5.00) per each niche interment right for columbarium interment sold or disposed of as perpetual care property between March 15, 1934, and July 1, 1963, shall also be placed in such perpetual care trust fund. From

and after July 1, 1963, until September 1, 1975, each such cemetery shall deposit in its perpetual care trust fund an amount equivalent to a minimum of fifty cents (50¢) per square foot of ground area sold or disposed of as perpetual care property between said dates. A minimum of Forty Dollars (\$40.00) per each crypt interment right for mausoleum interment sold or disposed of as perpetual care property, except that on crypts accessible only through another crypt the minimum requirement shall be Twenty Dollars (\$20.00) per each such crypt, and a minimum of Ten Dollars (\$10.00) per each niche interment right for columbarium interment sold or disposed of subsequent to July 1, 1963, shall also be placed in such perpetual care trust fund. Such minimum requirements shall apply to all property in which the exclusive right of sepulture has been sold and paid for, whether used for interment purposes or not.

After July 1, 1963, each agreement for the sale of burial space in a perpetual care cemetery shall set out separately the part of the aggregate amount agreed to be paid by the purchaser which is to be deposited in the perpetual care trust fund. If the aggregate amount agreed to be paid by the purchaser is payable in installments, all amounts paid thereon shall be applied, first, to the part thereof not required to be deposited in the perpetual care trust fund, to the extent thereof, and the remainder shall, when received by the seller, be deposited in the perpetual care trust fund. Any funds required to be deposited in its perpetual care trust fund by a seller of burial space shall be so deposited not later than ten (10) days after the end of the calendar month during which they are received. If the seller shall fail to so deposit such funds within the time required hereunder, it shall be liable for and the Banking Commissioner shall collect as a penalty the sum of Ten Dollars (\$10.00) per day for the period of such failure, and, upon the relation of the Banking Commissioner of the refusal of the seller to pay to the Banking Commissioner such penalty, the Attorney General shall institute a suit to recover said penalty and for costs and such other relief by the state as in the judgment of the Attorney General is proper and necessary. No cemetery shall hereafter operate as a perpetual care, permanent maintenance, or free care cemetery until the provisions hereof are complied with.

The amount to be deposited in the perpetual care trust fund shall be separately shown on the original purchase agreement and a copy thereof shall be delivered to the purchaser. In the sale of burial space, no commission shall be paid a broker or salesman on the amount to be deposited in the fund.

Notwithstanding any other provision of the laws of the State of Texas or any provision in a trust agreement executed for the purpose of providing perpetual care for a cemetery, such trust agreement may, by agreement entered into between the cemetery association and the trustee or trustees acting under such trust agreement, be amended so as to

include any provision which is not inconsistent with any provision in this Act.

From and after September 1, 1975, and until September 1, 1983, each such cemetery shall deposit in its perpetual care trust fund an amount equivalent to a minimum of seventy-five cents (75¢) per square foot of ground area sold or disposed of as perpetual care property after said date. A minimum of Fifty Dollars (\$50.00) per each crypt interment right for mausoleum interment sold or disposed of as perpetual care property, except that on crypts accessible only through another crypt the minimum requirement shall be Twenty-Five Dollars (\$25.00) per each such crypt, and a minimum of Fifteen Dollars (\$15.00) per each niche interment right for columbarium interment sold or disposed of subsequent to September 1, 1975, and until September 1, 1983, shall also be placed in such perpetual care trust fund. The amount of money to be placed in the perpetual care trust fund for lawn crypts shall be the same as crypts in an aboveground mausoleum.

From and after September 1, 1983, each such cemetery shall deposit in its perpetual care trust fund an amount equivalent to a minimum of One Dollar (\$1.00) per square foot of ground area sold or disposed of as perpetual care property after said date. A minimum of Seventy Dollars (\$70.00) per each crypt interment right for mausoleum interment sold or disposed of as perpetual care property, except that on crypts accessible only through another crypt the minimum requirement shall be Thirty-Five Dollars (\$35.00) per each such crypt, and a minimum of Twenty Dollars (\$20.00) per each niche interment right for columbarium interment sold or disposed of subsequent to September 1, 1983, shall also be placed in such perpetual care trust fund. The amount of money to be placed in the perpetual care trust fund for lawn crypts shall be the same as crypts in an aboveground mausoleum.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 15. Amended by Acts 1947, 50th Leg., p. 372, ch. 210, § 4; Acts 1963, 58th Leg., p. 1298, ch. 495, § 3; Acts 1975, 64th Leg., p. 86, ch. 40, § 3, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 868, ch. 201, § 1, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 3383, ch. 567, art. 2, § 3, eff. Jan. 1, 1984.]

¹ Property Code, § 111.001 et seq.

Art. 912a-16. Requirements of Perpetual Care Cemeteries

Each perpetual care cemetery as defined in this title shall post in a conspicuous place in the office and/or offices where sales are conducted or if there be no office, in a conspicuous place at or near the entrance of the cemetery or administration building, and readily accessible to the public, a sign which shall contain the following information in the order and manner set forth below:

(a) "Perpetual Care Cemetery"—which shall appear in a minimum of forty-eight (48) point black type.

(b) Names of officers and directors of the cemetery and the name of the bank or trust company entrusted with care of perpetual care funds.

Each perpetual care cemetery shall include in each conveyance of the exclusive right of sepulture, certificate of ownership, or sales contract executed by it, the following statement: "This cemetery is operated as a perpetual care cemetery, which means that a perpetual care fund for its maintenance has been established in conformity with the laws of the State of Texas. Perpetual care means to keep the sod in repair and all places where interments have been made in order and to care for trees and shrubs planted by the cemetery."

[Acts 1945, 49th Leg., p. 559, ch. 340, § 16.]

Art. 912a-17. Investment of Perpetual Care Funds

Perpetual care funds shall not be used for any other purpose than to provide through the income only therefrom the perpetual care stipulated in the resolution, bylaw, or other action or instrument by which the fund was created or established, and it shall be the duty of the duly appointed trustee to invest, reinvest and keep such funds invested in such securities or assets as are or shall hereafter comply with the provisions of the Texas Trust Code (Subtitle B, Title 9, Property Code)¹ in so far as the same may govern the investment of trust funds by the trustees thereof. No such investment shall be made without the written approval of either an active officer of the cemetery association or of a majority of its directors, and no such investment shall be made except at the prevailing market value of the securities at the time of the acquisition thereof.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 17. Amended by Acts 1983, 68th Leg., p. 3383, ch. 567, art. 2, § 3, eff. Jan. 1, 1984.]

¹ Property Code, § 111.001 et seq.

Art. 912a-18. Special Care

The trustee of any cemetery perpetual care fund may also take and hold any property bequeathed, granted, or given to it in trust to apply the principal, or proceeds, or income therefrom to either or all of the following purposes: To the improvement or embellishment of such cemetery, or any part thereof, or any lot therein, to the erection, renewal, repair or preservation of any monuments, fence, building or other structure in such cemetery; to the planting, cultivation of trees, shrubs, or plants in or around such cemetery, or any part thereof; for the special care or ornamenting of any burial plot, lot, section or building or any portion thereof in said cemetery or to any other purpose or use not inconsistent with the purpose for which such cemetery was established or is being maintained. Not exceeding seventy-five (75) per cent of the proceeds or income therefrom shall be devoted to keeping up and beautifying the private blocks, lots or structures for the upkeep of which the bequest, grant, or

gift is made. At least twenty-five (25) per cent of such proceeds or income shall be devoted to the general upkeep and beautifying of the cemetery in which such lots, blocks, or structures are located.

Persons desiring to provide a fund for maintaining and keeping up and beautifying private blocks, lots, or structures in any nonperpetual care cemetery in this State, may do so by setting aside for such purposes a reasonable sum of money or property and by providing by written instrument which shall recite the terms of the trust for a trustee (which shall be a trust company or a bank with trust powers, operating within this State) to handle and invest said sum or property and spend the proceeds or income therefrom as follows: Not exceeding seventy-five (75) per cent of the net income or proceeds therefrom shall be devoted to keeping up and beautifying the private blocks, lots, or structures, designated in the instrument, the portion of such income or proceeds not expended annually as set out above, the amount to be not less than twenty-five (25) per cent of such income or proceeds as are spent annually, shall be devoted to the general upkeep and beautification of the cemetery in which blocks, lots, or structures are located. Such trust and the administration thereof shall not be regarded and held to be a perpetuity, but as a provision for the discharge of a duty due from the person founding such trust to the persons interred upon such blocks or lots and to the public.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 18.]

Art. 912a-19. Cemeteries Placed in Receivership

Whenever any perpetual care cemetery within this State shall be placed in receivership the receiver shall, from and out of the proceeds of the liquidation thereof, make such deposits in the perpetual care fund established for said cemetery as shall be necessary to meet the minimum requirements for perpetual care funds provided by law, and any deficit in said perpetual care fund below said minimum requirements shall be a preferred claim against any assets in the possession of the receiver, and shall take precedence over all claims other than vendor's liens on the cemetery property.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 19.]

Art. 912a-20. Duty of Interring and Right to Control Disposition of Remains

The right to control the disposition of the body of a deceased person, unless other directions shall have been made therefor by the deceased, shall be vested in, and the duty of interment (and the liability for the reasonable cost of the interment) of such deceased person shall devolve upon, his or her surviving wife or husband, or if there be no surviving wife or husband they shall vest in and devolve upon the surviving child or children of deceased, or if there be no surviving husband or wife or child of deceased, they shall vest in and devolve upon the surviving parent or parents of such deceased, or if there be no surviving husband, or wife or child or

parent of such deceased, they shall vest in and devolve upon the person or persons respectively in the next degrees of kindred in the order named by the laws of Texas as entitled to succeed to the estate of said deceased.

In all other cases, the disposition of the body and the duty of interment shall devolve upon the coroner conducting the inquest upon the body of the deceased, if any such inquest is held, and if there be no inquest they shall devolve upon the county in which the death occurs; provided, further, that any person representing himself as knowing the facts who shall sign any order or statement, other than a death certificate, for the purpose of procuring the interment of any remains shall be deemed to warrant the identity of the person whose remains are sought to be interred or cremated, and shall be personally and individually liable for all damage occasioned thereby or resulting directly or indirectly therefrom.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 20.]

Art. 912a-21. Records of Interments

A record shall be kept of every interment in a cemetery showing the date the body was received, the date of interment, the name and age of the person interred, when these particulars can be conveniently obtained, and the plot and the grave, the niche, crypt, or vault therein, in which such interment was made. No remains, either cremated or uncremated, of any deceased person shall be removed from any cemetery, except upon written order of the health department having jurisdiction, or of the county Court of any county in which such cemetery is situated. A duplicate copy of which order shall be maintained as a part of the records of such cemetery. It shall be the duty of any person and/or persons, removing any remains from any cemetery, to keep and maintain a true and correct record showing the date such remains were removed, the name and age of the person removed, when these particulars can be conveniently obtained, and the place to which the same were removed, and the cemetery and the plot therein in which such remains were buried; if there be disposition of such remains other than interment, a record shall be made and kept of such disposition. Such person or persons shall deliver to the cemetery association operating the cemetery from which such remains were removed, a true, full, and complete copy of such record.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 21.]

Art. 912a-22. Removals

The remains of a deceased person interred in a plot in a cemetery may be removed therefrom with the consent of the cemetery association and the written consent of the surviving wife or husband, or if there is no surviving husband or wife, then of the children; or if there is no surviving husband or wife nor children, then of the parents of the deceased, or should there be no surviving husband or wife nor

children nor parent, then of the brothers and/or sisters of the deceased. If the consent of any such person or of the association cannot be obtained, permission by the county court of the county where the cemetery is situated shall be sufficient. Notice of application to the Court for such permission must be given, at least ten (10) days prior thereto, personally, or at least fifteen (15) days prior thereto if by mail, to the cemetery association, and to the persons not consenting and to every other person or association on whom service of notice may be required by the Court. This provision shall not apply to or prohibit the removal of any remains from one plot to another in the same cemetery or the removal of remains by the cemetery association from a plot for which the purchase price is past due and unpaid, to some other suitable place. Neither shall this provision apply to the disinterment of remains upon order of Court or coroner.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 22.]

Art. 912a-23. May Contract Pecuniary Indebtedness but All Liens Subordinate to Dedication

Cemetery associations shall in the conduct of their business have the right to contract such pecuniary obligations as may be required, and may secure the same by mortgage, deed of trust or otherwise upon their property. Provided, that all mortgages, deeds of trust and other liens of whatsoever nature, hereafter contracted, placed or incurred upon property which has been and was at the time of the creation or placing of such lien, dedicated as a cemetery as in this Act authorized and provided, or upon property which shall afterwards, with the consent of the owner of any such mortgage, trust deed or lien, be dedicated to cemetery purposes as authorized by this title, shall in nowise or at all affect or defeat the dedication thereof, but such mortgage, deed of trust, or other lien shall be subject and subordinate to such dedication and any and all sales made upon foreclosure thereof shall be subject and subordinate to the dedication of such property to cemetery purposes.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 23.]

Art. 912a-24. Location of Cemetery

(a) It shall be unlawful for any person, company, corporation, or association to establish or use for burial purposes any graveyard or cemetery, or any mausoleum and/or cemetery except in a cemetery heretofore established and operating, located within, or within less than one (1) mile from, the incorporated line of any city of not less than five thousand (5,000) nor more than twenty-five thousand (25,000) inhabitants according to the last preceding Federal Census, or within, or within less than two (2) miles from, the incorporated line of any city of not less than twenty-five thousand (25,000) nor more than fifty thousand (50,000) inhabitants according to the last preceding Federal Census, or within, or within less than three (3) miles from, the incorporated line

of any city of not less than fifty thousand (50,000) nor more than one hundred thousand (100,000) inhabitants according to the last preceding Federal Census, or within, or within less than four (4) miles from, the incorporated line of any city of not less than one hundred thousand (100,000) nor more than two hundred thousand (200,000) inhabitants, according to the last preceding Federal Census, or within, or within less than five (5) miles from, the incorporated line of any city of not less than two hundred thousand (200,000) inhabitants, according to the last preceding Federal Census; provided that where cemeteries have heretofore been used and maintained within the limits hereinabove set forth, and additional lands are required for cemetery purposes, land adjacent to said cemetery may be acquired by the cemetery association operating such cemetery, to be used as an addition to such cemetery, and the use of said additional land for such purposes shall be exempt from the provisions of this Section; and further provided that the establishment or use of a columbarium by any organized religious society or sect as a part of or attached to the principal church building owned by such religious society or sect, and within the limits hereinabove set forth, shall not be unlawful, and shall be exempt from the provisions of this Section.

(b) Notwithstanding the provisions of subsection (a) of this Section, it shall be lawful for any person, company, corporation or association to establish or use for burial purposes any graveyard or cemetery, or any mausoleum within one (1) mile of the incorporated line of any city located in any county having a population of not less than 16,790 nor more than 16,850 inhabitants, according to the last preceding Federal Census; provided that such graveyard, cemetery or mausoleum is established within two years from the effective date of this Act.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 24. Amended by Acts 1955, 54th Leg., p. 41, ch. 30, § 1; Acts 1967, 60th Leg., p. 2065, ch. 767, § 1, eff. Aug. 28, 1967.]

Art. 912a-25. Abatement of Nuisances

The maintenance or location and use of any graveyard or cemetery in violation of the provisions of this title are declared to be a nuisance, and the governing body of the city, if said cemetery is within, or within less than five (5) miles from, a city of more than twenty-five thousand (25,000) inhabitants, according to the last preceding Federal Census, or the district attorney, if said cemetery is not within, or within five (5) miles of, a city of more than twenty-five thousand (25,000) inhabitants, according to the last preceding Federal Census; or any person owning a residence in or near the town or city in which, or in such proximity as specified in Section 24¹ hereof to which, such graveyard or cemetery is located, may maintain an action in the Courts to abate such nuisance and to enjoin its continuance, and if it appears that said nuisance exists or is threatened in violation of this Act, a perpetual injunction shall be granted against parties

guilty of such nuisance. Whenever any old cemetery for which a perpetual care and endowment fund has not been regularly and legally established, is so neglected as to be offensive to the inhabitants of the section surrounding same, it may likewise be abated and its continuance enjoined. If such cemetery be located within the city limits of an incorporated city or town, the governing body thereof may authorize the removal of all bodies, monuments, tombs, etc., therein to a perpetual care cemetery as defined in this Act.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 25.]

¹ Article 912a-24.

Art. 912a-26. Police Power to Sexton

The sexton, superintendent or other person in charge of a cemetery shall have, and is hereby granted, all and equal powers, functions, duties and authority granted by law to a police officer within the city in which such cemetery is located, or if such cemetery be located outside of a city, to a constable and/or sheriff of the county or counties wherein the same is situated, for the purpose of maintaining order, enforcing the rules and regulations of the cemetery association, the laws of the State and the ordinances of such city, and he shall be charged with the enforcement thereof within the cemetery over which he has charge, and within such radius of the same as shall be necessary to protect the cemetery property.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 26.]

Art. 912a-26a. Perpetual Care

It shall be unlawful for any person, firm, association, corporation, or municipality, or any officer, agent, or employee thereof, to sell, offer for sale, or advertise any cemetery plot or the exclusive right of sepulture therein under the representation that such plot is under perpetual care, before a perpetual care fund as provided for by law has been established for the cemetery in which such property so sold, offered for sale, or advertised is situated; or to engage in or transact any of the businesses of a cemetery within this State other than by means of a corporation organized for such purpose, except as otherwise provided by law; or to fail or refuse to comply with the requirements of the law as to the filing of a statement concerning the perpetual care fund with the Banking Commissioner of Texas or to fail or refuse to publish said statement as provided by law, or to fail or refuse to post the notice with reference to perpetual care required by law, or to invest perpetual care funds otherwise than as provided by law; or to fail or refuse to keep the records of interment required by law; or to sell or offer for sale or advertise for sale cemetery lots or the exclusive right of sepulture therein for purposes of speculation or investment; or to represent through advertising or printed matter that a retail department will later be established for the resale of cemetery lot purchasers that specific improvements will be made in the cemetery or that specific

merchandise or service will be furnished the lot owner, unless adequate funds or reserves have been created by the operator of the cemetery for each such purpose; or for any officer, agent, or employee of any cemetery or cemetery association, to pay or offer to pay any commission, rebate, or gratuity to any funeral director or employee thereof, or for any cemetery association or any officer or employee thereof to offer a free lot or lots either in a drawing or lottery or in any other way except for actual immediate burial of indigent persons. Any person, firm or corporation violating any of the provisions of this Section shall be guilty of misdemeanor and on conviction thereof shall be fined not more than Five Hundred Dollars (\$500) or, if a person, imprisoned not exceeding six (6) months in a county jail, or punished by both such fine and imprisonment. Any corporation organized for cemetery purposes which shall violate the provisions of this Act shall unless such violation is corrected within ninety (90) days after notice of such violation served upon it by the Attorney General of this State, thereby forfeit its charter and right to do business in this State; and when such violation shall be brought to the attention of the Attorney General of this State it shall be his duty to serve such notice, and, after the expiration of ninety (90) days without correction of such violation, to institute suit or quo warranto proceedings in any county in this State where such violation might occur, in the District Court of such county, for the forfeiture of the charter of such offending corporation and the dissolution of its corporate existence; and for such purposes venue is hereby conferred upon the District Courts in this State.

[Acts 1945, 49th, Leg., p. 559, ch. 340, § 27. Amended by Acts 1951, 52nd Leg., p. 415, ch. 260, § 1.]

Art. 912a-27. Constitutionality

If any section, subsection, sentence, clause, word or phrase of this Act is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this Act, which are hereby declared distinct and severable. The Legislature hereby expressly declares that it would have passed this Act and each section, subsection, sentence, clause, word and phrase irrespective of the fact that any one or more section, subsection, sentence, word, or phrase be declared unconstitutional.

[Acts 1945, 49th, Leg., p. 559, ch. 340, § 28.]

Art. 912a-28. Articles of Incorporation; Requisites and Contents

No perpetual care cemetery shall ever be organized without its Articles of Incorporation filed with the Secretary of State showing the subscriptions and payment in cash of its full Capital Stock, the designation of the location of its cemetery property, and a certificate showing the deposit of its Perpetual Care and Maintenance Guarantee Fund as provided in Section 29 of this Act.¹ The minimum amount of such Capital shall be in accordance with the

following schedule: Those serving a town or city having a population of less than fifteen thousand (15,000), Fifteen Thousand Dollars (\$15,000); those serving a city having a population of fifteen thousand (15,000) but not more than twenty-five thousand (25,000) inhabitants, Thirty Thousand Dollars (\$30,000); those serving a city of twenty-five thousand (25,000) or more inhabitants, Fifty Thousand Dollars (\$50,000).

Nothing contained in this Section 28² shall apply to cemetery corporations chartered prior to the effective date of this Act, provided, however, that any corporation which amends its charter shall be required to comply with the minimum requirements set forth in this Section 28.

[Acts 1955, 54th Leg., p. 574, ch. 190, § 1. Amended by Acts 1975, 64th Leg., p. 86, ch. 40, § 4, eff. Sept. 1, 1975.]

¹ Article 912a-29.

² This article.

Art. 912a-29. Perpetual Care and Maintenance Guarantee Fund; Minimum; Necessity and Requisites

Any Corporation chartered under this Act desiring to operate a Perpetual Care Cemetery, before being chartered must establish a minimum Perpetual Care and Maintenance Guarantee Fund, according to the following schedule:

Cemeteries with a Capital Stock of Fifteen Thousand Dollars (\$15,000) must deposit with the trustee, as provided by law, a Perpetual Care and Maintenance Guarantee Fund of Fifteen Thousand Dollars (\$15,000) in cash.

Those with a Capital Stock of Thirty Thousand Dollars (\$30,000), a Perpetual Care and Maintenance Guarantee Fund of Thirty Thousand Dollars (\$30,000) in cash; and,

Those with a Capital Stock of Fifty Thousand Dollars (\$50,000), or more, a Perpetual Care and Maintenance Guarantee Fund of Fifty Thousand Dollars (\$50,000) in cash.

The Perpetual Care and Maintenance Guarantee Fund shall be permanently set aside and deposited in trust with the Trustee, as is provided in Section 15 of the Perpetual Care Cemetery Code.¹ Upon all sales made of lots, spaces, crypts, mausoleum space and columbariums, the deposits as required by law, to be placed in trust for the Perpetual Care and Maintenance of the Cemetery, shall be allowed as a credit against the original Perpetual Care and Maintenance Guarantee Fund to the full amount of the original deposit. The Corporation thereafter shall continue to deposit in the Perpetual Care Fund, the minimum amount required by law, and such additional amount as may be required by the Rules and Regulations and/or the Trust Agreement or contract of said Cemetery Corporation or Association, for the Perpetual Care and Maintenance of the Cemetery.

Nothing contained in this Section 29² shall apply to cemetery corporations chartered prior to the effective date of this Act, provided, however, that any corporation which amends its charter shall be required to comply with the minimum requirements set forth in this Section 29.

[Acts 1955, 54th Leg., p. 574, ch. 190, § 1. Amended by Acts 1975, 64th Leg., p. 86, ch. 40, § 5, eff. Sept. 1, 1975.]

¹ Article 912a-15.

² Article 912a-29.

Art. 912a-30. Cancellation of Charter for Failure to Operate Thereunder; Rescission of Cancellation

If any such incorporated association shall fail to begin actual operations thereunder after the granting and delivery of its charter for six (6) months, the Banking Commissioner shall thereupon cancel such charter and serve notice upon the association by registered letter duly addressed to the association's address. The Banking Commissioner may at his discretion rescind such order of cancellation upon the application of the Board of Directors upon the payment to him of a penalty or fee to be fixed by the Commissioner not to exceed Five Hundred Dollars (\$500) and the execution of and delivery to him of an agreement to begin actual operations within one (1) month, and a proper showing by the Trustee of the Perpetual Care and Maintenance Guarantee Fund that it is on deposit.

If such association should fail to begin such active operations within such latter period, the Commissioner shall make an order setting aside his order of rescission of the cancellation of such charter, and such cancellation shall thereupon be final, and the Commissioner shall make full relation of such matters to the Attorney General of the State for liquidation, if necessary. A certified copy of such cancellation shall be sufficient to authorize the Trustee of the Perpetual Care and Maintenance Guarantee Fund to refund the same to the incorporators signing the Articles of Incorporation, if no sales have been made of the dedicated property.

[Acts 1955, 54th Leg., p. 574, ch. 190, § 1.]

Art. 912a-31. Examinations of Cemetery Associations' Perpetual Care Trust Funds and Records; Fees and Expenses

It shall be the duty of the Banking Commissioner to examine, or cause to be examined, each of such perpetual care cemetery associations annually or as often as necessary, for which the examined association shall pay to the Commissioner a fee not to exceed One Hundred Dollars (\$100.00) per day or fraction thereof, for each examiner, the total fee not to exceed Four Hundred Dollars (\$400.00) for any one regular examination, for those cemeteries whose annual deposits, as required by law, to their perpetual care trust fund, are less than Seven Thousand, Five Hundred Dollars (\$7,500.00); for those cemeteries whose annual deposits, as required by law, to their perpetual care trust fund are Seven

Thousand, Five Hundred Dollars (\$7,500.00) or more, the fee shall not exceed Two Hundred Dollars (\$200.00) per day or fraction thereof for each examiner, the total fee not to exceed Eight Hundred Dollars (\$800.00) for any one regular examination.

If in any case the conditions existing in any such association are found to be such as to necessitate an additional examination or a prolonged audit to ascertain the true status of its affairs, the whole expense of such additional examination or such prolonged audit shall be defrayed by such association.

[Acts 1955, 54th Leg., p. 574, ch. 190, § 1. Amended by Acts 1963, 58th Leg., p. 1298, ch. 495, § 4; Acts 1975, 64th Leg., p. 86, ch. 40, § 6, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 2093, ch. 839, § 1, eff. Aug. 29, 1977; Acts 1981, 67th Leg., p. 467, ch. 198, § 1, eff. Aug. 31, 1981.]

Art. 912a-32. Compliance Required; Books, Records, and Funds to Be Maintained Within State; Examination

Any Perpetual Care Cemetery doing business in Texas shall comply with all of the provisions of this Act and shall maintain all books, accounting records, and funds within the State of Texas. Such funds and records must be available at all times to the Banking Department for examination.

[Acts 1955, 54th Leg., p. 574, ch. 190, § 1.]

Art. 912a-33. Annual Report; Liability for Failure to Make

If an Association embraced within this Act shall fail to make its annual report and file the publication with the Banking Commissioner, as provided in Section 2¹ hereof, it shall be liable for and the Banking Commissioner shall collect as a fee or penalty the sum of Five Dollars (\$5) per day for the period of such failure, and upon the relation of the Banking Commissioner of such default in payment, the Attorney General shall institute a suit to recover said fees or penalties and for such other relief by the State as in the judgment of the Attorney General is proper and necessary.

[Acts 1955, 54th Leg., p. 574, ch. 190, § 1.]

¹ Article 912a-2.

Art. 912a-34. Interment; Discrimination

Cemetery associations shall not make, adopt, or enforce any rule or regulation which prohibits the interment of the remains of any deceased person in a cemetery because of the race, color, or national origin of such deceased person. Provisions in any contract entered into by a cemetery association, or in any deed or certificate of ownership granted or issued by a cemetery association with respect to the interment of the remains of deceased persons, which prohibit the interment of the remains of deceased persons in a cemetery because of race, color or national origin, are hereby declared to be against public policy, void, and unenforceable.

[Acts 1969, 61st Leg., p. 847, ch. 281, § 1, eff. May 22, 1969.]

Arts. 913 to 930a. Repealed by Acts 1945, 49th Leg., p. 559, ch. 340, § 29

Art. 930a-1. Feed Pens or Slaughter Pens Near Cemetery in Certain Counties a Nuisance; Injunction; Old Abandoned or Neglected Cemeteries; Abatement of Nuisances

Sec. 1. In all counties in this State with a population of five hundred and twenty-five thousand (525,000) or more, the maintenance or location of feed pens for hogs, cattle, and horses, or slaughter pens, or of slaughter houses within five hundred (500) feet of any established cemetery is declared to be a nuisance, and the owner of said cemetery, or any of the lot owners therein, may maintain an action in the Courts to abate such nuisance and to enjoin its continuance, and if it appears that such nuisance exists or is threatened in violation of this Act, a perpetual injunction shall be granted against the parties guilty of such nuisance.

Sec. 2. In all counties in this State with a population of five hundred and twenty-five thousand (525,000) or more, when an old, abandoned and neglected cemetery for which no perpetual care and endowment fund has been regularly and legally established, is abated as a nuisance, either the Court abating same and enjoining its continuance or the city council of the city in which said cemetery is located, may authorize the removal of all bodies, monuments, tombs, etc., therein to a perpetually endowed cemetery as defined under the laws of the State of Texas; provided however, that if there exists within said county no perpetual care cemetery which under its rules and regulations will permit the interment of the bodies of the persons which are to be removed, the said bodies, monuments, tombs, etc., may be removed to a nonperpetual care cemetery which has provided for assessments for the future care of said cemetery.

[Acts 1941, 47th Leg., p. 424, ch. 253.]

Arts. 930b to 931b. Repealed by Acts 1945, 49th Leg., p. 559, ch. 340, § 29

Art. 931b-1. Depth of Burial Graves; Exceptions; Penalty

Sec. 1. No dead human body shall be buried in such manner that the top of the outside container within which such dead human body is placed is less than two feet below the surface of the ground, except that, if such container is made of steel, bronze, concrete or other impermeable material, the top of such container shall be not less than one and one-half feet below the surface.

The above depths shall be considered maximum limits required for such burials in this state, and if any duly constituted governing body of a political subdivision of this state declares by ordinance, rule or regulation that lesser limits are required because of sub-surface soil conditions or other relevant considerations, then such burials within that political

subdivision can be at the lesser limits prescribed by such ordinance, rule or regulation.

Any person who violates the provisions of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$200. The violation of the provisions in any ordinance, rule or regulation which establishes lesser limits than herein provided shall constitute a violation of this Act and is punishable under this Act.

Sec. 2. The provisions of this Act do not apply to burials in sealed surface reinforced concrete burial vaults.

[Acts 1969, 61st Leg., p. 1525, ch. 460, eff. Sept. 1, 1969.]

Art. 931c. Abandonment of Lots in Private Cemeteries

Application

Sec. 1. This Act applies to unoccupied lots or portions of lots, for which adequate perpetual care has not been provided, in private cemeteries that are operated by nonprofit organizations.

Definitions

Sec. 2. In this Act:

(1) "Governing body" means the person or persons within a nonprofit organization who are responsible for conducting the business of a cemetery.

(2) "Nonprofit organization" means an organization described in Section 501(c)(3), Internal Revenue Code of 1954, as amended (26 U.S.C.A. 501(c)(3)).

(3) "Private cemetery" means a cemetery that is not owned or operated by the United States, the state, or a political subdivision of the state.

Decree of Abandonment

Sec. 3. (a) After furnishing the notice required by Section 5 of this Act, the governing body of a cemetery may petition a court of competent jurisdiction for an order declaring that a cemetery lot or a portion of a lot has been abandoned.

(b) If the court determines that an unoccupied cemetery lot or portion of a lot has been abandoned, the ownership of or right of sepulture in the cemetery lot reverts to the cemetery.

Presumption of Abandonment

Sec. 4. A cemetery lot is presumed to be abandoned if for 10 consecutive years an owner or an owner's successors in interest fail:

(1) to maintain the lot in a condition consistent with other lots in the cemetery; or

(2) to pay the assessments for maintenance, if any, levied by the cemetery.

Notice of Intent to Claim Abandonment

Sec. 5. (a) More than 90 but not more than 120 days before filing a petition under Section 3 of this

Act, the governing body of a cemetery shall furnish written notice of its claim to the owner of the lot, or, if the owner is deceased or his address is unknown, to the successors in interest of the owner.

(b) The notice required by this section may be delivered in person or by prepaid United States mail, sent to the last known address of the owner or the owner's successors in interest.

(c) If after reasonable effort the governing body of a cemetery cannot locate or ascertain the identity of an owner or an owner's successors in interest, the governing body shall publish the notice required by this section once each week for four consecutive weeks in a newspaper of general circulation in the county in which the cemetery is located.

Rebuttal of Presumption

Sec. 6. (a) An owner or an owner's successors in interest may rebut a presumption of abandonment under Section 4 of this Act by:

(1) delivering to the governing body of the cemetery or by filing with the court, as appropriate, written notice claiming ownership of or right of sepulture in the lot; and

(2) paying the cemetery for past due maintenance charges on the lot, if any, plus interest at the maximum legal rate.

(b) A notice provided by this section for the rebuttal of a presumption is made by delivery in person or by prepaid United States mail, properly addressed. If the notice is mailed, delivery is effective on the date the notice is postmarked.

Effect of Reversion

Sec. 7. (a) If under Section 3 of this Act title to a cemetery lot or portion of a lot reverts to a cemetery, the cemetery may sell and convey title to the lot or portion of the lot.

(b) After deducting its reasonable expenses, including court costs and legal fees, related to its reacquisition of an abandoned cemetery lot, a cemetery shall deposit the funds realized from the sale of the lot into an account to be used solely for the perpetual care of the cemetery.

Laws in Conflict

Sec. 8. To the extent that Article 912a-11, 912a-12, or 912a-13, Vernon's Texas Civil Statutes, conflicts with this Act, this Act controls.

[Acts 1981, 67th Leg., p. 2624, ch. 706, eff. Aug. 31, 1981.]

TITLE 27

CERTIORARI

1. CERTIORARI TO THE COUNTY COURT
Art.
932 to 940. Repealed.

2. CERTIORARI TO JUSTICES' COURTS
941. Certiorari to Justices' Court.
942 to 959. Repealed.
960. Appeals and Writs of Error.

1. CERTIORARI TO THE COUNTY COURT
Art. 932. Repealed by Acts 1955, 54th Leg., p. 88,
ch. 55, § 434

Arts. 933 to 940. Repealed by Rules of Civil
Procedure (Acts 1939, 46th Leg., p.
201, § 1)

2. CERTIORARI TO JUSTICES' COURTS

Art. 941. Certiorari to Justices' Court
After final judgment in a justice court in any
cause except in cases of forcible entry and detainer,

the cause may be removed to the county court by writ of certiorari (or if the civil jurisdiction has been transferred from the county to the district court, then to the district court,) in the manner hereinafter directed.

[Acts 1925, S.B. 84.]

Arts. 942 to 959. Repealed by Rules of Civil
Procedure (Acts 1939, 46th Leg., p.
201, § 1)

Art. 960. Appeals and Writs of Error

Appeals and writs of error from the judgments of the county or district court, in cases of certiorari from justice courts, shall be allowed, subject to such rules and limitations as apply in cases appealed from justices' courts.

[Acts 1925, S.B. 84.]

TITLE 28

CITIES, TOWNS AND VILLAGES

Chapter	Article	Art.
1. Cities and Towns	961	966h. Validation of Incorporation; Areas and Boundary Lines; Governmental Proceedings and Acts; Cities and Towns of 4,500 or Less.
2. Officers and Their Election	977	966i. Incorporation of Certain Areas Containing 8,000 or More Inhabitants and at Least 10,000 Acres.
3. Duties and Powers of Officers	993	967. Cities of the Republic.
4. The City Council	1007	968. Effect of Acceptance.
5. Taxation	1026	969. Property Rights.
6. Fire Prevention	1067	969a. Lease of Islands or Submerged Lands by Certain Cities.
7. Sanitary Department	1071	969a-1. Lease, Sale, Option or Conveyance of Islands, Flats or Other Submerged Lands.
8. Streets and Alleys	1082	969b. Acquisition of Property for Certain Purposes; Exercise of Eminent Domain or Police Powers, etc.; Procedure; Relocation Expenses.
9. Street Improvements	1086	969c. Cemeteries.
10. Public Utilities	1106	969c-1. Termination of Perpetual Trust Funds for Cemeteries of Municipalities in Counties of 120,000 to 128,000.
11. Towns and Villages	1133	969c-2. Possession and Control of Unkept or Abandoned Cemeteries.
12. Commission Form of Government	1154	969d. Cities With Less Than 10,000 Population; Purchase of Real Estate from United States Government.
12A. City-Manager Plan	1164a-1	969e. State-line Border Cities; Joint Governmental Facilities and Services; Agreements.
13. Home Rule	1165	970. To Adjust Boundaries.
14. Cities on Navigable Waters	1183	970a. Municipal Annexation Act.
15. Consolidation of Cities	1188	970b. Areas Treated as Being Within Boundaries of Municipality; Inclusion by Ordinance.
16. Municipal Court	1194	971. Territorial Boundaries.
17. Condemnation for Highways	1201	971a. Map of Boundaries.
18. Artificial Lighting System	1221	972. Territory Relinquished.
19. Abolition of Corporate Existence	1241	973. Discontinuing Territory.
20. Miscellaneous Provisions	1264	973a. Validation of Discontinuance of Territory, Boundaries and Annexation of Discontinued Territory; Cities of 2,000 or Less.
21. Housing	1269k	973b. Validation of Disannexation or Discontinuance of Territory; Cities of 5,000 or Less.
22. Civil Service	1269m	974. Adjoining Inhabitants.
CHAPTER ONE. CITIES AND TOWNS		
Art.		
961. May Adopt This Title.		974a. Platting and Recording Subdivisions or Additions.
961a. Validation of Adoption of Provisions of Title.		974a-1. Enforcement of Land Use Restrictions Contained in Plats; Certain Cities, Towns and Villages.
961b. Validation of Adoption of Provisions of Title.		974a-2. Commercial Building Permits in Cities of 900,000 or More.
961b-1. Town or Village Under Commission Form of Government Having \$500,000 Taxable Property May Adopt This Title.		974b. Validating Elections in Cities of 3,000 to 6,000 for Extension of Corporate Limits.
962. General Powers.		974c. Validating Annexation of Adjacent Territory.
963. Not Affected by This Title.		974c-1. Cities and Towns of 5,000 or Less; Validation of Annexation of Territory.
964. Repealed.		974c-2. Cities of More Than 5,000 Population; Validation of Annexation, Incorporation, and Other Matters.
965. City Limits.		974c-3. Cities and Towns of 5,000 or Less; Validation of Annexation and Related Matters.
966. May Incorporate.		
966a. Validation of Incorporation of Cities and Towns of 5,000 or Less.		
966b. Validation of Incorporation; Incorrect Description; Excessive Area.		
966c. Validation of Incorporation, Proceedings and Acts; Cities and Towns of 5,000 or Less; Limits of Territory.		
966d. Validation of Incorporation; Incorrect Description; Excessive Area; Elections.		
966d-1. Validation of Incorporation; Incorrect Description; Excessive Area; Elections.		
966e. Validation of Incorporation, Area and Boundaries; Cities and Towns of 5,000 or Less.		
966f. Validation of Incorporation of Cities and Towns of 5,000 or Less.		
966g. Validation of Incorporation; Areas and Boundary Lines; Governmental Proceedings and Acts; Cities of 5,000 or Less.		

- Art.
974c-4. Annexation or Definition of Boundaries; Validation.
- 974c-5. Cities and Towns of 800 Inhabitants or Less; Validation of Annexation and Extension of Boundaries.
- 974c-6. Cities and Towns of 500 or Less; Validation of Annexation of Territory.
- 974c-7. Validation of Annexation of Entire Territory of Water Control and Improvement District.
- 974d. Validation of Incorporation of Cities of 600 to 2,000 Inhabitants Incorporated Since January 1, 1935.
- 974d-1. Validation of Incorporation of Cities of 600 to 2,000 Inhabitants.
- 974d-2. Validation of Incorporation, Boundaries and Proceedings; Cities and Towns of 5,000 or Less.
- 974d-3. Validation of Incorporation; Counties of 600,000 Population.
- 974d-4. Validation of Incorporation; Areas and Boundary Lines; Governmental Proceedings and Acts; Cities of 5,000 or Less.
- 974d-5. Validation of Incorporation; Boundary Lines; Governmental Proceedings; Exceptions; Cities and Towns of 15,000 or Less.
- 974d-6. Validation of Organizational Proceedings; Incorporation; Consolidation; Boundaries, etc.; Exception.
- 974d-7. Validation of Orders of County Judges Declaring Incorporation of Certain Cities, Towns or Villages; Boundaries; Elections and Proceedings; Exceptions.
- 974d-8. Validation of Incorporation; Boundary Lines; Governmental Proceedings; Adoption of Home Rule Charter; Cities and Towns of 5,100 to 5,300.
- 974d-9. Validation of Incorporation; Boundary Lines; Governmental Proceedings; Adoption of Home Rule Charter; Cities and Towns of Not More Than 6,000.
- 974d-10. Validation of Incorporation; Elections; Governmental Proceedings; Adoption of Home Rule Charter; Exceptions; Cities, Towns or Villages.
- 974d-11. Validation of Incorporation; Boundary Lines; Governmental Proceedings; Cities Within Extraterritorial Jurisdiction of Other Cities; Litigation.
- 974d-12. Validation of Incorporation; Boundary Lines; Governmental Proceedings; Exceptions; Home Rule Cities and Towns of 6,900 to 7,100.
- 974d-13. Validation of Incorporation; Charters and Amendments of Cities of More Than 5,000; Boundary Lines; Governmental Proceedings; Revenue Bonds; Exceptions.
- 974d-14. Validation of Boundary Lines; Cities and Towns of 5,270 to 5,350.
- 974d-15. Validation of Incorporation, Boundary Lines, and Governmental Proceedings; Exceptions; Cities and Towns of 215 to 217.
- 974d-16. Validation of Incorporation, Boundary Lines and Governmental Proceedings; Cities and Towns of 1,500 to 1,800.
- 974d-17. Validation of Incorporation, Boundary Lines and Governmental Proceedings; Exceptions; Cities and Towns of 300 to 750.
- Art.
974d-18. Validation of Incorporation, Boundary Lines and Governmental Proceedings; Cities and Towns of 1,000 or Less.
- 974d-19. Validation of Incorporation, Boundary Lines and Governmental Proceedings; Exceptions; Cities and Towns Under 10,000.
- 974d-20. Validation of Consolidation of Certain Cities.
- 974d-21. Validations of Incorporation, Boundary Lines and Governmental Proceedings; Exceptions.
- 974d-22. Validation of Incorporation, Charters and Amendments of Cities over 5,000; Boundary Lines; Governmental Proceedings; Revenue Bonds; Exceptions.
- 974d-23. Validation of Consolidation and Governmental Proceedings of Certain Cities.
- 974d-24. Validation of Annexations and other Proceedings of Municipalities of 20,000 or Less.
- 974d-25. Validation of Boundary Actions of Cities within Counties of 1,000,000 or More.
- 974d-26. Validation of Incorporation, Boundary Lines and Governmental Proceedings; Exceptions.
- 974d-27. Validation of Assumption of Municipal Control of Certain Schools.
- 974d-28. Validation of Incorporation and Boundary Lines; Exceptions.
- 974d-29. Validation of Incorporation, Boundary Lines and Governmental Proceedings; Cities and Towns of 1,000 or Less.
- 974d-30. Validation of Incorporation and Boundary Lines; Exceptions.
- 974d-31. Validation of Consolidation and Governmental Proceedings of Certain Cities and Towns.
- 974d-32. Validation of Incorporation and Governmental Proceedings; Cities and Towns of 200 or More.
- 974d-33. Validation of Incorporation, Boundary Lines, and Governmental Proceedings; Exceptions.
- 974d-34. Validation of Annexation and Governmental Proceedings; Cities, Towns, and Villages of 200 or More.
- 974d-35. Validation of Incorporation and Governmental Proceedings; Cities and Towns of 5,000 or Less.
- 974e. Procedure for Annexation of Unoccupied Lands to Cities or Towns of 4,190 to 4,250 Population.
- 974e-1. Procedure for Annexation of Unoccupied Lands to Cities or Towns of 1251 to 1259 Population.
- 974e-2. Procedure for Annexation of Unoccupied Lands to Cities of 20,520 to 20,540 Population.
- 974e-3. Procedure for Annexation of Unoccupied Lands to Cities of 14,100 to 14,950 Population.
- 974e-4. Procedure for Annexation of Unoccupied Lands to Cities of 1,583 to 1,602 Population.
- 974e-5. Procedure for Annexation of Unoccupied Lands to Cities or Towns of 900 to 920 Population.
- 974e-6. Procedure for Annexation of Unoccupied Lands to Cities of 3,944 to 3,964.
- 974e-7. Annexation of Vacant Land to City of 2,315 to 2,400.
- 974e-8. Annexation of Levee Improvement District; Effect; Contracts.
- 974f. Annexation of Streets, Highways and Alleys by Cities and Towns of 1245 to 1260; Procedure.
- 974f-1. Annexation of Streets, Highways, and Alleys by Cities of 17,850 to 17,900.
- 974f-2. Annexation of Adjacent Streets, Highways, and Alleys by Cities of 4,350 to 4,375.

- Art.
974f-3. Annexation of Adjacent Street, Highway, or Alley by City of Wickett.
974g. Annexation by Cities of Territory Occupied by Less Than Three Voters.
974g-1. Cities, Towns, and Villages; Power to Annex Navigable Streams.
974g-2. Cities', Towns', and Villages' Power to Annex Gulfward up to 5,280 Feet.
974-1. Annexation by Petition and Election.
974-2. Contest of Annexation Proceeding.
975. Segregating Territory.
976. Liable for Debts.
976a. Zoning Ordinances Upon Annexation.
976b. Ascertainment of Population; Validation of Acts.
976c. Validation of Certain Contracts of Cities of 900,000.

Art. 961. May Adopt This Title

Any incorporated city, town or village in this State containing six hundred inhabitants or over, however legally incorporated, and any incorporated city, town or village of whatever population containing one or more manufacturing establishments within the corporate limits, may accept the provisions of this title relating to cities and towns, in lieu of any existing charter, by a two-thirds vote of the council of such city, town or village, had at a regular meeting thereof, and entered upon the journal of their proceedings, and a copy of the same signed by the mayor and attested by the clerk or secretary under the corporate seal, filed and recorded in the office of the county clerk in which such city, town or village is situated, and the provisions of this title shall be in force, and all acts theretofore passed incorporating said city, town or village which may be in force by virtue of any existing charter, shall be repealed from and after the filing of said copy of their proceedings, as aforesaid. When such city, town or village is so incorporated as herein provided, the same shall be known as a city or town, subject to the provisions of this title relating to cities and towns, and vested with all the rights, powers, privileges and immunities and franchises therein conferred. The provisions of this title shall not apply to any city, town or village until such provisions have been accepted by the council in accordance with this article.

[Acts 1925, S.B. 84.]

Art. 961a. Validation of Adoption of Provisions of Title

In every instance wherein an incorporated city, town, or village has attempted to accept the provisions of Title 28 of the Revised Civil Statutes of Texas of 1925, as provided in Article 961 of the Revised Civil Statutes of Texas of 1925, and has included in the ordinance or resolution accepting the benefits of said Title, a declaration or finding to the effect that such city, town, or village contains one or more manufacturing establishments within its corporate limits, and has filed a copy of such resolution or ordinance for record in the office of the

County Clerk of the county within which such city, town, or village is situated, the action of such city, town, or village is hereby authorized, ratified, confirmed and validated, and each such city, town, or village is declared to have all of the powers of cities and towns, as provided in said Title, and all corporate actions taken by such cities, towns, and villages after such attempted compliance with said Article, and which could have been lawfully performed by a city or town having the powers under said Title, are hereby authorized, ratified, and confirmed; provided however, that the provisions of this Act shall not be construed as applicable to cities, towns, or villages, wherein any such attempted adoption of such powers is in litigation at the time this Act becomes effective.

[Acts 1935, 44th Leg., 2nd C.S., p. 1713, ch. 444, § 1.]

Art. 961b. Validation of Adoption of Provisions of Title

In every instance wherein an incorporated city, town, or village in all counties having a population of more than forty-six thousand, one hundred (46,100) and less than forty-six thousand, two hundred (46,200), according to the last preceding Federal Census, has attempted to accept the provisions and benefits of Title 28 of the Revised Civil Statutes of Texas of 1925, and has filed a copy of the resolution or ordinance accepting such Title for record in the office of the County Clerk of the county within which such city, town, or village is situated, the action of such city, town, or village is hereby authorized, ratified, confirmed, and validated; and each such city, town, or village is declared to have all the powers of cities and towns as provided in said Title; and all corporate actions taken by such cities, towns, and villages after the passage of such ordinances or resolution accepting the benefits of said Title, and which could have been lawfully performed by a city or town having the powers under said Title, are hereby authorized, ratified, confirmed, and validated; and all proceedings heretofore had by the governing bodies of all such cities, towns, and villages in the issuance and sale of bonds, to aid in financing any project and/or projects for which a loan or grant has been made or applied for to the United States through the Federal Emergency Administrator of Public Works or any agency, department, or division of the Government of the United States of America, are herein in all things fully validated, confirmed, approved, and legalized; and all such bonds issued thereunder are hereby declared to be the valid and binding obligations of such cities and towns; and all such bonds which have been heretofore authorized but not yet issued or sold shall, when delivered and paid for, constitute valid and binding obligations of such cities and towns. All tax levies made by such governing bodies for the purpose of paying the principal of and interest on such bonds are hereby in all things validated, confirmed, approved and legalized.

[Acts 1939, 46th Leg., Spec.L., p. 1001, § 1.]

Art. 961b-1. Town or Village Under Commission Form of Government Having \$500,000 Taxable Property May Adopt This Title

Sec. 1. Any town or village heretofore incorporated under the provisions of Chapter 12 of Title 28 of the Revised Civil Statutes of Texas, 1925, and amendments thereto, and having an assessed valuation for taxable purposes of Five Hundred Thousand (\$500,000.00) Dollars or more, according to its latest approved tax rolls, notwithstanding any limitation contained in Article 1163 of the Revised Civil Statutes of Texas, 1925, and amendments thereto, is hereby authorized to adopt the powers of cities and towns in the manner specified in Article 961 of the Revised Civil Statutes of Texas, 1925, and amendments thereto, notwithstanding any limitation contained in said Article as to minimum population or as to the inclusion of manufacturing establishments; and, after having adopted such powers, any such municipality shall be known as a city or town, and shall be vested with all of the rights, powers, privileges, immunities and franchises conferred or imposed on cities or towns by the laws contained in Title 28 of the Revised Civil Statutes of Texas, 1925, and amendments thereto.

Sec. 2. This Act shall be cumulative of all other laws, but, in the event any of its provisions shall conflict with the provisions of any other law, the provisions hereof shall prevail to the extent of such conflict.

[Acts 1939, 46th Leg., p. 91.]

Art. 962. General Powers

All the inhabitants of each city, town or village so accepting the provisions of this title shall continue to be a body corporate, with perpetual succession, by the name and style by which such city, town or village was known before such acceptance, and as such they and their successors by that name shall have, exercise and enjoy all the rights, immunities, powers, privileges and franchises possessed and enjoyed by the same at the time of said acceptance, and those hereinafter granted and conferred, and shall be subject to all the duties and obligations pertaining to or incumbent on the same as a corporation at the time of said acceptance, and may ordain and establish such acts, laws, regulations and ordinances, not inconsistent with the Constitution and laws of this State, as shall be needful for the government, interest, welfare and good order of said body politic and under the same name shall be known in law, and be capable of contracting and being contracted with, suing and being sued, impleading and being impleaded, answering and being answered unto, in all courts and places, and in all matters whatever, may take, hold and purchase, lease, grant and convey such real and personal or mixed property or estate as the purposes of the corporation may require, within or without the limits thereof; and may make, have and use a corpo-

rate seal and change and renew the same at pleasure.

[Acts 1925, S.B. 84.]

Art. 963. Not Affected by This Title

All property, real, personal or mixed, belonging to any city accepting the provisions of this title, is hereby vested in the corporation created by this title, and the officers of said corporation, in office at the date of its acceptance, shall continue in the same, until superseded in conformity with the provisions of this title. All rights, actions, fines, penalties and forfeitures in suits or otherwise, which have accrued under the laws heretofore in force, shall be vested in and prosecuted by the corporation hereby created. No suit pending shall be affected by the passage and acceptance of this title, but the same shall be prosecuted or defended as the case may be, by the corporation hereby created.

[Acts 1925, S.B. 84.]

Art. 964. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(1), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this article, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

Art. 965. City Limits

The bounds and limits of said municipality shall be and remain the same as fixed and defined by the provisions of the act of incorporation, substituted by the provisions of this Title; provided, that said limits of said corporation may be hereafter extended by adding additional territory to the same, whenever the majority of the qualified electors of said territory shall indicate a desire to be included within the limits of said corporation in the manner provided in Article 974 of this Title; or by ordinance of the governing body of said municipality, duly passed and spread upon the minutes thereof, describing by metes and bounds such additional territory added thereto, provided that this provision shall apply only to those cities where the additional territory so added is owned by such municipalities.

[Acts 1925, S.B. 84. Amended by Acts 1935, 44th Leg., p. 237, ch. 96, § 1.]

Art. 966. May Incorporate

Any city or town containing six hundred inhabitants or over may be incorporated as such, with all the powers, rights, immunities and privileges mentioned and described in the provisions of this title relating to cities and towns, in the manner described in Chapter 11 of this title¹ for incorporating towns and villages, except that the application to become incorporated shall be signed by at least fifty electors, residents of such city or town, and except that when an election is held according to the provisions of such chapter the words "towns and villages" shall be construed to mean "cities and towns." When the entry by the county judge, pro-

vided in article 1139 is made with reference to a city or town of six hundred inhabitants and over, such city or town shall be vested with all the rights and privileges of such cities conferred by this title.

[Acts 1925, S.B. 84.]

¹ Article 1133 et seq.

Art. 966a. Validation of Incorporation of Cities and Towns of 5,000 or Less

Sec. 1. All cities and towns in Texas of five thousand (5,000) inhabitants or less heretofore incorporated and/or attempted in good faith to be incorporated under the General Laws of Texas, whether under the aldermanic form of government or under the commission form of government, and which have in good faith functioned as incorporated cities and towns since the date of such incorporation or attempted incorporation, are hereby in all respects validated, as of the date of such incorporation or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid on account of irregularities in the petition for election, order for election, notice of election, returns of election, order declaring result of election, or on account of the incorporation election having been ordered and/or the returns thereof canvassed and result declared by a person exercising the functions and/or performing the duties of County Judge without lawful authority so to do, or on account of other irregularities in the incorporation proceedings.

Sec. 1-a. Provided however, that this Act shall have no effect upon any suit or suits pending at this time in the Courts of this State which involve such cities and towns, nor upon any suit involving such cities and towns which may be filed within ninety (90) days from the effective date of this Act.

Sec. 2. All governmental proceedings performed in good faith by the governing bodies of such cities and towns since their incorporation or attempted incorporation, respectively, are hereby in all respects validated as of the respective dates of such proceedings, and such governmental proceedings shall be effective the same as if such cities and towns had been regularly incorporated in the first instance.

[Acts 1941, 47th Leg., p. 33, ch. 19.]

Art. 966b. Validation of Incorporation; Incorrect Description; Excessive Area

Sec. 1. In each instance where an election has been held for the purpose of incorporating a city, town or village and the territory to be contained in such city, town or village was inadequately or incorrectly described in connection with such election proceedings or the order of the county judge declaring such territory to be incorporated, or such territory contained a greater area than was permitted by law, and where, thereafter, the county judge of the county in which such city, town or village is situated entered an order declaring the inhabitants of such

city, town or village, incorporated under the General Laws of the State of Texas relating to cities and towns, and fixing and declaring the boundaries thereof and finding and declaring the names of the mayor, aldermen and city secretary of any such city, such order by the county judge is hereby in all things validated, ratified and approved, and such city, town or village shall be known by the name specified in such order.

Sec. 2. Any City, town or village declared to be incorporated by an order as mentioned in Section 1 of this Act is hereby validated and declared to be a duly incorporated city with the boundaries as defined in such order, and the mayor, aldermen and city secretary named in such order shall constitute the mayor, aldermen and city secretary of such city until their successors are duly elected or appointed and qualified.

[Acts 1951, 52nd Leg., p. 372, ch. 236.]

Art. 966c. Validation of Incorporation, Proceedings and Acts; Cities and Towns of 5,000 or Less; Limits of Territory

Sec. 1. All cities and towns in Texas of five thousand (5,000) inhabitants or less, heretofore incorporated or attempted to be incorporated under any of the terms and provisions of the General Laws of the State of Texas, whether under the aldermanic or commission form of government, and which are now functioning or attempting to function as incorporated cities and towns, are hereby in all respects validated as of the date of such incorporation or attempted incorporation, and the incorporation of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or other incorporation proceedings may not have been in accordance with law, or by reason of a failure to properly define the limits of said city or town, or because of the inclusion in such limits of more territory than is expressly authorized in Article 971 of the Revised Civil Statutes of the State of Texas of 1925, or by reason of the inclusion in the corporate area of territory other than that which is intended to be used for strictly town purposes.

Sec. 2. The boundary lines of all such cities and towns, including both the boundary lines covered by the original incorporation proceedings and by any subsequent extension thereof, prior to the effective date of this Act, are hereby in all things validated.

Sec. 3. All governmental proceedings and acts performed by the governing bodies of such cities and towns and all officers thereof since their incorporation, or attempted incorporation, are hereby in all respects validated as of the respective date of such proceedings and acts.

Sec. 4. The provisions of this Act shall not apply to any city or town involved in litigation at the time of the effective date of this Act (Chapter 177, Regular Session, Acts of the 53rd Legislature) questioning the legality of the incorporation or extension of boundaries.

Sec. 5. If any word, phrase, clause, sentence, paragraph or provision of this Act is declared unconstitutional, it is the intention of the Legislature that the remaining provisions thereof shall be effective, and that such remaining portions shall remain in full force and effect.

[Acts 1953, 53rd Leg., p. 492, ch. 177. Amended by Acts 1954, 53rd Leg., 1st C.S., p. 13, ch. 4, § 1.]

Art. 966d. Validation of Incorporation; Incorrect Description; Excessive Area; Elections

Sec. 1. In each instance where an election has been held for the purpose of incorporating a city, town or village, and the territory to be contained in such city, town or village was inadequately or incorrectly described in connection with such election proceedings or the order of the county judge declaring such territory to be incorporated, or such territory contained a greater area than was permitted by law, and where, thereafter, the county judge of the county in which such city, town or village is situated entered an order declaring the inhabitants of such city, town or village, incorporated under the General Laws of the State of Texas relating to cities and towns, and fixing and declaring the boundaries thereof and finding and declaring the names of the mayor, aldermen and city secretary of any such city, such order by the county judge is hereby in all things validated, ratified and approved, and such city, town or village shall be known by the name specified in such order.

Sec. 2. Any city, town or village declared to be incorporated by an order as mentioned in Section 1 of this Act is hereby validated and declared to be a duly incorporated city with the boundaries as defined in such order, and the mayor, aldermen and city secretary named in such order are hereby declared to have been the mayor, aldermen and city secretary of such city at the time of the entry of said order, and all elections held for the election of city officials are hereby validated and ratified.

Sec. 3. This Act shall not apply to any municipality which is now involved, or which within sixty (60) days from the effective date of this Act becomes involved, in litigation in any district court of this State, the Court of Civil Appeals, or the Supreme Court of Texas, in which litigation the validity of the organization, incorporation or creation of such municipality is attacked; and this Act shall not apply to any municipality involved in formal proceedings now pending before such municipality's commission or council in which proceedings the organization or creation of such municipality is attached. Provided, further, that this Act shall not apply to any municipality which has heretofore been declared invalid by a court of competent jurisdiction of this State or which may have been established and which was later returned to its original status.

[Acts 1955, 54th Leg., p. 808, ch. 298.]

Art. 966d-1. Validation of Incorporation; Incorrect Description; Excessive Area; Elections

Sec. 1. In each instance where an election has been held for the purpose of incorporating a city, town or village, and the territory to be contained in such city, town or village was inadequately or incorrectly described in connection with such election proceedings, or such territory contained a greater area than was permitted by law, and where, thereafter, the county judge of the county in which such city, town or village is situated entered an order declaring the inhabitants of such city, town or village, incorporated under the General Laws of the State of Texas relating to cities and towns, and fixing and declaring the boundaries thereof, as he finds such boundaries to exist at the time of entering such order, and finding and declaring the names of the officials of any such city, such order by the county judge is hereby in all things validated, ratified and approved, and such city, town or village shall be known by the name specified in such order.

Sec. 2. Any city, town or village declared to be incorporated by an order as mentioned in Section 1 of this Act is hereby validated and declared to be a duly incorporated city with the boundaries as defined in such order, and the act of the governing body thereof in accepting the provisions of Title 28, Revised Civil Statutes, as amended, relating to cities and towns is hereby validated and the officials named in such order are hereby declared to have been the mayor, aldermen and city secretary of such city at the time of the entry of said order, and all elections held for the election of city officials are hereby validated and ratified.

Sec. 3. This Act shall not apply to any municipality which is now involved in litigation in any district court of this state, the Court of Civil Appeals, or the Supreme Court of Texas, in which litigation the validity of the organization, incorporation or creation of such municipality is attacked. Provided further, that this Act shall not apply to any municipality which has heretofore been declared invalid by a court of competent jurisdiction of this state or which may have been established and which was later returned to its original status.

[Acts 1962, 57th Leg., 3rd C.S., p. 151, ch. 51, §§ 1 to 3.]

Art. 966e. Validation of Incorporation, Area and Boundaries; Cities and Towns of 5,000 or Less

Sec. 1. All cities and towns in Texas of five thousand (5,000) inhabitants or less, heretofore incorporated, or attempted to be incorporated under any of the terms and provisions of the General Laws of the State of Texas, whether under the aldermanic or commission form of government, and which are now functioning or attempting to function as incorporated cities and towns, are hereby in all respects validated as of the date of such incorporation, or attempted incorporation; and the incorpora-

tion of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or other incorporation proceedings may not have been in accordance with law, or by reason of a failure to properly define the limits of said city or town.

Sec. 2. The areas and boundary lines of all such cities and towns affected by this Act are in all things validated and the incorporation of such cities and towns shall not be held invalid because of the inclusion in such limits of more territory than is expressly authorized in Article 971 of the Revised Civil Statutes of the State of Texas of 1925, or by reason of the inclusion in the corporate area of territory other than that which is intended to be used for strictly town purposes, or by reason of the shape, form or outline of the area or territory included within the boundaries of such city or town.

Sec. 3. The provisions of this Act shall not apply to any city or town now involved in litigation questioning the legality of the incorporation or any of the acts or proceedings hereby validated if such litigation is ultimately determined against the legality thereof.

[Acts 1957, 55th Leg., p. 1328, ch. 450.]

Art. 966f. Validation of Incorporation of Cities and Towns of 5,000 or Less

Sec. 1. All cities and towns, in this state, of five thousand (5,000) inhabitants or less, heretofore incorporated or attempted to be incorporated under the General Laws of Texas, whether under the aldermanic form of government or the commission form of government, and which have functioned as incorporated cities and towns since the date of such incorporation or attempted incorporation, are hereby in all respects validated as of the date of such incorporation or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or other incorporation proceedings may not have been in accordance with law.

Sec. 2. The boundary lines of all such cities and towns, including both the boundary lines covered by the original incorporation proceedings and by any subsequent extension thereof, are hereby in all things validated.

Sec. 3. All governmental proceedings performed by the governing bodies of such cities and towns and all officers thereof since their incorporation, or attempted incorporation, are hereby in all respects validated as of the respective date of such proceedings.

Sec. 4. The provisions of this Act shall not apply to any city or town in a county having a population of three hundred and fifty thousand (350,000) or more according to the last preceding Federal Census which city or town is involved in litigation on the effective date of this Act as originally enacted or on the effective date of this Section as amended by Senate Bill No. 448, Acts of the 56th Legislature,

Regular Session, questioning the legality of the incorporation, annexations and/or extensions of boundaries by any such cities and towns.

[Acts 1959, 56th Leg., p. 79, ch. 38. Amended by Acts 1959, 56th Leg., p. 842, ch. 380, § 1.]

Art. 966g. Validation of Incorporation; Areas and Boundary Lines; Governmental Proceedings and Acts; Cities of 5,000 or Less

Sec. 1. All cities and towns in Texas of five thousand (5,000) inhabitants or less, heretofore incorporated, or attempted to be incorporated under any of the terms and provisions of the General Laws of the State of Texas, whether under the aldermanic or commission form of government, and which are now functioning or attempting to function as incorporated cities or towns, are hereby in all respects validated as of the date of such incorporation, or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or other incorporation proceedings may not have been in accordance with law, or by reason of a failure to properly define the limits of said city or town.

Sec. 2. All cities and towns in Texas of five thousand (5,000) inhabitants or less, heretofore incorporated, or attempted to be incorporated under any of the terms and provisions of the General Laws of the State of Texas, whether under the aldermanic or commission form of government, which have attempted to extend the corporate limits of such city or town, and have passed an ordinance describing the territory annexed and have caused a certified copy of such ordinance to be recorded in the Deed Records of the County in which such city or town is situated, all actions, elections and proceedings had or passed in reference thereto or in connection therewith, are hereby in all respects validated as of the date of such attempted annexation, and such extension of the corporate limits of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or other proceedings had in connection with such annexation may not have been in accordance with law.

Sec. 3. The areas and boundary lines of all such cities and towns affected by this Act, including both the boundary lines covered by the original incorporation proceedings and by any subsequent extension thereof are in all things validated and the incorporation of such cities and towns or any subsequent extension of the corporate limits of such cities and towns shall not be held invalid because of the inclusion in such limits of more territory than is expressly authorized in Article 971 of the Revised Civil Statutes of the State of Texas of 1925, or by reason of the inclusion in the corporate area of territory other than that which is intended to be used for strictly town purposes.

Sec. 4. All governmental proceedings and acts performed by the governing bodies of such cities and towns and all officers thereof since their incorporation, or attempted incorporation, are hereby in all respects validated as of the respective date of such proceedings and acts.

Sec. 5. The provisions of this Act shall not apply to any city or town now involved in litigation questioning the legality of the incorporation or extension of boundaries or any of the acts or proceedings hereby validated if such litigation is ultimately determined against the legality thereof.

[Acts 1959, 56th Leg., 3rd C.S., p. 430, ch. 19.]

Art. 966h. Validation of Incorporation; Areas and Boundary Lines; Governmental Proceedings and Acts; Cities and Towns of 4,500 or Less

Sec. 1. All cities and towns in Texas of four thousand, five hundred (4,500) inhabitants or less, according to the last preceding Federal Census, heretofore incorporated or attempted to be incorporated under any of the terms and provisions of the General Laws of the State of Texas, whether under the aldermanic or commission form of government, and which are now functioning or attempting to function as incorporated cities or towns, are hereby in all respects validated as of the date of such incorporation, or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or other incorporation proceedings may not have been in accordance with law, or by reason of a failure to properly define the limits of such city or town.

Sec. 2. The areas and boundary lines of all such cities and towns affected by this Act, including both the boundary lines covered by the original incorporation proceedings and by any subsequent extension thereof are in all things validated and the incorporation of such cities and towns or any subsequent extension of the corporate limits of such cities and towns shall not be held invalid because of the inclusion in such limits of more territory than is expressly authorized in Article 971 of the Revised Civil Statutes of the State of Texas of 1925, or by reason of the inclusion in the corporate area of territory other than that which is intended to be used for strictly town purposes.

Sec. 3. All governmental proceedings and acts performed by the governing bodies of such cities and towns and all officers thereof since their incorporation, or attempted incorporation, are hereby in all respects validated as of the respective date of such proceedings and acts.

Sec. 4. If any word, phrase, clause, sentence, paragraph or provision of this Act is declared unconstitutional, it is the intention of the Legislature that the remaining provisions thereof shall be effective, and that such remaining portions shall remain in full force and effect.

Sec. 5. The provisions of this Act shall not apply to any city or town now involved in litigation questioning the legality of the incorporation or extension of boundaries or any of the acts or proceedings hereby validated if such litigation is ultimately determined against the legality thereof.

[Acts 1961, 57th Leg., p. 583, ch. 275.]

Art. 966i. Incorporation of Certain Areas Containing 8,000 or More Inhabitants and at Least 10,000 Acres

Sec. 1. Any unincorporated area having a population, according to the last preceding federal census, of 8,000 inhabitants or more, and located wholly within boundaries of a district created pursuant to Article XVI, Section 59, of the Texas Constitution, which district furnishes water and sewer services to householders, contains at least 10,000 acres, and portions of which district are located within the corporate boundaries of two or more municipalities, may be incorporated as a city or town, with all of the powers, rights, immunities, and privileges mentioned and described in the provisions of this title relating to cities and towns, in the manner described in Article 966, Revised Civil Statutes of Texas, 1925, for incorporating cities and towns, provided, however, that the application to become incorporated shall be signed by at least 500 resident electors.

Sec. 2. The application to become incorporated shall be filed in the office of the county judge of the county in which the unincorporated area is located. Within 10 days after receipt of a map or plat of the boundaries of the unincorporated area, verification by the county tax assessor and collector that the requisite number of resident electors have signed the application to become incorporated, and certification by a registered professional engineer that the area described in the application contains at least 8,000 inhabitants and is located wholly within the boundaries of a district created pursuant to Article XVI, Section 59, of the Texas Constitution, which district furnishes water and sewer services to householders, contains at least 10,000 acres, and portions of which district are located within the corporate boundaries of two or more municipalities, the county judge shall order that an election be held for the purpose of submitting the question of incorporation to a vote of the people, in the manner prescribed by Article 966, Revised Civil Statutes of Texas, 1925.

Sec. 3. Notwithstanding any provision of this Act or any other law to the contrary, the application for incorporation, the order calling the incorporation election, the conduct and canvassing of said election, and, in the event of the passage of the election, the entry by the county judge upon the records of the commissioners court that the inhabitants of the city or town are incorporated within the boundaries thereof, and all subsequent actions of the incorporated city or town shall be valid, binding, and enforceable notwithstanding the absence of compliance with any requirement or requirements of the

Municipal Annexation Act, as amended (Article 970a, Vernon's Texas Civil Statutes).

Sec. 4. The provisions of this Act shall not take effect until January 1, 1978. If, however, the unincorporated area described in Section 1 of this Act has been annexed by the principal city of the county wherein the unincorporated area lies or if annexation proceedings have been initiated by the principal city after January 1, 1977, then all provisions of this Act shall be held void.

Sec. 5. If any provision of this Act or its application to any person or circumstance is held to be invalid for any reason, the invalidity does not affect any other provision or application of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

[Acts 1977, 65th Leg., p. 2077, ch. 828, §§ 1 to 5, eff. Jan. 1, 1978.]

Art. 967. Cities of the Republic

Any city, town or village, within this State, incorporated under any law, general or special, of the Republic of Texas, regardless of the extent of the boundaries thereof, or the number of its population, may accept the provisions of Chapters 1 to 10, both inclusive, of this title, in lieu of any existing charter created by any such law of the Republic of Texas, by a two-thirds vote of the council of such city, town or village; which action by the council shall be held at a regular meeting thereof and entered upon the journal of their proceedings, and a copy of the same signed by the mayor and attested by the clerk or secretary under the corporate seal, filed and recorded in the office of the clerk of the county court of the county in which such city, town or village is situated, and the provisions of said Chapters 1 to 10 both inclusive, of this title shall be in force, and all acts theretofore passed incorporating said city, town or village, which may be in force by virtue of any existing charter shall be repealed from and after the filing of said copy of their proceedings as aforesaid, when such city, town or village is so incorporated as herein provided, the same shall be known as a city or town, subject to the provisions of this title, vested with all the rights, powers, privileges, immunities and franchises therein conferred.

[Acts 1925, S.B. 84.]

Art. 968. Effect of Acceptance

All the inhabitants of each city, town or village so accepting the provisions of chapters 1 to 10 of this title, shall continue to be a body corporate, with perpetual succession, by the name and style by which such city, town or village was known before the acceptance of the provisions of such law, and as such they and their successors by that name shall have, exercise and enjoy all the rights, immunities, powers, privileges and franchises possessed and enjoyed by the same at the time of the acceptance of the provisions of such title and those herein granted

and conferred, and shall be subject to all the duties and obligations pertaining to or incumbent on the same as a corporation at the time of the acceptance of the provisions of such title, and may ordain and establish such acts, laws, regulations and ordinances not inconsistent with the Constitution and laws of this State, as shall be needful for the government, interest, welfare and good order of said body politic, and, under the same name, shall be known in law, and be capable of contracting and being contracted with, suing and being sued, impleading and being impleaded, answering and being answered unto, in all courts and places, and in all matters whatever, may take, hold and purchase, lease, grant and convey such real and personal or mixed property or estate as the purposes or the corporation may require, within or without the limits thereof; and may make, have and use a corporate seal and change and renew the same at pleasure.

[Acts 1925, S.B. 84.]

Art. 969. Property Rights

All property, real, personal or mixed, belonging to any such city, town, or village so incorporated under and by virtue of any law of the Republic of Texas, general or special, accepting said title, is hereby vested in the corporation thus created, and the council of such city, town or village is hereby authorized and empowered to sell and alienate such property and to appropriate the proceeds of such sale to the acquisition or construction, maintenance or operation of a water, sewer, gas and electric light and power system, or any one or more of such systems, within or without the limits of such city or town, or for any other public improvement within said city or town, as the council thereof may determine.

[Acts 1925, S.B. 84.]

Art. 969a. Lease of Islands or Submerged Lands by Certain Cities

Sec. 1. Any city of more than forty-three thousand (43,000) inhabitants according to the last preceding United States Census located in a county in this State of less than one hundred thousand (100,000) inhabitants according to such Census to which city the Republic of Texas, or the State of Texas has heretofore granted any island, flats or other submerged lands be, and is hereby granted power and authority to execute leases for periods of time not to exceed ninety-nine (99) years for portions of such island, flats or other submerged lands as may from time to time be determined by the governing body of such city.

Sec. 2. Every such lease shall specify the purposes for which the same is made and provide a maximum period of five (5) years within which the lessee shall exercise the rights and privileges granted.

[Acts 1929, 41st Leg., p. 197, ch. 82. Amended by Acts 1941, 47th Leg., p. 1353, ch. 616, § 1.]

Art. 969a-1. Lease, Sale, Option or Conveyance of Islands, Flats or Other Submerged Lands

Sec. 1. Any city to which the State of Texas or the Republic of Texas has heretofore relinquished its right, title and interest in or to any island, flats or other submerged lands be, and is hereby granted power and authority to lease, sell, option and convey all or any portion of such island, flats or other submerged lands, and to enter upon development plans and contracts for any or all of these purposes with any person, firm or corporation, public or private. The foregoing powers may be exercised at such time and upon such considerations and terms and for such periods of years as the governing body of such city shall determine to be proper and in the public interest. In any city which has by charter provision for a referendum, a contract for the development of such island, flats and other submerged land and for the lease, sale or option of all or any part thereof, as authorized in this Act, may be entered upon by the governing board of the city without advertisement or receiving bids thereon, but shall be subject to the provisions for referendum and such contract shall not become finally effective until the period within which the petition for referendum must be presented has expired or, if a proper petition for referendum is presented, until the contract has been approved at an election ordered for that purpose.

Sec. 2. All laws or parts of laws and provisions of the charter of any city which may be in conflict with the provisions of this Act are hereby amended or repealed to the extent of such conflict. As to the content of all other laws or parts of laws this Act shall be cumulative.

Sec. 3. This Act shall not be construed to grant or convey to any city the title to any oil, gas or other minerals which was not already owned by such city at the enactment hereof.

Sec. 4. If any section, paragraph, sentence, clause, phrase or word contained in this Act shall be held unconstitutional by any court of this State, the invalidity of such portion of the Act shall not be construed to affect any other part of this Act. [Acts 1953, 53rd Leg., p. 126, ch. 80.]

Art. 969b. Acquisition of Property for Certain Purposes; Exercise of Eminent Domain or Police Powers, etc.; Procedure; Relocation Expenses

Authorization; Modes and Purposes of Acquisition; Procedure; Relocation Expenses

Sec. 1. Any incorporated city or town in this State incorporated under general or special law or authorized to have or having a Charter under the provisions of the Constitution of Texas or the Statutes shall have and is hereby granted the power separately or jointly with any other city, town, cities or towns, or jointly with any other city, town, cities

or towns and other governmental entity, to receive and acquire through gift or dedication and to acquire by purchase without condemnation or by condemnation, if within the county where said governmental entity, city, town, cities or towns are located, any property in this State located inside or outside of the corporate limits of such city or town, for the following purposes, which are declared to be public purposes: parks, hospitals, the extension, improvement and enlargement of its water system, including riparian rights, water supply reservoirs, standpipes, watersheds, dams, the laying, building, maintenance and construction of water mains and the laying, erection, establishment or maintenance of any necessary appurtenances or facilities which will furnish to the inhabitants of the city an abundant supply of wholesome water; for sewage plants and systems; rights of way for water and sewer lines; play grounds, airports, and landing fields, incinerators, garbage disposal plants, streets, boulevards and alleys or other public ways, and any right of way needed in connection with any property used for any purpose hereinabove named, and to exercise Police Power within the territory so acquired.

The procedure to be followed in condemnation proceeding hereunder and authorized herein shall be in accordance with the provisions of the State law with reference to eminent domain. The provisions of Title 52 of the Revised Civil Statutes of Texas, 1925,¹ shall apply to such proceedings, or such proceedings may be under any other State law now in existence or that hereafter may be passed governing and relating to the condemnation of land for public purposes by a city.

In the exercise of any authority granted by this Act to cities, towns and other governmental entities, in the event it becomes necessary in the exercise of the powers of eminent domain or Police Power, or any other power to relocate, raise, lower, reroute or change the grade or alter the construction of any railroad, electric transmission, telegraph or telephone line, conduit, pole, property or facility, or pipeline, outside of the corporate limits of any incorporated city or town, all such relocation, raising, lowering, rerouting, or change in grade or alteration of construction shall be accomplished at the sole expense of the city, town, cities, or towns, or other governmental entity; provided, that nothing contained herein shall affect the existing lawful rights of any city or town to control the streets, alleys, public ways and other public grounds within its corporate limits. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade or alteration of construction, in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

¹ Article 3264 et seq. (generally repealed; see, now, Property Code, § 21.001 et seq.).

Maintenance, Improvement and Operation of Property

Sec. 2. Such city or town and such city, town, cities, towns and counties are hereby empowered to maintain, improve and operate the property so acquired and all improvements thereon and to sell or lease all or any part of the property and improvements so acquired and shall have full and ample power to jointly manage, control and operate such property so owned by two or more such political subdivisions, by entering into any contracts with each other on terms mutually agreeable.

Negotiable Warrants and Bonds of City or County; Taxes

Sec. 3. For the purpose of condemning or purchasing, either or both, lands to be used and maintained as provided in Section 1 hereof, and improving and equipping the same for such use, the governing body of any city or the Commissioners Court of any county, falling within the terms of such Section, may issue negotiable warrants and bonds of the city or of the county, as the case may be, and levy taxes to provide for the interest and sinking funds of any such warrants and bonds so issued, the authority hereby given for the issuance of such warrants and bonds and levy and collection of such taxes to be exercised in accordance with the provisions of the Revised Civil Statutes of Texas of 1925 with the amendments thereto.

Improvement and Maintenance

Sec. 4. The political subdivision or subdivisions acquiring property under this Act is and are hereby expressly authorized and empowered to improve, maintain and conduct the same for the purposes hereby authorized and to make and provide thereon all necessary or fit improvements and facilities and to fix such reasonable charges for the use thereof as the governing body or bodies or governing bodies of the city, town, cities or towns acquiring property or making improvements under the provisions of this Act shall determine by mutual agreement and are granted ample Police Power to make and enforce rules and regulations governing the use thereof as the interested governing bodies shall determine by ordinance.

Special Tax

Sec. 5. In addition to and exclusive of any taxes which may be levied for the interest and sinking fund of any bonds issued under the authority of this Act, the governing body of any such city or town and the Commissioners Court of any county, falling within the terms hereof, may and is hereby empowered to levy and collect a special tax for the purpose of improving, operating, maintaining and conducting any property which such city or county may acquire under the provisions of this Act, and to provide all suitable structures, and facilities therein. Provided that nothing in this Act shall be construed as authorizing any city or county to exceed the

limits of indebtedness placed upon it under the Constitution.

Contracts; Expenditure of Public Funds

Sec. 6. Any city or town acquiring any property under the authority of the foregoing section shall also be authorized to make any contract and to expend its public funds in the joint or several operation and maintenance of any of the municipal functions authorized by this Act.

Act as Cumulative

Sec. 7. This Act shall be deemed to be cumulative of all other laws and Charter Provisions relating to the same subject.

Partial Invalidity

Sec. 8. In case any section, clause, sentence, paragraph, provision or part of this Act shall for any reason be adjudged by any Court of competent or final jurisdiction to be invalid such judgment shall not affect, impair or invalidate the remainder of this Act but shall be confined in its operation to the section, clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered.

[Acts 1943, 48th Leg., p. 564, ch. 335. Amended by Acts 1969, 61st Leg., p. 1604, ch. 496, § 1, eff. June 10, 1969.]

Art. 969c. Cemeteries**City or Town as Trustee**

Sec. 1. Any incorporated or chartered city or town within the State of Texas, owning, operating, or having control of any cemetery or cemetery property, shall have the power and authority to act as a permanent trustee for the perpetual care and upkeep of the lots and graves in such burial grounds. Any city or town desiring to act as such trustee may do so by the passage of an ordinance or resolution, signifying its willingness and intention to act as such trustee, by the majority of its governing board, council, or alderman; and upon the passage of said ordinance or resolution and the acceptance of such trust, as herein provided for, the same shall become perpetual.

Rules and Regulations; Deposit of Funds Required; Certificate

Sec. 2. Said cities and towns shall have the right, power, and authority to make reasonable rules and regulations as such trustee, to receive gifts, grants, and donations from any source, and to also fix the amounts necessary for the permanent care and upkeep of individual graves or family lots. Any person desiring to have a city or town, now acting or which may hereafter desire to act as such trustee for the permanent care and upkeep of such graves and burial lots, to act as trustee for him or those deceased persons in whom he has an interest or to whom he may feel attached, shall have the right to deposit such amount or funds as may be

required by the said city or town for this purpose; and the acceptance by the said city or town of the funds required for such purpose shall constitute a permanent and perpetual trust fund for the burial lot or grave or graves so designated. Upon the acceptance by said city or town of such trust, its Secretary, Clerk or Mayor shall issue a certificate to the person or persons advancing such funds or money, which said certificate shall recite the purpose, the amount advanced and by whom, and the location, as nearly as possible, of the lot, grave or burial place, and such further information and designation as said city or town may deem proper.

Donation for Maintenance and Upkeep of Neglected and Unkept Cemeteries

Sec. 2A. A person, association, foundation, or corporation interested in the maintenance and upkeep of neglected and unkept cemeteries under the possession and control of a city may make donations to the permanent and perpetual trust fund to be used to beautify and maintain the whole cemetery or burial grounds generally.

Record Book

Sec. 3. Any city or town acting as such trustee shall keep a permanent and well-bound record book in which shall be kept in alphabetical order the names of all persons advancing funds, the amount advanced, the purpose for which such advancement was made, names and locations, in so far as possible, of lots and graves, the condition and status of the trust imposed, and such further information as said city or town may deem proper.

Investment of Funds

Sec. 4. Said cities and towns shall have the right, power, and authority to invest and reinvest all funds advanced to it for the purposes herein set forth in interest-bearing bonds or securities of a municipality, state, or the federal government. At all times the interest, revenue, or other accrual or increase of the funds advanced for specific lots, graves, or burial places shall be first used for the maintenance, care, and upkeep, in a first class condition, of the particular lot, graves, or burial place for which the advancement and donation was originally made. However, in the event of the accrual of a reasonable excess of revenue from such specific fund and the accumulation of a greater amount than is necessary for the faithful accomplishment of the trust and purpose herein provided for, such excess may, in the discretion of such trustee, be used to beautify the whole cemetery or burial grounds generally; but at no time shall any part of the original or principal amount first advanced and donated for the care, upkeep, and maintenance of specific lots, graves, and burial places, ever be used by such trustee. This original amount or fund shall forever remain and be kept intact as a principal trust fund.

Certificates

Sec. 5. All certificates issued by such city or town shall be issued in the name of the said city or town to the trustee or person who makes the advancement of funds or money as herein provided for; and such certificate holder shall have the right, upon the payment of the proper cost or recording fee, to have such certificate recorded in the Deed Records of the county in which such cemetery is located; and it shall be the duty of all county clerks in the State of Texas to file, index, and record such certificates in the deed records of the county in which such cemetery is situated.

Care for Graves by Individuals

Sec. 6. None of the rights, powers, and duties herein provided for shall deprive any person having an interest in a grave or burial lot, or kinship within the third degree by affinity or consanguinity to those there interred, from beautifying or caring for the same individually or at his own expense, under such reasonable rules and regulations as said city or town may provide.

Successor on Failure of Trustee to Act

Sec. 7. In the event that any city or town should, after having engaged upon and accepted the trust herein provided for, renounce such trust, or fail to refuse to act further as such trustee, as herein provided for, then the district judge or highest trial judge of the county in which such cemetery is located shall appoint a suitable successor or trustees, whenever the occasion demands or a vacancy occurs, to act in lieu of said city or town and to carry out and faithfully execute the trust herein provided for.

Budget; Tax

Sec. 7a. Such city or town may include in its annual budget such sum as may be deemed necessary for maintenance and upkeep of such cemetery and shall have power or authority to assess and collect an ad valorem tax upon all the property within such city or town not to exceed Five (5) Cents on the One Hundred Dollars (\$100) valuation of all the property so assessed for maintenance and upkeep of such cemetery, regardless whether such cemetery is located within or without the boundary of corporate limits of such city or town.

Act as Cumulative; Partial Invalidity

Sec. 8. This Act shall be cumulative of all existing laws; but its intention is that the trust herein provided for shall not fail for any reason and, if any section or part hereof is invalid then the remainder shall not in any way be affected or held to be invalid.

[Acts 1945, 49th Leg., p. 194, ch. 148. Amended by Acts 1977, 65th Leg., p. 1388, ch. 555, § 7, eff. Aug. 29, 1977.]

Art. 969c-1. Termination of Perpetual Trust Funds for Cemeteries of Municipalities in Counties of 120,000 to 128,000

Sec. 1. This Act shall apply to all municipalities whether created by general law, special act, or under the home rule charter, in counties having a population of not less than 120,000 and not more than 128,000, according to the last preceding federal census.

Sec. 2. The governing body of said municipalities may abolish and terminate perpetual trust funds for their cemeteries and to use all moneys therein, both principal and interest, on permanent improvements for their cemeteries.

[Acts 1967, 60th Leg., p. 1824, ch. 703, eff. Aug. 28, 1967. Amended by Acts 1971, 62nd Leg., p. 1822, ch. 542, § 25, eff. Sept. 1, 1971; Acts 1981, 67th Leg., p. 559, ch. 237, § 3, eff. Sept. 1, 1981.]

Art. 969c-2. Possession and Control of Unkept or Abandoned Cemeteries

Sec. 1. An incorporated city, town or village having a cemetery within its boundaries or within its extraterritorial jurisdiction which threatens or endangers the health, safety, comfort, or welfare of the public may, by resolution of its governing body, take possession and control of the cemetery on behalf of the public health, safety, comfort, and welfare of present and future generations.

Sec. 2. The resolution shall specify that 60 days after giving notice of a declaration of intent to take possession and control, the city in which the cemetery is located will remove or repair any fences, walls, or improvements, and will straighten and reset any memorial stones or embellishments that are found to be a threat or danger to the health, safety, comfort, or welfare of the public and take proper steps to restore and maintain the premises in orderly and decent condition. Notice shall be given by mail to all persons shown by the records in the county clerk's office to have an interest in the cemetery and to all interested persons by publication in a newspaper of general circulation in the city.

Sec. 3. Sixty days after giving notice, the city may remove or repair any fences, walls, or improvements, and will straighten and reset any memorial stones or embellishments that are found to be a threat or danger to the health, safety, comfort, or welfare of the public and restore the premises to decent condition. Thereafter, the city shall maintain the cemetery so that it will not endanger the health, safety, comfort, or welfare of the public. Provided, however, no additional burial spaces will be offered for sale.

Sec. 4. A cemetery in the possession and control of a city under the provisions of this Act shall remain open to the public. A person who has an interest in a grave or burial lot or who has a kinship within the third degree of affinity or consanguinity

to those interred may care for a grave or burial lot in the cemetery.

Sec. 5. No city nor officer or employee of the city shall be liable in civil damages or be criminally liable for acts performed in a good faith administration of this Act.

Sec. 6. The provisions of this Act are cumulative of all other remedies and provisions of the law relating to cemeteries, including the care, maintenance, ownership, operation, and control of cemeteries, perpetual trust funds to maintain cemeteries, and the abatement of nuisances and removal of cemeteries. The provisions of this Act do not apply to a perpetual care cemetery incorporated under the laws of this state or to a private family cemetery.

[Acts 1977, 65th Leg., p. 1387, ch. 555, §§ 1 to 6, eff. Aug. 29, 1977. Amended by Acts 1979, 66th Leg., p. 429, ch. 196, §§ 1, 2, eff. May 17, 1979.]

Art. 969d. Cities With Less Than 10,000 Population; Purchase of Real Estate from United States Government

Sec. 1. The governing bodies of cities, towns and villages, including Home Rule Cities, with a population of less than ten thousand (10,000), are hereby authorized to purchase real property and improvements thereon for municipal purposes from the Federal Government when offered for sale to such cities, towns and villages.

Sec. 2. All actions and negotiations of governing bodies of cities, towns and villages prior to the effective date of this Act relating to the purchase or acquisition of real property for municipal purposes for the Federal Government are hereby in all things validated.

Sec. 3. Governing bodies of cities, towns and villages are hereby authorized to sell and convey any such property so acquired for the highest price obtainable when the same is no longer needed for the purpose or purposes for which acquired or when the purpose or purposes for which acquired no longer exist.

Sec. 4. If any portion of this Act is held unconstitutional by a court of competent jurisdiction the remaining portions shall nevertheless be valid the same as if the invalid portion had not been a part hereof.

[Acts 1953, 53rd, Leg., p. 755, ch. 303.]

Art. 969e. State-line Border Cities; Joint Governmental Facilities and Services; Agreements

Sec. 1. It is the purpose of this Act to permit any city in this state which borders on the state line and which is separated from a city in the adjoining state only by the state line, to cooperate with such adjoining city in another state in furnishing governmental services and facilities to the inhabitants of such adjoining cities to the end that such govern-

mental services and facilities may be adequately provided in the most efficient manner.

Sec. 2. Any city in this state which borders on a state line and which is separated from a city in an adjoining state only by the state line may enter into an agreement or agreements with such adjoining city whereby either of such cities agrees to furnish certain services or facilities for the other or whereby such cities agree to jointly or cooperatively furnish any governmental service or facility or to exercise or enjoy any power or authority which the Texas city involved may furnish, exercise, or enjoy under the laws of this state, to the extent that the laws of the state in which the adjoining city is located permits such joint or cooperative activity.

Sec. 3. Every agreement or contract entered into by a city of this state as authorized in Section 2 of this Act shall specify:

- (1) its duration;
- (2) the precise organization, composition, and nature of any separate legal or administrative entity created thereby, together with the powers delegated thereto, provided such entity may be legally created;
- (3) its purpose or purposes;
- (4) the manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget therefor, or in the case of an agreement whereby one city agrees to furnish specified services or facilities to the other city, the financial arrangement therefor;
- (5) the permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination; and
- (6) any other necessary and proper matters, including appropriate provisions for enforcement.

Sec. 4. If such agreement does not establish a separate legal entity to conduct the joint or cooperative undertaking, the agreement shall, in addition to the requirements of Section 3 of this Act, contain the following:

- (1) provision for an administrator or a joint board responsible for administering the joint or cooperative undertaking. In the case of a joint board, cities party to the agreement shall be represented.
- (2) the manner of acquiring, holding, and disposing of real and personal property used in the joint or cooperative undertaking.

Sec. 5. No agreement made pursuant to this Act shall relieve any public agency of any obligation or responsibility imposed upon it by law, except that to the extent of actual and timely performance thereof by an adjoining city pursuant to an agreement entered into hereunder or by a joint board or other legal or administrative entity created by an agreement made hereunder, said performance may be

offered in satisfaction of the obligation or responsibility.

Sec. 6. No agreement entered into pursuant to this Act shall be effective until a copy thereof has been filed in the office of the county clerk of the county in which the affected Texas city is located.

[Acts 1969, 61st Leg., p. 1404, ch. 425, eff. June 2, 1965.]

Art. 970. To Adjust Boundaries

Whenever there shall exist within the boundaries of any such city, town or village accepting said provisions, territory to the extent of at least ten acres contiguous, uninhabited [uninhabited] and adjoining the lines of such city or town, the mayor and council of such city or town shall, within one year from the filing in the office of the county clerk of the action of the council accepting the provisions of this law, or as soon thereafter as practicable, and before they shall levy any taxes for said city or town by ordinance duly passed, discontinue said territory as a part of said city or town and shall redefine the bounds and limits of such city or town so that they shall conform as nearly as practicable to the requirements of article 971, and when said ordinance has been duly passed, the clerk shall enter an order to that effect on the minutes or records of the city or town council; and from and after the entry of such order, said territory shall cease to be a part of said city or town; provided that should there be situated within the said territory, so discontinued, any property of any description belonging to said city or town, the title to said property, so situated, shall remain in such city or town and may be sold, alienated and disposed of by such city or town, the same as if it were situated within the bounds and limits of such city or town.

[Acts 1925, S.B. 84.]

Art. 970a. Municipal Annexation Act

Short Title

Sec. 1. This Act is known and may be cited as the "Municipal Annexation Act."

Definitions

Sec. 2. For the purposes of this Article, the following words shall have the meanings ascribed to them:

- A. "City" or "Cities" means any incorporated city, town or village in the State of Texas.
- B. "Voters" means those persons qualified to vote under the laws of the State of Texas.
- C. "Written consent" means consent expressed by an ordinance or resolution.

Establishing Extraterritorial Jurisdiction

Sec. 3. A. In order to promote and protect the general health, safety, and welfare of persons residing within and adjacent to the cities of this State, the Legislature of the State of Texas declares it to

be the policy of the State of Texas that the unincorporated area, not a part of any other city, which is contiguous to the corporate limits of any city, to the extent described herein, shall comprise and be known as the extraterritorial jurisdiction of the various population classes of cities in the State and shall be as follows:

(1) The extraterritorial jurisdiction of any city having a population of less than five thousand (5,000) inhabitants shall consist of all the contiguous unincorporated area, not a part of any other city, within one half ($\frac{1}{2}$) mile of the corporate limits of such city.

(2) The extraterritorial jurisdiction of any city having a population of five thousand (5,000) or more inhabitants, but less than twenty-five thousand (25,000) inhabitants shall consist of all the contiguous unincorporated area, not a part of any other city, within one (1) mile of the corporate limits of such city.

(3) The extraterritorial jurisdiction of any city having a population of twenty-five thousand (25,000) or more inhabitants, but less than fifty thousand (50,000) inhabitants shall consist of all the contiguous unincorporated area, not a part of any other city, within two (2) miles of the corporate limits of such city.

(4) The extraterritorial jurisdiction of any city having a population of fifty thousand (50,000) or more inhabitants, but less than one hundred thousand (100,000) inhabitants shall consist of all the contiguous unincorporated area, not a part of any other city, within three and one half ($\frac{3}{2}$) miles of the corporate limits of such city.

(5) The extraterritorial jurisdiction of any city having a population of one hundred thousand (100,000) or more inhabitants shall consist of all the contiguous unincorporated area, not a part of any other city, within five (5) miles of the corporate limits of such city.

B. In the event that on the effective date of this Act the area under the extraterritorial jurisdiction of a city overlaps an area under the extraterritorial jurisdiction of one or more other cities, such overlapped area may be apportioned by mutual agreement of the governing bodies of the cities concerned. Such agreement shall be in writing and shall be approved by an ordinance or resolution adopted by such governing bodies.

At any time after one hundred and eighty (180) days from the effective date of this Act, any city having an extraterritorial claim to such overlapping area shall have authority to file a plaintiff's petition in the district court of a judicial district, within which is located the largest city having an extraterritorial claim to such overlapped area, naming as parties defendant all cities having a claim to such overlapped area and praying that such overlapped area, to which it has mutual claim, be apportioned among the cities concerned. In effecting such ap-

portionment, the district court shall consider the population densities and patterns of growth, transportation, topography, and land utilization in the cities concerned and in the overlapped area. The territory so apportioned to a city shall be continuous to the extraterritorial jurisdiction of such city. In the event the extraterritorial jurisdiction of a city is totally overlapped, the territory so apportioned to such city shall be contiguous to the corporate boundaries of such city. Such territory so apportioned shall be in a substantially compact shape. Such overlapped area shall be apportioned among such cities in the same ratio (to one decimal) as the respective populations of the cities concerned bear to one another, but in such apportionment no city shall receive less than one-tenth ($\frac{1}{10}$) of such overlapping area. Provided, however, that any apportionment made under the provisions of this Subsection shall give consideration to existing property lines, and no tract of land or adjoining tracts of land, under one ownership upon the effective date of this Act and not exceeding one hundred and sixty (160) acres in size shall be apportioned so as to be within the extraterritorial jurisdiction of more than one city unless the landowner consents in writing to such apportionment.

C. When a city annexes additional territory, the extraterritorial jurisdiction of such city shall expand in conformity with such annexation and shall comprise an area around the new corporate limits of the city consistent with Subsection A of this Section. In addition, the extraterritorial jurisdiction of the city may be extended beyond the distance limitations imposed by Subsection A of this Section to include therein any territory contiguous to the otherwise existing extraterritorial jurisdiction of such city, provided the owner or owners of such contiguous territory request such expansion. However, in no event shall the expansion of the extraterritorial jurisdiction of a city, through annexation, or upon request, or because of increase in population of the city, conflict with the existing extraterritorial jurisdiction of another city. The extraterritorial jurisdiction of a city shall not be reduced without the written consent of the governing body of such city, except in cases of judicial apportionment of overlapping extraterritorial jurisdictions.

D. No city shall impose any tax in the area under the extraterritorial jurisdiction of such city, by reason of including such area within such extraterritorial jurisdiction.

Extension of Subdivision Ordinance Within the Extraterritorial Jurisdiction

Sec. 4. The governing body of any city may extend by ordinance to all of the area under its extraterritorial jurisdiction the application of such city's ordinance establishing rules and regulations governing plats and the subdivision of land; provided, that any violation of any provision of any such ordinance outside the corporate limits of the city, but within such city's extraterritorial jurisdiction,

shall not constitute a misdemeanor under such ordinance nor shall any fine provided for in such ordinance be applicable to a violation within such extraterritorial jurisdiction. However, any city which extends the application of its ordinance establishing rules and regulations governing plats and the subdivision of land to the area under its extraterritorial jurisdiction shall have the right to institute an action in the district court to enjoin the violation of any provision of such ordinance in such extraterritorial jurisdiction, and the district court shall have the power to grant any or all types of injunctive relief in such cases.

Industrial Districts

Sec. 5. The governing body of any city shall have the right, power, and authority to designate any part of the area located in its extraterritorial jurisdiction as an industrial district, as the term is customarily used, and to treat with such area from time to time as such governing body may deem to be in the best interest of the city. Included in such rights and powers of the governing body of any city is the permissive right and power to enter into contracts or agreements with the owner or owners of land in such industrial district to guarantee the continuation of the extraterritorial status of such district, and its immunity from annexation by the city for a period of time not to exceed seven (7) years, and upon such other terms and considerations as the parties might deem appropriate. Such contracts or agreements shall be evidenced in writing and may be renewed or extended for successive periods not to exceed seven (7) years each by such governing body and the owner or owners of land in such industrial district. Existing contracts or agreements of such nature, recognized in or evidenced by an ordinance or resolution of the governing body of the contracting town or city, are hereby in all respects validated as of the date they were made, for the extent of their term or for seven (7) years from the date made, whichever is shorter.

Fire Fighting Services in Industrial Districts

Sec. 5A. (a) A city may provide for adequate fire fighting services in that part of its extraterritorial jurisdiction designated under Section 5 of this Act as an industrial district. A city may provide for adequate fire fighting services by:

- (1) directly furnishing fire fighting service which is paid for by the property owners of the district;
- (2) contracting for the fire fighting service, whether or not all or part of the cost of the service is paid for by the property owners of the district; or
- (3) the property owners providing for their own service under a contract with the city.

(b) A property owner who provides for his own fire fighting service under provisions of this Act shall not be required to pay any part of the cost of fire fighting services provided by the city to other property owners within the district.

Notice and Hearing—Annexation Proceedings

Sec. 6. Before any city may institute annexation proceedings, the governing body of such city shall provide an opportunity for all interested persons to be heard at two public hearings to be held not more than forty (40) days nor less than twenty (20) days prior to institution of such proceedings. At least one (1) public hearing shall be held within the area proposed to be annexed if, within ten (10) days after the publication of the notice required herein, more than twenty (20) adult residents who reside in the territory proposed to be annexed protest in writing to the city secretary of the annexing city the institution of annexation proceedings. Each written protest shall contain the name, address, and age of each protestor signing. Notice of such hearings shall be published in a newspaper having general circulation in the city and in the territory proposed to be annexed. The notice for each hearing shall be published at least once in such newspaper not more than twenty (20) days nor less than ten (10) days prior to that hearing. Additional notice by certified mail should be given to railroad companies then serving the city and on the city's tax roll where the right-of-way thereof is included in the territory to be annexed. Annexation of territory by a city shall be brought to completion within ninety (90) days of the date on which the governing body of such city institutes annexation proceedings or be null and void. Provided, however, any period of time during which a city is restrained or enjoined from annexing any such territory by a court of competent jurisdiction shall not be computed in such 90-day limitation period.

Limitation on Annexations

Sec. 7. A. A city may annex territory only within the confines of its extraterritorial jurisdiction; provided, however, that such limitation shall not apply to the annexation of property owned by the city annexing the same.

B. A city may annex in any one calendar year only territory equivalent in size to ten per cent (10%) of the total corporate area of such city as of the first day of that calendar year. In computing the total amount of territory which may be annexed in any one (1) calendar year, there shall be excluded from such ten per cent (10%) the following: (1) territory caused to be annexed by a request of a majority of the qualified resident voters in the territory and the owners of fifty per cent (50%) or more of the land in the territory, (2) territory annexed which is owned by the city, the county, the State, or the Federal Government which is used for a public purpose, (3) territory annexed at the request of a majority of the voters residing in such territory, and (4) territory annexed at the request of the owner or owners thereof.

B-1.

Text of subd. (a) as amended by Acts 1977, 65th Leg., p. 1002, ch. 369, § 1

(a) No home rule or general law city may annex any area, whether publicly or privately owned, un-

less the width of such area at its narrowest point is at least 500 feet, except that a city having a population of twelve thousand (12,000) inhabitants or less may annex an area that is less than 500 feet in width if the corporate limits of the city are contiguous with the property on at least two sides; and except that adjacent cities may accomplish mutually agreeable adjustments in their boundaries of areas that are less than 500 feet in width.

Text of subd. (a) as amended by Acts 1977, 65th Leg., p. 1719, ch. 686, § 1

(a) No home rule or general law city may annex any area, whether publicly or privately owned, unless the width of such area at its narrowest point is at least 500 feet, except that a city having a population of twelve thousand (12,000) inhabitants or less may annex an area that is less than 500 feet in width if the corporate limits of the city are contiguous with the property on at least two sides, provided, however, that the provisions of this paragraph (a) shall not apply to any annexation initiated upon written petition of the owner or owners or of a majority of the qualified voters of the area to be annexed.

(b) Land on an island bordering on the Gulf of Mexico which is not accessible by public road or common carrier ferry facility may not be annexed by a city, town or village, including a home rule city, without the consent of the owner or owners of such land and notwithstanding the provisions of the Municipal Annexation Act (Article 970(a), Vernon's Texas Civil Statutes), the extraterritorial jurisdiction of a city, town or village, including a home rule city, shall not extend to or cover any such land on any such island without the consent of the owner or owners thereof. A city, town or village, including a home rule city, is also prohibited from taking property on any such island by exercising its power of condemnation or eminent domain.

(c) All annexation proceedings initiated for the purpose of including the site of a state institution or facility within a city are hereby and in all respects validated as of the date of such proceedings.

C. In the event a city fails in any calendar year or years to annex the total amount of territory which it is authorized to annex in such calendar year or years, such unused allocation may be carried over and used in subsequent calendar years. A city, utilizing the power granted under this Subsection, may not annex in any one calendar year an amount of territory in excess of thirty per cent (30%) of its total area as of the first day of the calendar year.

D. All annexation proceedings by cities which are pending on or instituted after March 15, 1963, shall be subject to the limitations as to size and extent of area imposed by this Act and shall be brought to completion within ninety (90) days after

the effective date of this Act or be null and void. Provided, however, any period of time during which a city is enjoined or restrained from completing such annexation proceedings by a court of competent jurisdiction shall not be computed in such ninety (90) day limitation period.

E. No annexation shall change or have any effect on switching limits of railroads or any rates thereof.

Annexation of Municipal Reservoir

Sec. 7a. A. A general law city may annex a reservoir owned by the city and used to supply water to the city, any land adjoining the reservoir that is subject to an easement for flood control purposes in favor of the city, and the right-of-way of any public roads or highways connecting the reservoir to the city by the most direct route, even though part of the annexed area is outside the city's extraterritorial jurisdiction or is narrower than five hundred (500) feet, if:

(1) none of the annexed territory is more than five (5) miles from the city's corporate limits;

(2) no part of the annexed territory is in another city's extraterritorial jurisdiction; and

(3) the annexed area, excluding road or highway right-of-way, is less than six hundred (600) acres.

B. The provisions of this Act limiting the amount of territory a city may annex in a calendar year do not apply to an annexation covered by this section. Territory may be annexed under this section without the consent of the owners or residents of the annexed area.

Annexation of Municipal Airport

Sec. 7b. (a) A city may annex an airport owned by the city and the right-of-way of any public roads or highways connecting the airport to the city by the most direct route, even though the annexed area is outside the city's extraterritorial jurisdiction and within another city's extraterritorial jurisdiction or is narrower than five hundred (500) feet, if:

(1) none of the annexed territory is more than eight (8) miles from the annexing city's corporate limits; and

(2) the city within whose extraterritorial jurisdiction the airport to be annexed is located agrees to the annexation.

(b) The provisions of this Act limiting the amount of territory a city may annex in a calendar year do not apply to an annexation covered by this Section. Territory may be annexed under this Section without the consent of the owners or residents of the annexed area.

(c) The annexation of territory outside the extraterritorial jurisdiction of the annexing city under this Section does not expand the extraterritorial jurisdiction of the annexing city.

**Limitations on Creation of Political Subdivisions
Within the Extraterritorial Jurisdiction**

Sec. 8. A. No city may be incorporated within the area of the extraterritorial jurisdiction of any city without the written consent of the governing body of such city. Should such governing body refuse to grant permission for the incorporation of such proposed city, a majority of the resident voters, if any, in the territory of such proposed city and the owners of fifty per cent (50%) or more of the land in such proposed city may petition the governing body of such city and request annexation by such city. Should the governing body of such city fail or refuse to annex the area of such proposed city within six (6) months from the date of receipt of such petition, proof of such failure or refusal shall constitute authorization for the incorporation of such proposed city insofar as the purposes of this Subsection are concerned. Written consent or authorization for the incorporation of a proposed city, insofar as the provisions of this Subsection are concerned, shall mean only authorization to initiate incorporation proceedings for such proposed city as otherwise provided by law. The provisions of this Subsection shall apply only to the area of a proposed city which lies within the extraterritorial jurisdiction of such city.

B. No political subdivision having as one of its purposes the supplying of fresh water for domestic or commercial uses or the furnishing of sanitary sewer services may be created within the area of the extraterritorial jurisdiction of any city without the written consent of such city. Should the governing body of such city fail or refuse to grant permission for the creation of such proposed political subdivision within sixty (60) days after receipt of a written request for same, a majority of the qualified resident voters in the territory of such proposed political subdivision and the owner or owners of fifty per cent (50%) or more of the land in such proposed political subdivision may petition the governing body of such city and request such city to make available to such territory the water or sanitary sewer service contemplated by the proposed political subdivision. Should the governing body of the city and a majority of the qualified resident voters and the owner or owners of fifty per cent (50%) or more of the land in such proposed political subdivision fail to execute a mutually agreeable contract providing for the water or sanitary sewer service requested within six (6) months after receipt of such petition, such failure shall constitute authorization for the creation of the proposed political subdivision insofar as the provisions of this Subsection are concerned. Authorization for the creation of the proposed political subdivision, insofar as the provisions of this Subsection are concerned, shall mean only authorization to initiate proceedings to create such political subdivision as otherwise provided by law. The provisions of this Subsection shall apply only to the area of such proposed political

subdivision which lies within the extraterritorial jurisdiction of such city.

This Subsection shall not apply to any such proposed political subdivision where a valid petition seeking its creation has been filed with the county clerk or other legally designated authority prior to the effective date of this Act.

C. If authorization to initiate incorporation proceedings for a proposed city is obtained under the provisions of Subsection A of this Section, such incorporation must be initiated within six (6) months of the date of such authorization and such incorporation must be finally completed within eighteen (18) months of the date of such authorization. Failure either to initiate such incorporation proceedings or to finally complete the incorporation of such proposed city within such allotted periods of time shall terminate such authorization. If authorization to initiate proceedings to create a proposed political subdivision having as one of its purposes the supplying of fresh water for domestic or commercial purposes or the furnishing of sanitary sewer services is obtained under the provisions of Subsection B of this Section, such proceedings seeking the creation of such a political subdivision must be initiated within six (6) months of the date of such authorization and such proposed political subdivision must be finally completed within eighteen (18) months of the date of such authorization. Failure either to initiate such proceedings seeking the creation of such political subdivision or to finally complete the creation of such proposed political subdivision within such allotted periods of time shall terminate such authorization.

Petition for Annexation or Services

Sec. 9. The petition for annexation provided for in Subsection A of Section 8 of this Article and the petition requesting the availability of services provided for in Subsection B of Section 8 of this Article shall be made by the voters and landowners signing and presenting to the city secretary or clerk a written petition requesting annexation or requesting such services. The signatures to the petition need not be appended to one paper, but each signer shall sign his or her name in ink or indelible pencil, and each signer signing the petition as a voter shall sign his or her name as it appears on the most recent official list of registered voters and each voter shall note on such petition his or her residence address and the precinct number and voter registration number that appear on his or her voter registration certificate. Each landowner signing the petition shall note thereon opposite his or her name the approximate total acreage he or she owns within the territory. The petition shall describe the territory to be annexed or the territory to which such services are requested to be made available and have attached to it a plat of the territory. Prior to circulating the petition for annexation or such services among the voters and landowners, notice of the petition shall be given by means of posting for

ten (10) days a copy of the petition in three (3) public places in the territory and by publishing it for one (1) issue in a newspaper of general circulation serving the territory at least fifteen (15) days prior to the circulation of the petition. Proof of posting and publication of the notice shall be made by attaching to the petition presented to the city secretary or clerk: (1) the sworn affidavit of any voter who signed the petition, stating the places where and the dates when the petition was posted; and (2) the sworn affidavit of the publisher of the newspaper setting forth the name of the newspaper and the issue and date when the notice was published; (3) in addition, there shall be attached to the petition the sworn affidavit of three (3) or more voters signing the petition, if there be that many, stating the total number of voters residing in the territory and the approximate total acreage within the territory.

Disannexation

Sec. 10. A. Prior to the publication of notice of a hearing required under Section 6 of this Act, the governing body of the city proposing the annexation shall direct its planning or other appropriate department to prepare a service plan that provides for the extension of municipal services into each area to be annexed. For purposes of this Section, providing services includes having services provided by any method or means by which the city extends municipal services to any other area of the city.

B. The service plan shall include:

(1) a program under which the city will provide police protection, fire protection, solid waste collection, maintenance of water and waste water facilities, maintenance of roads and streets (including lighting), the maintenance of parks, playgrounds, and swimming pools, and the maintenance of any other publicly owned facility, building, or service within each particular area within sixty (60) days after the effective date of the annexation of that particular area; and

(2) a program under which the city will initiate the acquisition or construction of any capital improvements necessary for providing municipal services for the particular area, the construction to begin within two and one-half (2½) years of the effective date of the annexation of the particular annexed area, and the acquisition or construction of the facilities to be accomplished by purchase, lease, or other contract or by the city's succeeding to the powers, duties, assets, and obligations of conservation and reclamation districts, as may be authorized or required by law. No moneys received from the sale of bonds or evidenced by other instruments of indebtedness may be allocated to the annexed area for a period of one hundred and eighty (180) days.

C. In no event shall a service plan provide fewer services or a lower level of services in the area to be annexed than were in existence in that area at the time immediately preceding the annexation. However, it is not the intent of this Act to require that a

uniform level of services be provided to all areas of the city where differing characteristics of topography, land utilization, and population density are considered as a sufficient basis for providing differing service levels. Nothing in this Act shall be construed to limit or repeal home-rule charter provisions providing for annexation for limited purposes other than ad valorem taxation.

D. In the event that only a part of the area to be annexed is actually annexed, the governing body shall direct its planning or other appropriate department to prepare a revised service plan for the part actually to be annexed.

E. The proposed service plan shall be made available for inspection and explained to the inhabitants of the area to be annexed at the public hearings held under Section 6 of this Act. The plan may be amended through negotiation at those hearings but cannot have provision of any service deleted from it. On the completion of the public hearings, the service plan shall be attached to the ordinance annexing the area and approved as part of that ordinance. On approval by the governing body of the annexing city, the plan shall be construed as a contractual obligation, not subject to amendment or repeal unless the governing body determines at the hearings required by this subsection that changed conditions or subsequent occurrences make the plan unworkable or obsolete. If the governing body determines that all or part of a plan is unworkable or obsolete, the governing body may amend the plan to conform to changed conditions or subsequent occurrences. An amended service plan shall provide for services comparable to or better than those established in the service plan before amendment, and before any amendment is adopted, the governing body must first provide an opportunity for all interested persons to be heard at public hearings called and held in the manner provided in Section 6 of this Act. Service plans shall be valid for ten (10) years. Renewal shall be at the discretion of the city.

F. From and after the effective date of this Act, any city annexing a particular area shall provide or cause to be provided such area with services in accordance with the service plan required under this Section. In the event a city fails or refuses to provide or cause to be provided such services within the time specified in the service plan for that area or in this Act, a majority of the qualified voters residing within such particular annexed area may petition the governing body of such city to disannex such particular annexed area. Should the governing body of such city fail or refuse to disannex such particular annexed area within sixty (60) days after receipt of a valid petition, any one or more of the signers of such petition may file in a district court in the county in which such annexed area is principally located an action requesting that the particular annexed area be disannexed. Upon the filing of an answer in such cause by the governing body of the annexing city, and upon application of either

party, the case shall be advanced and heard without further delay, all in accordance with the Texas Rules of Civil Procedure. Upon hearing of the case, if the district court finds that a valid petition was filed with the city, and that the city failed to perform its obligations in accordance with a service plan or failed to perform in good faith, it shall enter an order disannexing such particular annexed area.

G. When any such area is disannexed under this Section, it shall not again be annexed within five (5) years of such disannexation, and, if it is again annexed within seven (7) years of disannexation, the period for implementation of a service plan shall not exceed one (1) year from reannexation.

Text of subsec. H (former subsec. C) as amended by Acts 1981, 67th Leg., p. 3207, ch. 842, § 2

H. The request and petition for disannexation provided for in Subsection F of this Section shall be made by the qualified voters signing and presenting to the city secretary a written petition requesting disannexation. The signatures to the petition need not be appended to one paper, but each signer shall sign his or her name in ink or indelible pencil, and each signer signing the petition as a qualified voter shall sign his or her name as it appears on the official copy of the current voter registration list and each qualified voter shall note on such petition his or her residence address and the precinct number and serial number that appear on his or her voter registration certificate that may be provided for by law. The petition shall describe the particular annexed area to be disannexed and have attached to it a plat, map, or other likeness of the annexed area. Prior to circulating the petition for disannexation among the qualified voters, notice of the petition shall be given by means of posting for ten (10) days a copy of the petition in three (3) public places in the annexed area and by publishing it for one (1) time in a newspaper or newspapers of general circulation serving the annexed area at least fifteen (15) days prior to the circulation of the petition. Proof of posting and publication of the notice shall be made by attaching to the petition presented to the city secretary: (1) the sworn affidavit of any qualified voter who signed the petition stating the places where and the dates when the petition was posted, and (2) the sworn affidavit of the publisher of the newspaper or newspapers setting forth the name of the newspaper or newspapers and the issue and date in which the notice was published.

Text of subsec. C as amended by Acts 1981, 67th Leg., p. 3142, ch. 827, § 4

C. The request and petition for disannexation provided for in Subsection A of this Section of this Act shall be made by the qualified voters and landowners signing and presenting to the city secretary a written petition requesting disannexation. The signatures to the petition need not be appended to one paper, but each signer shall sign his or her name in ink or indelible pencil, and each signer

signing the petition as a qualified voter shall sign his or her name as it appears on the most recent official list of registered voters, and each qualified voter shall note on such petition his or her residence address and the precinct number and voter registration number that appear on his or her voter registration certificate. Each landowner signing the petition shall note thereon opposite his or her name the approximate total acreage he or she owns within the particular annexed area. The petition shall describe the particular annexed area to be disannexed and have attached to it a plat of the particular annexed area. Prior to circulating the petition for disannexation among the qualified voters and landowners, notice of the petition shall be given by means of posting for ten (10) days a copy of the petition in three (3) public places in the particular annexed area and by publishing it for one (1) issue in a newspaper or newspapers of general circulation serving the particular annexed area at least fifteen (15) days prior to the circulation of the petition. Proof of posting and publication of the notice shall be made by attaching to the petition presented to the city secretary: (1) the sworn affidavit of any qualified voter who signed the petition stating the places where and the dates when the petition was posted, and (2) the sworn affidavit of the publisher of the newspaper or newspapers setting forth the name of the newspaper or newspapers and the issue and date in which the notice was published. In addition, there shall be attached to the petition the sworn affidavit of three (3) or more qualified voters signing the petition, if there be that many, stating the total number of qualified voters residing in the particular annexed area and the approximate total acreage within such particular annexed area.

Annexation of Certain Political Subdivisions

Sec. 11. A. In this Section, "water or sewer district" means any district or authority created by authority of either Article III, Section 52, Subsection (b), Subdivisions (1) and (2), or Article XVI, Section 59, of the Texas Constitution, proposing to provide or actually providing water and sewer services or either of these services to household users as the principal function of the district, but does not include a district or authority if its primary function is the wholesale distribution of water.

B. A city may not annex territory within the boundaries of a water or sewer district unless it annexes the entire portion of the district that is outside the city's boundaries. This restriction does not apply to the annexation of territory in a water or sewer district if the water or sewer district is wholly or partly inside the extraterritorial jurisdiction of more than one city.

C. An annexation subject to Subsection B of this Section is exempt from the provisions of this Act limiting annexation authority to territory within a city's extraterritorial jurisdiction if:

(1) immediately before the annexation, at least half the area of the water or sewer district is inside

the city's boundaries or its area of extraterritorial jurisdiction; and

(2) the city does not, in the annexation proceeding, annex any territory outside its extraterritorial jurisdiction except the part of the water or sewer district that is outside its extraterritorial jurisdiction.

D. Territory annexed in an annexation subject to Subsection B of this Section is included in computing the amount of territory the city may annex in a calendar year under Subsections B and C, Section 7 of this Act. If the area to be annexed exceeds the amount of territory the city otherwise would be permitted to annex, the city may nevertheless make the annexation, but it may make no other annexations in the remainder of the calendar year except annexations subject to Subsection B of this Section and annexations of territory that are excluded in the computation of territory a city may annex in a calendar year under Subsection B, Section 7 of this Act.

Annexation of Municipal Utility District

Sec. 12. (a) This section applies to any municipal utility district:

(1) that is located entirely within the extraterritorial jurisdiction of a single general-law city; and

(2) that has a common boundary with at least one home-rule city.

(b) A home-rule city having a common boundary with a district covered by this section may annex the territory of the district if:

(1) the annexation is approved by a majority of the qualified voters voting on the question at an election held under this section;

(2) the annexation is completed before the first anniversary of the date of the election; and

(3) all the territory of the district is annexed.

(c) Territory annexed in an annexation subject to this section is included in computing the amount of territory the city may annex in a calendar year under Subsections B and C, Section 7 of this Act. If the area to be annexed exceeds the amount of territory the city otherwise would be permitted to annex, the city may nevertheless make the annexation, but it may make no other annexations in the remainder of the calendar year except annexations subject to this section and annexations of territory that are excluded in the computation of territory a city may annex in a calendar year under Subsection B, Section 7 of this Act.

(d) Annexation of the territory of the district as authorized by this section is exempt from provisions of this Act:

(1) prohibiting a city from annexing territory outside its extraterritorial jurisdiction;

(2) prohibiting annexation of territory narrower than 500 feet at the narrowest point; and

(3) prohibiting reduction of the extraterritorial jurisdiction of a city without the written consent of the city's governing body.

(e) If the district is composed of two or more tracts, at least one of which is not contiguous to the home-rule city, the fact that the annexation will result in one or more parts of the home-rule city not being contiguous to the rest of the city does not affect the home-rule city's authority to carry out the annexation.

(f) The extraterritorial jurisdiction of a home-rule city is not expanded by the annexation of territory under this section.

(g) The board of directors of the district may order an election under this section. The board shall conduct the election in the territory comprised of the district and the general-law city, and any person qualified to vote in the city or district is eligible to vote at the election.

(h) The board shall set the date of the election for the first authorized uniform election date that falls on or after the 30th day after the date of the order. If a state law prescribing uniform election dates is not then in effect, the board shall set the election for a date that falls on or after the 30th, but before the 60th, day after the date of the order.

(i) The board of directors shall give notice of the election, conduct the election, and canvass the returns in the same manner as would be the case in an election for members of the board of directors of the district if the district included the entire territory in which the election is held. The board of directors shall establish the election precincts and designate the polling place for each precinct. Territory inside the city and territory in the district but outside the city may be included in the same precinct. The board of directors shall appoint an absentee voting clerk to serve the entire territory covered by the election. The place for conducting the absentee voting may be anywhere in the territory covered by the election.

(j) The ballot shall be prepared to permit voting for or against the proposition: "Authorizing the city of (name of home-rule city) to annex the unincorporated territory of the (name of district)."

(k) Promptly after the board of directors declares the result of the election, it shall:

(1) have a certified copy of the resolution declaring the result of the election mailed or delivered to the mayor and city secretary of each of the two affected cities; and

(2) if the election results in authorizing annexation of the district by the home-rule city, have a certified copy of the resolution filed in the deed records of each county in which the district is located.

(l) During the time that an election under this section is pending, the general-law city may not annex territory in the district. For purposes of this

requirement, an election is pending during the period that begins on the date on which the board of directors of the district adopts an election order and that ends on the date on which the board of directors declares the result of the election. If on the date on which the election order is adopted the general-law city has instituted but not completed proceedings to annex territory in the district, the general-law city may complete the annexation proceedings while the election is pending. If proceedings are completed while the election is pending, the annexation, to the extent it includes territory in the district, takes effect only if the election results in the defeat of the proposition, in which case it takes effect as to the affected territory on the date on which the result of the election is officially declared.

(m) If the proposition is approved, the period during which the general-law city is prohibited from annexing territory in the district is extended to end on the first anniversary of the date of the election.

(n) If a district holds an election under this section, the district may not hold another election under this section on a date earlier than the first anniversary of the date of the first election, except that if an election is held on a uniform election date prescribed by law, a second election may be held on the corresponding uniform election date of the following year.

[Acts 1963, 58th Leg., p. 447, ch. 160, art. I. Amended by Acts 1965, 59th Leg., p. 345, ch. 163, § 1, eff. May 17, 1965; Acts 1973, 63rd Leg., p. 426, ch. 191, § 1, eff. Aug. 27, 1973; Acts 1975, 64th Leg., p. 1865, ch. 585, § 1, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 313, ch. 147, § 1, eff. May 13, 1977; Acts 1977, 65th Leg., p. 1002, ch. 369, § 1, eff. Aug. 29, 1977; Acts 1977, 65th Leg., p. 1392, ch. 558, § 1, eff. Aug. 29, 1977; Acts 1977, 65th Leg., p. 1443, ch. 587, § 1, eff. Aug. 29, 1977; Acts 1977, 65th Leg., p. 1719, ch. 686, § 1, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 1986, ch. 782, § 1, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 164, ch. 74, § 1, eff. Aug. 31, 1981; Acts 1981, 67th Leg., p. 3141, ch. 827, §§ 3, 4, eff. Aug. 31, 1981; Acts 1981, 67th Leg., p. 3207, ch. 842, §§ 1, 2, eff. Aug. 31, 1981; Acts 1983, 68th Leg., p. 4595, ch. 776, § 1, eff. Aug. 29, 1983.]

Art. 970b. Areas Treated as Being Within Boundaries of Municipality; Inclusion by Ordinance

Sec. 1. In this Act, "municipality" shall mean any incorporated city, town, or village.

Sec. 2. (a) When an area situated in proximity to a municipality meets all of the criteria set out in Section 3 of this Act, the adoption of an ordinance by the governing body of said municipality declaring the area to be a part of the municipality shall establish an irrebuttable presumption that such area is a part of the municipality for all purposes and such presumption shall be incontestable for any cause from and after the effective date of the ordinance.

Sec. 3. The governing body of a municipality by ordinance may make an area a part of the municipi-

pality if on the date of the adoption of the ordinance:

(1) the records of the city indicate that the area has been a part of the municipality for at least the preceding 20 years;

(2) the municipality has provided police protection and other services, and otherwise treated the area as a part of the municipality during the preceding 20 years;

(3) no final judicial determination has been made during the preceding 20 years that the area is outside the boundaries of the municipality; and

(4) no lawsuit is pending that challenges the inclusion of the area as a part of the municipality.

Sec. 4. If an area is made a part of a municipality under this Act, the date on which the area is considered to have become a part of the municipality is retroactive to the date on which the municipality began its continuous treatment of the area as a part of the municipality. This date is used for all purposes for which the date upon which the area became a part of the municipality is relevant, including but not limited to a determination of whether territory purportedly annexed by a municipality was adjacent to the municipality at the time of the purported annexation.

[Acts 1983, 68th Leg., p. 109, ch. 22, eff. Aug. 29, 1983.]

Art. 971. Territorial Boundaries

No city or town in this State shall be hereafter incorporated under the provisions of the general charter for cities and towns contained in this title with a superficial area of more than two square miles, when such town or city has less than two thousand inhabitants, nor more than four square miles when such city or town has more than two thousand and less than five thousand inhabitants, nor more than nine square miles, when such city or town has more than five and less than ten thousand inhabitants. The mayor and board of aldermen, immediately after they qualify as such officers, shall pass an ordinance causing an actual survey of the boundaries of such town to be made according to the boundaries designated in the petition for incorporation and the field notes thereof recorded in the minute book of such town or city, and also in the record books of deeds in the county in which such city or town is situated.

[Acts 1925, S.B. 84.]

Art. 971a. Map of Boundaries

Each city, town or village incorporated under the General or Special Laws, or under the Home Rule provisions of the Constitution, shall keep in the office of the city secretary or town clerk, and in the office of the city engineer, if such city, town or village has a city engineer, a map showing the boundaries of the municipal corporation. In the event any territory is thereafter annexed to such city, town or village, then the map of the city shall

be corrected immediately so as to add thereto the additional territory, indicating on the map the date of annexation, the number of the ordinance, if any, and a reference to the minutes or the ordinance records of the city where such instrument is recorded in full.

[Acts 1949, 51st Leg., p. 722, ch. 385, § 1.]

Art. 972. Territory Relinquished

The mayor and the board of aldermen of any town or city in this State heretofore incorporated under Title 18 of the Revised Civil Statutes of 1895 of this State, and whose boundaries have been established so as to include more territory than is specified in the preceding article, shall immediately cause a resurvey of the boundaries of such city or town to be made, so as not to include more territory than is provided for in the preceding article; such resurvey to be made and the field notes thereof to be recorded as provided in said article.

[Acts 1925, S.B. 84.]

Art. 973. Discontinuing Territory

Whenever there exists within the corporate limits of any city or town organized under the general laws within this State Territory to the extent of at least ten (10) acres, contiguous and adjoining the lines of any such city or town, which is uninhabited or on which there are fewer than one (1) occupied residence or business structure for every two (2) acres of such territory and fewer than three (3) occupied residences or business structures on any one (1) acre of such territory, the mayor and city or town council may by ordinance duly passed discontinue said territory as a part of said city or town; and when said ordinance has been duly passed, the mayor shall enter an order to that effect on the minutes or records of the city or town council; and from and after the entry of such order said territory shall cease to be a part of said city or town.

[Acts 1925, S.B. 84. Amended by Acts 1953, 53rd Leg., p. 887, ch. 366, § 1.]

Art. 973a. Validation of Discontinuance of Territory, Boundaries and Annexation of Discontinued Territory; Cities of 2,000 or Less

Sec. 1. This Act shall apply to all cities and towns incorporated under the General Laws of this state having a population of two thousand (2,000) inhabitants or less at the time of the passage of any ordinance by the City Council of any such city or town discontinuing or attempting to discontinue any territory as a part of said city or town, and to any incorporated city or town contiguous thereto.

Sec. 2. All petitions praying for an ordinance and all ordinances discontinuing or attempting to discontinue any territory from within the corporate limits of any incorporated city or town having a population of two thousand (2,000) inhabitants or less at the time of the discontinuance or attempted

discontinuance of any territory forming a part of said city, and the boundaries and areas of any such city or town after the discontinuance or attempted discontinuance of any territory forming a part of said city or town, although said city or town, as a result of said discontinuance or attempted discontinuance consists of two or more separate areas, after the discontinuance or attempted discontinuance of any such territory, shall be, and the same are, hereby in all things validated and confirmed, and all cities and towns, having a population of two thousand (2,000) or less at the time of incorporation, whose charters and incorporations may be void by reason of having included in such limits more territory than authorized by Article 971, Revised Civil Statutes of 1925, are hereby declared to be valid, the same as if at first authorized.

Sec. 3. In every instance wherein a city or town, coming under the provisions of the Act, has attempted to discontinue territory as a part of said city or town under statutes providing for the discontinuing of territory adjoining the boundary lines of any such city or town, and all actions, resolutions, petitions, ordinances, proceedings, and contracts held, made, or passed in reference thereto, and pursuant thereto, and the boundaries of any such city or town and all cities and towns coming within and under the provisions of this Act after the discontinuance or attempted discontinuance of any such territory, are hereby ratified, validated, and confirmed, although said city, after the discontinuance or attempted discontinuance of such territory as a part of said city, is separated into two or more parcels or areas, as fully and completely as if said actions had been taken and happened under legislative authority previously given.

Sec. 4. The areas and boundaries of all cities and towns affected by this Act as the same have been reduced or attempted to be reduced by discontinuance or attempted discontinuance of territory, or any other action, are hereby in all things ratified, validated and confirmed.

Sec. 5. The Act of the governing body of any contiguous, incorporated city in subsequently annexing the territory thus discontinued, or attempted to be discontinued, is hereby in all things validated, ratified and confirmed.

Sec. 5a. If any section, subsection, sentence, clause or phrase of this Act is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Act. The Legislature hereby declares that it would have passed this Act and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid for any reason.

[Acts 1949, 51st Leg., p. 59, ch. 31.]

Art. 973b. Validation of Disannexation or Discontinuance of Territory; Cities of 5,000 or Less

Sec. 1. This Act shall apply to all cities and towns incorporated under the General Laws of this state having a population of five thousand (5,000) inhabitants or less at the time of the passage of any ordinance by the city council, aldermen or other governing officials of any such city or town, whether incorporated under the aldermanic form of government or the commission form of government, disannexing or discontinuing or attempting to disannex or discontinue any territory, revoking previous ordinances or previous attempts to annex territory, or discontinuing or attempting to discontinue any territory as a part of any such city or town.

Sec. 2. Ordinances wherein or whereby a city or town coming under the provisions of this Act has attempted to revoke or cancel an ordinance previously adopted annexing territory as a part of said city or town, or to discontinue territory as a part of said city or town, and all actions, resolutions, petitions, ordinances, proceedings, contracts, held, made, or passed in reference thereto, or pursuant thereto and the boundaries of any such city or town coming within the provisions of this Act after the discontinuance or attempted discontinuance of any such territory are hereby ratified, validated and confirmed, although said city or town after the discontinuance or attempted discontinuance [of] such territory or part of said city or town is separated into two or more parcels or areas, as full and completely as if said actions had been taken and happened under legislative authority previously given.

Sec. 3. Areas and boundaries of all such cities and towns affected by this Act as the same have been reduced or attempted to be reduced by discontinuance or attempted discontinuance of territory or any other action, are hereby in all things ratified, validated and confirmed.

Sec. 4. All ordinances, resolutions and other municipal and governmental proceedings adopted by or performed by the governing bodies of such cities and towns and all officers thereof disannexing, discontinuing or attempting to disannex or discontinue any such territory are hereby in all respects validated as of the respective date of such ordinances, resolutions, proceedings and acts.

Sec. 5. The provisions of this Act shall not apply to any city or town now involved in litigation questioning the legality of any disannexation, attempted disannexation, or attempted discontinuance of any territory as a part of such city or town.

[Acts 1959, 56th Leg., 2nd C.S., p. 89, ch. 6.]

Art. 974. Adjoining Inhabitants

When a majority of the inhabitants qualified to vote for members of the State legislature of any territory adjoining the limits of any city incorporated under, or accepting the provisions of, this title, to

the extent of one-half mile in width, shall vote in favor of becoming a part of said city, any three of them may make affidavit to the fact to be filed before the mayor, who shall certify the same to the city council of said city. The said city council may, by ordinance, receive them as part of said city; from thenceforth the territory so received shall be a part of said city; and the inhabitants thereof shall be entitled to all the rights and privileges of other citizens, and bound by the acts and ordinances made in conformity thereto and passed in pursuance of this title.

Acts 1925, S.B. 84.]

Art. 974a. Platting and Recording Subdivisions or Additions

Plats Required

Sec. 1. Hereafter every owner of any tract of land situated within the corporate limits, or within five miles of the corporate limits of any city in the State of Texas, who may hereafter divide the same in two or more parts for the purpose of laying out any subdivision of any tract of land or any addition to any town or city, or for laying out suburban lots or building lots, or any lots, and streets, alleys or parks or other portions intended for public use, or the use of purchasers or owners of lots fronting thereon or adjacent thereto, shall cause a plat to be made thereof which shall accurately describe all of said subdivision or addition by metes and bounds and locate the same with respect to an original corner of the original survey of which it is a part, giving the dimensions thereof of said subdivision or addition, and dimensions of all streets, alleys, squares, parks or other portions of same intended to be dedicated to public use, or for the use of purchasers or owners of lots fronting thereon or adjacent thereto; provided, however, that no plat of any subdivision of any tract of land or any addition to any town or city shall be recorded unless the same shall accurately describe all of said subdivision or addition by metes and bounds and locate the same with respect to an original corner of the original survey of which it is a part giving the dimensions thereof of said subdivision or addition, and dimensions of all streets, alleys, squares, parks or other portions of same intended to be dedicated to public use, or for the use of purchasers or owners of lots fronting thereon or adjacent thereto.

Inapplicability to Certain Tracts Abutting Aircraft Runway

Sec. 1A. The requirement of this Act that a plat be made and recorded does not apply to an owner of a tract of land that is located entirely within an incorporated city or town having a population of 5,000 or fewer persons, according to the most recent federal census, that is divided into parts, all of which are larger than 2½ acres, and that abuts or otherwise attaches to any part of an aircraft runway.

Acknowledgment of Plats

Sec. 2. That every such plat shall be duly acknowledged by owners or proprietors of the land, or by some duly authorized agent of said owners or proprietors, in the manner required for the acknowledgment of deeds; and the said plat, subject to the provisions contained in this Act, shall be filed for record and be recorded in the office of the County Clerk of the County in which the land lies.

Approval of Plat or Plan by Planning Commission or Governing Body; Record

Sec. 3. It shall be unlawful for the County Clerk of any county in which such land lies to receive or record any such plan, plat or replat, unless and until the same shall have been approved by the City Planning Commission of any city affected by this Act, if said city has a City Planning Commission and if it has no City Planning Commission, unless and until the said plan, plat, or replat shall have been approved by the governing body of such city. If a city has a City Planning Commission, the governing body may, by ordinance, additionally require approval of said plan, plat, or replat by the governing body. If such land lies outside of and within five (5) miles of more than one (1) city affected by this Act, then the requisite approval shall be by the City Planning Commission or governing body, or both, as the case may be, of such of said cities having the largest population; provided, however, that the governing body of any city having the largest population may enter into an agreement with any other city or cities affected, or the governing body of the largest city may enter into an agreement with any other city within five (5) miles conferring the power of approval within stated portions of the area upon such other city; but any such agreement shall be revocable by either city at the end of twenty (20) years after the date of the agreement or at the end of such shorter period of time as may be agreed upon. A copy of any such agreement shall be filed with the County Clerk, and during the time the agreement continues in force he shall not receive or record any such plan, plat or replat unless it has been approved by the City Planning Commission or the governing body, or both, as the case may be, of the city or cities upon which the power of approval is conferred by the agreement. Any person desiring to have a plan, plat or replat approved as herein provided, shall apply therefor to and file a copy with the Commission, if there be one, or with the governing body if there is no Commission. The Commission, or governing body, as the case may be, shall act upon same within thirty (30) days from the filing date. If said plat be not disapproved within thirty (30) days from said filing date, it shall be deemed to have been approved by the Commission, or the governing body if there is no Commission. If a city with a Commission has required that approval be given by the governing body, then the governing body shall act upon the same within thirty (30) days after the approval by the Commission, or after the approval by reason of nonaction. If said plat be not

disapproved by the governing body within said thirty (30) days, it shall be deemed to have been approved by the governing body. A certificate showing the filing dates hereunder and the failure to take actions thereon within the periods herein prescribed shall on demand be issued by the City Planning Commission or governing body, as the case may be, of such city, and said certificate shall be sufficient in lieu of the written endorsement or other evidence of approval herein required. If the plan, plat, or replat is approved, such Commission or governing body shall indicate such finding by certificate endorsed thereon, signed by the Chairman or presiding officer of said Commission or governing body and attested by its Secretary, or signed by a majority of the members of said Commission or of the Governing Body when appropriate under this Act. Such Commission or governing body shall keep a record of such applications and the action taken thereupon, and upon demand of the owners of any land affected, shall certify its reasons for the action taken in the matter.

Indorsement of Approval of Plat by Planning Commission or Governing Body

Sec. 4. If such plan or plat, or replat shall conform to the general plan of said city and its streets, alleys, parks, playgrounds and public utility facilities, including those which have been or may be laid out, and to the general plan for the extension of such city and of its roads, streets and public highways within said city and within five miles of the corporate limits thereof, regard being had for access to and extension of sewer and water mains and the instrumentalities of public utilities, and if same shall conform to such general rules and regulations, if any, governing plats and subdivisions of land falling within its jurisdiction as the governing body of such city may adopt and promulgate to promote the health, safety, morals or general welfare of the community, and the safe, orderly and healthful development of said community (which general rules and regulations for said purposes such cities are hereby authorized to adopt and promulgate after public hearing held thereon), then it shall be the duty of said City Planning Commission or of the governing body of such city, as the case may be, to endorse approval upon the plan, plat or replat submitted to it.

Vacation of Plat or Plan; Recording Replat or Resubdivision Without Vacation

Sec. 5. (a) Any such plan, plat or replat may be vacated by the proprietors of the land covered thereby at any time before the sale of any lot therein by a written instrument declaring the same to be vacated, duly executed, acknowledged and recorded in the same office as the plat to be vacated, provided the approval of the City Planning Commission or governing body of such city, as the case may be, shall have been obtained as above provided, and the execution and recordation of the instrument shall operate to destroy the force and effect of the

recording of the plan, plat or replat so vacated. In cases where lots have been sold, the plan, plat or replat, or any part thereof, may be vacated upon the application of all the owners of lots in said plat and with the approval, as above provided, of the City Planning Commission or governing body of said city, as the case may be. The County Clerk of the county in whose office the plan or plat thus vacated has been recorded shall write in plain, legible letters across the plan or plat so vacated the word "Vacated," and also make a reference on the same to the volume and page in which said instrument of vacation is recorded.

(b) In the event there is not compliance with Subsection (a) of this section, a replat or resubdivision of a plat, or a portion thereof, but without vacation of the immediate previous plat, is hereby expressly authorized to be recorded and shall be deemed valid and controlling, when approved, after a public hearing, by the City Planning Commission or other appropriate governing body, as the case may be, when:

(1) it has been signed and acknowledged by only the owners of the particular property which is being resubdivided or replatted;

(2) it has been approved by the City Planning Commission or other appropriate governing body, as the case may be, after a public hearing in relation thereto at which parties in interest and citizens shall have an opportunity to be heard;

(3) it does not attempt to alter, amend or remove any covenants or restrictions; and

(4) there is compliance, when applicable, with Subsections (c) and (d) of this section.

(c) The following additional requirements for approval shall apply, in any resubdivision or replatting of a subdivision, without vacating the immediate previous plat, if any of the proposed area to be resubdivided or replatted was within the immediate preceding five years limited by any interim or permanent zoning classification to residential use for not more than two residential units per lot, or if any lot in the immediate previous subdivision was limited by deed restriction to residential use for not more than two residential units per lot:

(1) Notice of such City Planning Commission or appropriate governing body hearing shall be given in advance in the following manner:

(A) publication at least 15 days in advance of hearing being published in an official paper or a paper of general circulation in the county in which such governing body is located; and

(B) written notice (with a copy of Subdivision (2) of this subsection attached thereto) of such public hearing forwarded by the City Planning Commission or appropriate governing body to owners (as the ownerships appear on the last approved ad valorem tax roll of such governing body) of all lots in the immediate preceding subdivision plat not less

than 15 days prior to the date of such hearing; such notice may be served by depositing the same, properly addressed and postage paid, in a post office or postal depository within the boundaries of such governing body; provided, however, if such immediate preceding subdivision plat shall contain more than 100 lots, such notice shall be mailed only to those owners of lots which are located within 500 feet of the lot or lots which are sought to be replatted or resubdivided.

(2) The City Planning Commission or other appropriate governing body shall require in any resubdivision or replatting to which this subsection applies written approval of 66% percent of:

(A) the owners of all lots in such plat; or

(B) the owners of all lots in such plat within 500 feet of the property sought to be replatted or resubdivided if such immediate preceding plat contains more than 100 lots.

The provisions of Subdivision (2) of this subsection shall, however, apply only if 20 percent, or more, of the owners, to whom notice is required to be given, of the lots in such plat a portion of which is sought to be replatted or resubdivided file with the City Planning Commission or other appropriate governing body written protest of such replatting or resubdivision prior to or at the hearing referred to in the notice of the proposed replatting or resubdivision. In computing percentages of ownership, each lot in such subdivision shall be considered equal to all other lots regardless of size or number of owners, and the owners of each lot shall be entitled to cast only one vote per lot.

(3) Provided, however, compliance with Subdivision (1) or (2) of this subsection shall not be required for approval of a replatting or resubdividing of a portion of a prior plat if all of the proposed area sought to be replatted or resubdivided was designated or reserved for usage other than for single or duplex family residential usage by notation on the last legally recorded plat or in the legally recorded restrictions applicable to such plat.

(d) Notwithstanding any other provision of this section, the City Planning Commission or other appropriate governing body of a city is authorized to approve and issue an amending plat which is signed by the applicants only, and which is for one or more of the purposes set forth in the following Subdivisions (1) through (9), both inclusive, and such approval and issuance shall not require notice, hearing, or approval of other lot owners. This subsection shall apply only if the sole purpose of the amending plat is:

(1) to correct an error in any course or distance shown on the prior plat;

(2) to add any course or distance that was omitted on the prior plat;

(3) to correct an error in the description of the real property shown on the prior plat;

(4) to indicate monuments set after death, disability, or retirement from practice of the engineer or surveyor charged with responsibilities for setting monuments;

(5) to show the proper location or character of any monument which has been changed in location or character or which originally was shown at the wrong location or incorrectly as to its character on the prior plat;

(6) to correct any other type of scrivener or clerical error or omission as previously approved by the City Planning Commission or governing body of such city; such errors and omissions may include, but are not limited to, lot numbers, acreage, street names, and identification of adjacent recorded plats;

(7) to correct an error in courses and distances of lot lines between two adjacent lots where both lot owners join in the application for plat amendment and neither lot is abolished, provided that such amendment does not attempt to remove recorded covenants or restrictions and does not have a material adverse effect on the property rights of the other owners in the plat;

(8) to relocate a lot line in order to cure an inadvertent encroachment of a building or improvement on a lot line or on an easement; or

(9) to relocate one or more lot lines between one or more adjacent lots where the owner or owners of all such lots join in the application for the plat amendment, provided that such amendment does not:

(A) attempt to remove recorded covenants or restrictions; or

(B) increase the number of lots.

Improvement to Effect Dedication

Sec. 6. The approval of any such plan, plat, or replat shall not be deemed an acceptance of the proposed dedication and shall not impose any duty upon such city concerning the maintenance or improvement of any such dedicated parts until the proper authorities of said city shall have made actual appropriation of the same by entry, use or improvement.

County Clerk's Failure of Duty

Sec. 7. When any such map, plat, or replat is tendered for filing in the office of the County Clerk of any county in which any city of the above class may be situated, it shall be the duty of such Clerk to ascertain that the proposed plan, plat or replat is or is not subject to the provisions of this Act, and if it is subject to its provisions, then to examine said map, plat or replat to ascertain whether the endorsements required by this Act appear thereon. If such endorsements do appear thereon, he shall accept same for registration. If such endorsements do not appear thereon, he shall refuse to accept same for registration. When same does not disclose whether the land covered by said map, plat or

replat, or any part thereof, is or is not within five miles of the corporate limits of a city of the class above mentioned, the County Clerk may require one offering said map, plat or replat for registration to file with him an affidavit setting forth such information. The filing or recording of any plan, plat or replat contrary to the provisions of this Act shall constitute a misdemeanor punishable by fine of not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00), and both the County Clerk and any Deputy filing or recording the same shall be guilty.

Approval Prior to Connection of Public Utilities

Sec. 8. Unless and until any such plan, plat or replat shall have been first approved in the manner and by the authorities provided for in this Act, it shall be unlawful within the area covered by said plan, plat or replat for any city affected by this Act, or any officials of such city, to serve or connect said land, or any part thereof, or for the use of the owners or purchasers of said land, or any part thereof, with any public utilities such as water, sewers, light, gas, etc., which may be owned, controlled or distributed by such city.

Disapproval

Sec. 9. If any such plan, plat or replat is disapproved by the City Planning Commission or governing body of such city, as the case may be, such disapproval shall be deemed a refusal by the city of the offered dedication shown thereon.

Adoption in Cities of Less Than 25,000

Sec. 10. Repealed by Acts 1949, 51st Leg., p. 321, ch. 154, § 1(2).

[Acts 1927, 40th Leg., p. 342, ch. 231. Amended by Acts 1949, 51st Leg., p. 321, ch. 154, § 1(1); Acts 1955, 54th Leg., p. 851, ch. 317, § 1; Acts 1975, 64th Leg., p. 1289, ch. 482, § 1, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 149, ch. 67, §§ 1, 2, eff. April 22, 1981; Acts 1983, 68th Leg., p. 5283, ch. 971, § 1, eff. Aug. 29, 1983.]

Saved From Repeal

Acts 1963, 58th Leg., p. 447, ch. 160, enacting the Municipal Annexation Act (Article 970a) provides in Article III of the Act that it shall not repeal Acts 1927, 40th Leg., ch. 231, as amended (this article), unless expressly inconsistent with the Act and then only to the extent of such inconsistency.

Sections 3 to 5 of the 1981 amendatory act provide:

"Sec. 3. This Act shall be applicable to all subdivision plats (or replats) recorded on, after, or prior to the effective date of this Act.

"Sec. 4. All subdivisions, resubdivisions, plats, plans, or replats heretofore approved by the City Planning Commission or other governing body of any city in the State of Texas and which said plat, plan, or replat is filed for record in the office of the county clerk of the county in which the real property included within such subdivision, resubdivision, plat, plan, or replat is located, on the effective date of this Act are in all respects validated as of the date of the original filing of the plat, plan, or replat; provided, however

this validation shall in no manner, term, or respect invalidate, alter, impair, or affect any restrictive covenants which would have otherwise been applicable to any subdivision or any portion thereof.

"Sec. 5. If any provision of this Act or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect the other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

Art. 974a-1. Enforcement of Land Use Restrictions Contained in Plats; Certain Cities, Towns and Villages

Application

Sec. 1. This Act applies to incorporated cities, towns, or villages if the incorporated city, town, or village does not have zoning ordinances and provided the city, town, or village passes an ordinance that requires uniform application and enforcement of this statute to all property and citizens.

May Sue to Enforce Restrictions

Sec. 2. (a) An incorporated city, town, or village may sue in any court of competent jurisdiction to enjoin or abate violation of a restriction contained or incorporated by reference in a duly recorded plan, plat, replat, or other instrument affecting a subdivision inside its boundaries.

(b) As used in this Act, "restriction" means a limitation which affects the use to which real property may be put, fixes the distance buildings or structures must be set back from property lines, street lines, or lot lines, or affects the size of a lot or the size, type, and number of buildings or structures which may be built on the property.

Previously Recorded Plan, Plat, Replat, or Other Instrument

Sec. 3. Restrictions contained in a plan, plat, replat, or other instrument duly recorded before the effective date of this Act may be enforced as provided in Section 2 but a violation of a restriction occurring before the effective date of this Act may not be enjoined or abated by the said city, town, or village as long as the nature of the violation remains unchanged. An incorporated city, town, or village may not enforce a restriction that violates the Constitution of the United States or of this State.

[Acts 1965, 59th Leg., p. 180, ch. 72, eff. Aug. 30, 1965. Amended by Acts 1971, 62nd Leg., p. 1384, ch. 370, § 1, eff. May 26, 1971.]

Art. 974a-2. Commercial Building Permits in Cities of 900,000 or More

Application of Act

Sec. 1. This Act applies to cities having a population of more than 900,000 according to the last preceding Federal Census.

Definitions

Sec. 2. In this Act, unless the context requires a different meaning:

(1) "department" means the agency of a city which has the authority and responsibility for issuing commercial building permits;

(2) "subdivider" means a person who divides a tract of real property under circumstances to which Chapter 231, Acts of the 40th Legislature, Regular Session, 1927, as amended (codified as Article 974a, Vernon's Texas Civil Statutes and Article 427b, Vernon's Texas Penal Code), is applicable;

(3) "person" includes a firm, partnership, corporation, or other private entity;

(4) "commercial building" means any building other than a single family residence.

Instrument Containing Restriction on Use or Construction on Property; Filing; Issuance of Permit

Sec. 3. (a) A person who desires a commercial building permit shall file with his application a certified copy of any instrument which contains a restriction on the use of or construction on the property described in the application, together with a certified copy of any amendment, judgment, or other document affecting the use of the property.

(b) When an applicant has complied with this Act and local ordinances relating to commercial building permits, the department shall issue a permit for construction or repair which conforms with all restrictions relating to the use of the property described in the application.

Plat and Restrictions; Filing by Subdivider

Sec. 4. (a) A subdivider shall, at the time he files the subdivision for recordation, file with the department two copies of the plat and any restrictions pertaining to the property included in the plat.

(b) The department shall keep one copy in a safe place as a permanent file.

(c) A person who desires a commercial building permit for property which is included in any plat or restrictions on file with the department is not required to file a copy of the plat and restrictions with his application.

Injunction

Sec. 5. (a) A person who attempts to construct or repair any structure for which a commercial building permit is required without having obtained a permit may be enjoined from any further construction activity until he has complied with this Act.

(b) The city may join with an interested property owner in a suit to enjoin further construction activity by one who does not have a permit issued in compliance with this Act, if the structure or proposed structure is in violation of a restriction contained in the deed or other instrument.

(c) Any commercial permit obtained without full compliance with this Act is void.

Repair of Commercial Building; Conversion of Family Residence into Commercial Building

Sec. 6. Any person, partnership, or corporation in cities having a population of more than 900,000 according to the last preceding Federal Census electing to substantially repair or to remodel a commercial building within a subdivision or proposing to convert a single family residence into a commercial building as defined in Section 2(4) of this Act shall obtain a commercial building permit from the city department issuing building permits. Provided however, that the provisions of this Section shall not apply to violations of restrictive covenants occurring prior to the date of enactment of this Act as long as they retain their existing status. Provided further, that these cities may join with any interested property owner in a suit to enjoin the maintenance of a commercial building by one who does not have a permit in compliance with any Section of this Act.

Refusal to Issue Permit; Review by Court

Sec. 7. An administrative refusal to issue a commercial permit on the grounds of violation of restrictions contained in a deed or other instrument shall be reviewable by a court of appropriate jurisdiction provided notice of filing of such suit is given the city department responsible for issuing commercial building permits within ninety (90) days. In the event of changed conditions within a subdivision or any other legally sufficient reason that restrictions should be modified a person refused a commercial building permit can petition a court of appropriate jurisdiction to alter the restrictions to better conform with present conditions.

[Acts 1965, 59th Leg., p. 779, ch. 369, eff. June 9, 1965.]

Art. 974b. Validating Elections in Cities of 3,000 to 6,000 for Extension of Corporate Limits

Cities Affected

Sec. 1. This Act shall affect all incorporated cities in the State of Texas having a population of not less than three thousand (3,000) and not more than six thousand (6,000) inhabitants according to the last preceding Federal Census.

Elections Validated

Sec. 2. All elections, election orders, election proceedings and city ordinances annexing adjacent territory to, or extending and prescribing the corporate limits of, any incorporated city having a population of not less than three thousand (3,000) and not more than six thousand (6,000) inhabitants as shown by the last preceding Federal Census, shall be and the same are hereby validated and confirmed.

Ordinances Validated

Sec. 3. The city ordinances of all cities in the class described in the foregoing section fixing and prescribing the corporate limits extended by the annexation or attempted annexation of adjacent territory are hereby validated and confirmed.

Extension of Limits Validated

Sec. 4. In every instance wherein a city coming under the provision of this Act has attempted to extend its corporate limits under statutes providing for the annexation of adjoining territory, all actions, resolutions, elections, ordinances, proceedings and contracts held, made or passed, in reference thereto, or pursuant thereto, are hereby confirmed, ratified and validated, irrespective of any irregularities, and in like manner as if said annexation had been done under legislative authority previously given.

[Acts 1934, 43rd Leg., 2nd C.S., p. 73, ch. 25.]

Art. 974c. Validating Annexation of Adjacent Territory

That all elections, election orders, election proceedings, affidavits and city ordinances heretofore had, subsequent to August 24, 1935, annexing adjacent territory or extending and prescribing the corporate limits of any incorporated city, incorporated and functioning under the General Laws of the State of Texas under the Commission Form of Government are hereby in all things fully validated, confirmed, approved, and legalized irrespective of any irregularities or omissions in such ordinances or in any petitions, elections, affidavits, or other proceedings purporting to authorize the passage of such ordinances.

[Acts 1935, 44th Leg., 2nd C.S., p. 1708, ch. 440, § 1.]

Art. 974c-1. Cities and Towns of 5,000 or Less; Validation of Annexation of Territory

Sec. 1. This Act shall affect and apply to all cities and towns incorporated under the General Laws of this State and having a population of five thousand (5,000) inhabitants or less, according to the last preceding Federal Census.

Sec. 2. All elections, election orders, election proceedings, petitions and ordinances annexing territory to or extending and prescribing the corporate limits of any incorporated city or town having a population of five thousand (5,000) inhabitants or less according to the last preceding Federal Census, shall be and the same are hereby validated and confirmed.

Sec. 3. The ordinances of all cities and towns in the class described in the foregoing Section fixing and prescribing the corporate limits extended by the annexation or attempted annexation of adjacent territory are hereby validated and confirmed.

Sec. 4. In every instance wherein a city or town coming under the provisions of this Act has at-

tempted to extend its corporate limits under Statutes providing for the annexation of adjoining territory, all actions, resolutions, elections, ordinances, proceedings and contracts held, made or passed, in reference thereto, or pursuant thereto, are hereby confirmed, ratified and validated, irrespective of any irregularities, as fully and completely as if said actions had been taken and happened under legislative authority previously given.

Sec. 5. The areas and boundaries of all cities and towns affected by this Act as the same have been extended or attempted to be extended by annexation or any other action are hereby in all things ratified.

[Acts 1943, 48th Leg., p. 700, ch. 389.]

Art. 974c-2. Cities of More Than 5,000 Population; Validation of Annexation, Incorporation, and Other Matters

Sec. 1. (a) All cities in the State of Texas having a population greater than five thousand (5,000) inhabitants, according to the last preceding Federal Census, and operating under the General Laws of Texas, including those operating under the Mayor and Alderman form of government, as well as those operating under the Commissioner form of government, as in such cases provided by law, and heretofore laid out and established by incorporation under the General Laws of Texas, in the manner prescribed by the laws of this State, are hereby validated in all respects as though they had been duly and legally established and so incorporated under the General Laws of Texas in the first instance. All acts of the Mayor and Board of Aldermen, or the Mayor and Board of Commissioners, or other governing body of said cities, ordering election, or elections, declaring results of such elections for the purpose of annexing additional territory to said cities; and otherwise by ordinance annexing additional territories to said cities under the provisions of Article 974, Revised Civil Statutes of Texas, 1925, levying, attempting or purporting to levy taxes for and on behalf of such cities, and all bonds issued and now outstanding, and all bonds heretofore voted, but not issued, and all bond assumption tax elections, following annexation elections or annexation proceedings under the provisions of Article 974, Revised Civil Statutes of Texas, 1925, under the terms of which by ordinances of said cities, adjoining territory has purportedly been annexed to said cities, are hereby in all things validated.

(b) The fact that by inadvertence or oversight any act of the officers or governing body of any city or municipality, or of the Commissioners Court of the counties in which said cities are situated, in the creation of any such city, or in the annexation thereto of adjoining territory, was omitted, shall in nowise invalidate the incorporation of such city under the General Laws of Texas, nor the annexation of adjoining territory thereto according to the terms of the ordinances so enacted; and the fact that by inadvertence or oversight any act was omitted by

the Mayor and Board of Aldermen, the Mayor and Board of Commissioners, or other governing body of any such city, or governing body of any municipality, in ordering an election, or elections, or in declaring the results thereof, or by ordinance annexing adjoining territory thereto under the provisions of Article 974, Revised Civil Statutes of Texas, 1925, or in levying taxes for such city, or in the issuance of bonds of any such city, shall in nowise invalidate any such proceedings or any bonds so issued by such city or municipality.

(c) All acts of the Mayor and Board of Aldermen, by the Mayor and Board of Commissioners, or other governing body of any and all cities and municipalities operating under the General Laws of this State with a population of five thousand (5,000) or more, according to the last preceding Federal Census, in rearranging, changing, annexing additional or adjoining territory, changing the boundaries of, or subdividing such cities or municipalities, or increasing or decreasing areas thereof in any such city or municipality, or in declaring by general election or by ordinance following the provisions of Article 974, Revised Civil Statutes of Texas, 1925, annexing additional territory to such cities or municipalities, and all acts of the governing bodies of any such cities or municipalities in annexing territories thereto, are hereby in all things validated.

Sec. 2. All cities or municipalities mentioned in this Act are hereby authorized and empowered to levy, assess and collect the same rate of tax as heretofore authorized, or attempted to be authorized under the General Laws of this State, or by any act of the governing body of such city or municipality, or by any election of taxpaying voters of such city or municipality, or by any act of the Legislature of this State, whether General or Special, or as is now being levied, assessed and collected therein and heretofore authorized or attempted to be authorized by any act or acts of said cities or municipalities, or by any act of the Legislature of this State, whether General or Special.

Sec. 3. This law shall not apply to any city or municipality governed by the terms of this Act which is now involved in litigation, or the validity of the organization or creation of which, or annexation of territory in or to such city or municipality is attacked in any suit or litigation filed within forty-five (45) days after the effective date of this Act; provided, further, that this Act shall not apply to any city or municipality which may have been incorporated under the General Laws and which was later returned to its original status; nor shall this Act apply to the annexation of additional territory to any such city or municipality which may have been declared void heretofore by the Courts of this State, or otherwise voided by the governing body themselves of such city or municipality.

Sec. 4. If any word, phrase, clause, sentence, paragraph, section or part of this Act shall be held by any Court of competent jurisdiction to be invalid

or unconstitutional, or for other reasons void or unconstitutional, it shall not affect any other word, phrase, clause, sentence, paragraph, section or part of this Act.

[Acts 1949, 51st Leg., p. 495, ch. 270.]

Art. 974c-3. Cities and Towns of 5,000 or Less; Validation of Annexation and Related Matters

Sec. 1. This Act shall affect and apply to all cities and towns incorporated under the General Laws of this State and having a population of five thousand (5,000) inhabitants or less, according to the last preceding Federal Census.

Sec. 2. All elections, election orders, election proceedings, petitions and ordinances annexing territory to or extending and prescribing the corporate limits of any incorporated city or town having a population of five thousand (5,000) inhabitants or less according to the last preceding Federal Census, shall be and the same are hereby validated and confirmed.

Sec. 3. The ordinances of all cities and towns in the class described in the foregoing Section fixing and prescribing the corporate limits extended by the annexation or attempted annexation of adjacent territory are hereby validated and confirmed.

Sec. 4. In every instance wherein a city or town coming under the provisions of this Act has attempted to extend its corporate limits under Statutes providing for the annexation of adjoining territory, all actions, resolutions, elections, ordinances, proceedings and contracts held, made or passed, in reference thereto, or pursuant thereto, are hereby confirmed, ratified and validated, irrespective of any irregularities, as fully and completely as if said actions had been taken and happened under legislative authority previously given.

Sec. 4a. This law shall not apply to any city or town which on the effective date of this Act is involved in litigation which questions the annexation of territory or corporate limits thereof.

Sec. 5. The areas and boundaries of all cities and towns affected by this Act as the same have been extended or attempted to be extended by annexation or any other action are hereby in all things ratified.

Sec. 6. This Act shall not affect the validity of the annexation to or extension of the boundaries of any city or town wherein such annexation to, or extension of the boundaries of, are now, or within one hundred days after this bill becomes a law, involved in litigation.

[Acts 1949, 51st Leg., p. 698, ch. 365.]

Art. 974c-4. Annexation or Definition of Boundaries; Validation

Sec. 1. All city charters, city charter amendments, ordinances and proceedings of the governing bodies of all incorporated cities, including home rule

cities, defining the boundaries of such incorporated cities or annexing thereto territory adjoining any such city with the consent of a majority of the inhabitants of such annexed territory, are hereby ratified and confirmed.

Sec. 2. After the expiration of two (2) years from the date of any ordinance defining boundaries of or annexing territory to any incorporated city, consent to the annexation and inclusion of such territory in such city shall be conclusively presumed if no action has then been commenced to annul or review such act.

Sec. 2A. The provisions of this Act shall not apply to any territory of any city where the annexation of such territory is the subject of any pending litigation at the time of passage of this Act.

[Acts 1949, 51st Leg., p. 934, ch. 508.]

Art. 974c-5. Cities and Towns of 800 Inhabitants or Less; Validation of Annexation and Extension of Boundaries

Sec. 1. The actions and proceedings of all cities and towns in Texas of eight hundred (800) inhabitants or less, according to the last preceding Federal Census, heretofore incorporated or attempted to be incorporated under any of the terms and provisions of the General Laws of the State of Texas, whether under the aldermanic or commission form of government, which have attempted to extend the corporate limits of such city or town pursuant to a petition of owners of lands in such annexed area, and a part of which land was, prior to such annexation included in an ordinance of annexation by a neighboring city but was either discontinued as a part of such city or was deleted from the ordinance of annexation before final passage by such neighboring city, and have passed an ordinance or ordinances describing the territory annexed and have caused a certified copy of such ordinance or ordinances to be recorded in the Deed Records of the county in which such city or town is situated, are hereby in all respects validated as of the date of such annexation or attempted annexation.

Sec. 2. The areas and boundary lines of all such cities and towns covered by the provision of this Act, including both the boundary lines covered by the original incorporation and by any subsequent extension of the area and corporate limits by ordinance adopted pursuant to petition of owners of land included in such extension and annexation are hereby in all things validated, and such annexations and extension of corporate limits of such cities and towns shall not be held invalid because of the inclusion in such limits of more territory than is expressly authorized by Article 971 of the Revised Statutes of the State of Texas of 1925, as amended, or by reason of the inclusion in the corporate area of territory other than that which is intended to be used for strictly town or city purposes.

Sec. 3. The provisions of this Act shall not apply to any city or town now involved in litigation ques-

tioning the legality of the incorporation or extension of boundaries or any of the acts or proceedings hereby validated if such litigation is ultimately determined against the legality thereof.

[Acts 1961, 57th Leg., p. 116, ch. 63.]

Art. 974c-6. Cities and Towns of 500 or Less; Validation of Annexation of Territory

Sec. 1. All cities and towns in Texas of five hundred (500) inhabitants or less, heretofore incorporated, or attempted to be incorporated, under any of the terms and provisions of the General Laws of the State of Texas, whether under the aldermanic or commission form of government, and which are located partially within two different counties, the larger of which had a population of five hundred thirty-eight thousand, four hundred ninety-five (538,495) at the last Federal Census and the smaller of which had a population of forty-seven thousand, four hundred thirty-two (47,432), which have attempted to extend the corporate limits of such cities or towns, and have passed an ordinance describing the territory annexed and have caused a certified copy of such ordinance to be recorded in the Deed Records of either of the counties in which such city or town is situated, and all actions, elections and proceedings had or passed in reference thereto or in connection therewith, are hereby in all respects validated as of the date of such attempted annexation, and such extension of the corporate limits of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or other proceedings had in connection with such annexation may not have been in accordance with law.

Sec. 2. The areas and boundary lines of all such cities and towns affected by this Act, including both the boundary lines covered by the original corporation proceedings and by any subsequent extension thereof, are in all things validated.

Sec. 3. The provisions of this Act shall not apply to any territory of any city where the annexation of such territory is the subject of any pending litigation at the time of the passage of this Act.

[Acts 1961, 57th Leg., p. 892, ch. 392.]

Art. 974c-7. Validation of Annexation of Entire Territory of Water Control and Improvement District

Sec. 1. In each instance where an incorporated city, after a public hearing, has annexed or attempted to annex the entire territory of a water control and improvement district pursuant to the annexation provisions of The Municipal Annexation Act, Chapter 160, Acts of the 58th Legislature, Regular Session,¹ each and all of said annexations are hereby in all respects validated as of the date of the ordinance annexing or attempting to annex said territory, and the ordinance annexing or attempting to annex such territory or the proceedings in connection with said annexation or attempted annexation shall not be held void or invalid by reason of the fact that the proceedings may not have been in accordance with law.

tion shall not be held void or invalid by reason of the fact that the proceedings may not have been in accordance with law.

Sec. 2. The boundary lines of all such cities including the territory of annexed areas or areas attempted to be annexed which include the territory of an entire water control and improvement district are in all things validated as of the date of the ordinance annexing or attempting to annex said territory.

Sec. 3. The provisions of this Act shall not apply to any city or town now involved in litigation questioning the legality of the incorporation or extension of boundaries or any of the acts or proceedings hereby validated if such litigation is ultimately determined against the legality thereof.

[Acts 1967, 60th Leg., p. 1300, ch. 577, eff. June 16, 1967.]

¹ Article 970a.

Art. 974d. Validation of Incorporation of Cities of 600 to 2,000 Inhabitants Incorporated Since January 1, 1935

All cities and towns in this State having more than six hundred (600) and less than two thousand (2,000) inhabitants which have heretofore incorporated under the General Laws of Texas, Title 28, Revised Civil Statutes of Texas, 1925, and which are or may be invalid by reason of having included within their corporate limits lands not used for strictly town purposes, but which cities and towns do not include more than two (2) square miles of territory, are hereby declared to be duly and legally incorporated, and the boundaries of such cities as set forth in their incorporation proceedings are hereby expressly authorized and validated; that all actions, proceedings, and elections done or had in connection with the incorporation or attempted incorporation of such cities and towns are in all things validated; and all subsequent acts of such cities and towns, done or performed as a city or town, are hereby validated and declared as binding as if said cities had been duly and legally incorporated. The provisions of this Act shall apply only to cities and towns incorporated since January 1, 1935.

[Acts 1937, 45th Leg., p. 569, ch. 280, § 1.]

Art. 974d-1. Validation of Incorporation of Cities of 600 to 2,000 Inhabitants

Sec. 1. All cities and towns in Texas of more than six hundred (600) and less than two thousand (2,000) inhabitants, heretofore incorporated and/or attempted to be incorporated under the General Laws of Texas, Title 28, Revised Civil Statutes of Texas, 1925, whether under the aldermanic form of government or under the commission form of government, and which have functioned as incorporated cities and towns since the date of such incorporation, are hereby in all respects validated, as of the date of such incorporation or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid on account of irregu-

larities in the petition for election, order for election, notice of election, returns of election, order declaring result of election, or other incorporation proceedings.

Sec. 2. All governmental proceedings performed by the governing bodies of such cities and towns since their incorporation or attempted incorporation, respectively, are hereby in all respects validated as of the respective dates of such proceedings, and such governmental proceedings shall be effective the same as if such cities and towns had been regularly incorporated in the first instance.

Sec. 3. The provisions of this bill shall affect no city or town now in litigation.

[Acts 1941, 47th Leg., p. 232, ch. 162.]

Art. 974d-2. Validation of Incorporation, Boundaries and Proceedings; Cities and Towns of 5,000 or Less

Sec. 1. All cities and towns, in this State, of five thousand (5,000) inhabitants or less, heretofore incorporated or attempted to be incorporated under the General Laws of Texas, whether under the aldermanic form of government or the commission form of government, and which have functioned as incorporated cities and towns since the date of such incorporation or attempted incorporation, are hereby in all respects validated as of the date of such incorporation or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or other incorporation proceedings may not have been in accordance with law.

Sec. 2. The boundary lines of all such cities and towns, including both the boundary lines covered by the original incorporation proceedings and by any subsequent extension thereof, are hereby in all things validated.

Sec. 3. All governmental proceedings performed by the governing bodies of such cities and towns and all officers thereof since their incorporation, or attempted incorporation, are hereby in all respects validated as of the respective date of such proceedings.

Sec. 4. The provisions of this Act shall not apply to any city or town now involved in litigation questioning the legality of the incorporation.

[Acts 1950, 51st Leg., 1st C.S., p. 85, ch. 22.]

Art. 974d-3. Validation of Incorporation; Counties of 600,000 Population

Sec. 1. All towns and villages in Texas located in counties of over six hundred thousand (600,000) population according to the last preceding Federal Census, heretofore incorporated or attempted to be incorporated under the general laws of Texas, Chapter 11, Title 28, Revised Civil Statutes of Texas, 1925, are hereby in all respects validated as of the date of such incorporation or attempted incorporation.

Sec. 2. The provisions of this Act shall affect no town or village now or heretofore in litigation.

[Acts 1953, 53rd Leg., p. 938, ch. 395.]

Art. 974d-4. Validation of Incorporation; Areas and Boundary Lines; Governmental Proceedings and Acts; Cities of 5,000 or Less

Sec. 1. All cities and towns in Texas of five thousand (5,000) inhabitants or less, heretofore incorporated, or attempted to be incorporated under any of the terms and provisions of the General Laws of the State of Texas, whether under the aldermanic or commission form of government, and which are now functioning or attempting to function as incorporated cities and towns, are hereby in all respects validated as of the date of such incorporation, or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or other incorporation proceedings may not have been in accordance with law, or by reason of a failure to properly define the limits of said city or town.

Sec. 2. All cities and towns in Texas of five thousand (5,000) inhabitants or less, heretofore incorporated, or attempted to be incorporated under any of the terms and provisions of the General Laws of the State of Texas, whether under the aldermanic or commission form of government, which have attempted to extend the corporate limits of such city or town, and have passed an ordinance describing the territory annexed and have caused a certified copy of such ordinance to be recorded in the Deed Records of the County in which such city or town is situated, all actions, elections and proceedings had or passed in reference thereto or in connection therewith, are hereby in all respects validated as of the date of such attempted annexation, and such extension of the corporate limits of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or other proceedings had in connection with such annexation may not have been in accordance with law.

Sec. 3. The areas and boundary lines of all such cities and towns affected by this Act, including both the boundary lines covered by the original incorporation proceedings and by any subsequent extension thereof are in all things validated and the incorporation of such cities and towns or any subsequent extension of the corporate limits of such cities and towns shall not be held invalid because of the inclusion in such limits of more territory than is expressly authorized in Article 971 of the Revised Civil Statutes of the State of Texas of 1925, or by reason of the inclusion in the corporate area of territory other than that which is intended to be used for strictly town purposes.

Sec. 4. All governmental proceedings and acts performed by the governing bodies of such cities and towns and all officers thereof since their incor-

poration, or attempted incorporation, are hereby in all respects validated as of the respective date of such proceedings and acts.

Sec. 4a. The provisions of this Act shall in no wise affect or invalidate the incorporation or attempted incorporation of any city or town where the election held for such incorporation or attempted incorporation was held prior to January 1, 1953.

Sec. 5. The provisions of this Act shall not apply to any city or town now involved in litigation questioning the legality of the incorporation or extension of boundaries or any of the Acts or proceedings hereby validated if such litigation is ultimately determined against the legality thereof.

[Acts 1954, 53rd Leg., 1st C.S., p. 98, ch. 47.]

Art. 974d-5. Validation of Incorporation; Boundary Lines; Governmental Proceedings; Exceptions; Cities and Towns of 15,000 or Less

Sec. 1. All cities and towns in this State of fifteen thousand (15,000) inhabitants or less, heretofore incorporated or attempted to be incorporated under the General Laws of Texas, whether under the aldermanic form of government or the commission form of government, and which have functioned as incorporated cities and towns since the date of such incorporation or attempted incorporation, are hereby in all respects validated as of the date of such incorporation or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or other incorporation proceedings may not have been in accordance with law.

Sec. 2. The boundary lines of all such cities and towns, including both the boundary lines covered by the original incorporation proceedings and by any subsequent extension thereof, are hereby in all things validated.

Sec. 3. All governmental proceedings performed by the governing bodies of such cities and towns and all officers thereof since their incorporation, or attempted incorporation, are hereby in all respects validated as of the respective date of such proceedings.

Sec. 4. This Act shall not apply to any municipality which is now involved, or which within sixty (60) days from the effective date becomes involved, in litigation in any District Court of this State, the Court of Civil Appeals, or the Supreme Court of Texas, in which litigation the validity of the organization, annexation, incorporation or creation of such municipality is attacked; and this Act shall not apply to any municipality involved in formal proceedings now pending before such municipality's commission or council in which proceedings the organization or creation of such municipality is attacked. Provided further, that this Act shall not apply to any municipality which has heretofore been declared invalid by a court of competent jurisdiction of this State or which may have been established

and which was later returned to its original status, nor shall this Act apply to any annexation or incorporation proceedings which have heretofore been declared valid or invalid by a court of competent jurisdiction of this State before the effective date of this Act.

[Acts 1955, 54th Leg., p. 1175, ch. 454.]

Art. 974d-6. Validation of Organizational Proceedings; Incorporation; Consolidation; Boundaries, etc.; Exception

Sec. 1. All cities (except home rule cities), towns and villages in this State, heretofore incorporated under the general laws of this State, whether under the aldermanic, commission, or council form of government, and which have functioned as incorporated cities, towns or villages since the date of their incorporation or attempted incorporation, are hereby in all respects validated, ratified and confirmed as of the date of such incorporation or attempted incorporation; and the incorporation of such cities, towns and villages shall not be held invalid by reason of the fact that the election proceedings or other incorporation proceedings may not have been in compliance with law.

Sec. 2. In each instance where a charter or amendment or amendments to a charter of a home rule city has been (a) submitted to a vote of the qualified voters of such city at an election, and (b) a majority of the voters participating in such election of such city have approved the charter or amendment or amendments, and (c) the home rule city has functioned under the home rule charter or home rule charter as amended, the charter or the amendment or amendments to the home rule charter shall not be held invalid by reason of the fact that the election proceedings or other proceedings required to adopt or amend home rule charters may not have been in accordance with law.

Sec. 3. In each instance where two or more incorporated cities (including home rule cities), towns or villages in this State have consolidated or attempted to consolidate under one government, and the question of consolidation has been approved by a majority of the electorate participating in the election in each of the cities sought to be consolidated, the consolidation or attempted consolidation of such cities is hereby in all things ratified, validated, and confirmed, and the consolidation of such cities, towns or villages shall not be held invalid by reason of the fact that the election proceedings or other proceedings of consolidation may not have been in accordance with law.

Sec. 4. The boundary lines of all cities (including home rule cities), towns or villages, including the boundary lines covered by the original incorporation or consolidation and by any subsequent extension thereof, are hereby in all things validated.

Sec. 5. All governmental proceedings performed by the governing body of any city (including home rule cities), town or village, including, but not limit-

ed to, the adoption of the provisions relating to cities and towns, and all offices and officers thereof since their incorporation, consolidation, adoption of a charter, or amendment or amendments to a home rule charter, are hereby in all respects validated, ratified and confirmed as of the respective dates of such proceedings; provided, however, any provision to the contrary of this Act shall not apply to the Acts of any city, town or village in this State, hereinafter incorporated or attempted to be incorporated under the general laws of this State where such Acts come after the effective date of this Act.

Sec. 6. In any instance where an incorporated city, town or village has changed its name by an election in which the question of the change of the name of such city, town or village has been submitted to a vote of the qualified voters of such city, and the majority of the voters of such city voting in such election have approved such change of name, such change of name is hereby validated, ratified and confirmed as of the date of such election, without regard to the fact that the election proceedings or other proceedings involved in such change of name may not have been in compliance with law.

Sec. 7. The validation provisions of this Act shall not apply to litigation pending in any court of competent jurisdiction in this State on the effective date of this Act which litigation questions the legality of any of the matters which would otherwise be validated by the provisions hereof, if such litigation ultimately results in holdings or holding that the matters questioned thereby are invalid.

[Acts 1957, 55th Leg., p. 136, ch. 58.]

Art. 974d-7. Validation of Orders of County Judges Declaring Incorporation of Certain Cities, Towns or Villages; Boundaries; Elections and Proceedings; Exceptions

Sec. 1. In each instance where an election has been held for the purpose of incorporating a city, town or village, and the territory to be contained in such city, town or village was inadequately or incorrectly described in connection with such election proceedings, or such territory contained a greater area than was permitted by law, and where, thereafter, the County Judge of the county in which such city, town or village is situated entered an order declaring the inhabitants of such city, town or village, incorporated under the General Laws of the State of Texas relating to cities and towns, and fixing and declaring the boundaries thereof, as he finds such boundaries to exist at the time of entering such order, and finding and declaring the names of the officials of any such city, such order by the County Judge is hereby in all things validated, ratified and approved, and such city, town or village shall be known by the name specified in such order.

Sec. 2. Any city, town or village declared to be incorporated by an order as mentioned in Section 1 of this Act is hereby validated and declared to be a

duly incorporated city with the boundaries as defined in such order, and the act of the governing body thereof in accepting the provisions of Title 28, Revised Civil Statutes, as amended, relating to cities and towns is hereby validated and the officials named in such order are hereby declared to have been the mayor, aldermen and city secretary of such city at the time of the entry of said order, and all elections held for the election of city officials are hereby validated and ratified.

Sec. 3. Any election held heretofore but after the entry of such order by the County Judge resulting favorably to the issuance of bonds of such city, town or village is hereby validated and shall constitute sufficient authority for the governing body to proceed with the issuance of the bonds thus voted.

Sec. 4. This Act shall not apply to any municipality which is now involved in litigation in any District Court of this State, the Court of Civil Appeals, or the Supreme Court of Texas, in which litigation the validity of the organization, incorporation or creation of such municipality is attacked; and this Act shall not apply to any municipality involved in formal proceedings now pending before such municipality's commission or council in which proceedings the organization or creation of such municipality is attacked. Provided further, that this Act shall not apply to any municipality which has heretofore been declared invalid by a court of competent jurisdiction of this state or which may have been established and which was later returned to its original status.

[Acts 1957, 55th Leg., p. 208, ch. 96.]

Art. 974d-8. Validation of Incorporation; Boundary Lines; Governmental Proceedings; Adoption of Home Rule Charter; Cities and Towns of 5,100 to 5,300

Sec. 1. The incorporation proceedings of all cities and towns in this state heretofore incorporated or attempted to be incorporated under the General Laws of Texas, and having a population according to the Federal Census of 1960 of not less than 5100 nor more than 5300, whether under the aldermanic form of government or the commission form of government, and which have functioned as incorporated cities and towns since the date of such incorporation or attempted incorporation, are hereby in all respects validated as of the date of such incorporation or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or other incorporation proceedings may have not been in accordance with law.

Sec. 2. The boundary lines of all such cities and towns including both the boundary lines covered by the original incorporation proceedings and by any subsequent extension thereof, are hereby in all things validated.

Sec. 3. All governmental proceedings performed by the governing bodies of such cities and towns and all offices thereof since their incorporation or attempted incorporation are hereby in all respects validated as of the respective date of such proceedings.

Sec. 4. The proceedings for the adoption and adopting or attempting to adopt a Home Rule Charter for any such city or town in this state heretofore incorporated or attempting to be incorporated under the General Laws of Texas and having a population according to the Federal Census of 1960 of not less than 5100 nor more than 5300, where any legal step required to make such adoption effective has been omitted or was done in an irregular manner and where a majority of the qualified voters of said city voting at said election voted in favor of the adoption of said charter are in all things validated, ratified and confirmed, and such charter shall constitute the Home Rule Charter of said city under the constitution and laws of this state. All elections held under the provisions of said charter for the purpose of electing members of the governing body of the city and the assumption of office by such elected members are hereby in all things validated. All acts of the city officers and officials of any such city are hereby in all things validated.

Sec. 5. This Act shall not be construed as validating the adoption of any charter if the validity of the charter adoption proceedings or of the charter is involved in litigation on the effective date of this Act and such litigation is ultimately determined against the validity thereof.

[Acts 1961, 57th Leg., p. 226, ch. 116.]

Art. 974d-9. Validation of Incorporation; Boundary Lines; Governmental Proceedings; Adoption of Home Rule Charter; Cities and Towns of Not More Than 6,000

Sec. 1. The incorporation proceedings of all cities and towns in this state heretofore incorporated or attempted to be incorporated under the General Laws of Texas, and having a population according to the Federal Census of 1960 of not more than six thousand (6,000), whether under the aldermanic form of government or the commission form of government, and which have functioned as incorporated cities and towns since the date of such incorporation or attempted incorporation, are hereby in all respects validated as of the date of such incorporation or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or other incorporation proceedings may have not been in accordance with law.

Sec. 2. The boundary lines of all such cities and towns covered by the original incorporation proceedings are hereby in all things validated.

Sec. 3. All governmental proceedings other than annexation proceedings performed by the governing

bodies of such cities and towns and all offices thereof since their incorporation or attempted incorporation are hereby in all respects validated as of the respective date of such proceedings.

Sec. 4. The proceedings for the adoption and adopting or attempting to adopt a Home Rule Charter for any such city or town in this state heretofore incorporated or attempting to be incorporated under the General Laws of Texas and having a population according to the Federal Census of 1960 of not more than six thousand (6,000), where any legal step required to make such adoption effective has been omitted or was done in an irregular manner and where a majority of the qualified voters of said city voting at said election voted in favor of the adoption of said charter are in all things validated, ratified and confirmed, and such charter shall constitute the Home Rule Charter of said city under the Constitution and laws of this state. All elections held under the provisions of said charter for the purpose of electing members of the governing body of the city and the assumption of office by such elected members are hereby in all things validated. All acts of the city officers and officials of any such city, other than acts pertaining to annexation, are hereby in all things validated.

Sec. 5. This Act shall not be construed as validating the adoption of any charter if the validity of the charter adoption proceedings or of the charter is involved in litigation on the effective date of this Act and such litigation is ultimately determined against the validity thereof.

[Acts 1961, 57th Leg., 1st C.S., p. 153, ch. 40.]

Art. 974d-10. Validation of Incorporation; Elections; Governmental Proceedings; Adoption of Home Rule Charter; Exemptions; Cities, Towns or Villages

Sec. 1. The incorporation proceedings of any city, town or village in this state heretofore incorporated or attempted to be incorporated under the General Laws of Texas, whether under the Aldermanic form of government or the Commission form of government, and which have functioned as incorporated cities and towns since the date of such incorporation or attempted incorporation, are hereby in all respects validated as of the date of such incorporation or attempted incorporation and the incorporation of any such city, town or village shall not be held invalid by reason of the fact that the election proceedings or other incorporation proceedings may have not been in accordance with law.

Sec. 2. In each instance where an election has been held for the purpose of incorporating a city, town or village, and the territory to be contained in such city, town or village was inadequately or incorrectly described in connection with such election proceedings, or such territory contained a greater area than was permitted by law, and where, thereafter, the county judge of the county in which such city, town or village is situated entered an order

declaring the inhabitants of such city, town or village incorporated under the General Laws of the State of Texas relating to cities and towns, and fixing and declaring the boundaries thereof, as such boundaries were originally intended, together with territory annexed prior to any such order, and finding and declaring the names of the officials of any such city, such order by the county judge is hereby in all things validated, ratified and approved, and such city, town, or village shall be known by the name specified in such order.

Sec. 3. All governmental proceedings performed by the governing body of any such city, town or village and all offices thereof since their incorporation or attempted incorporation are hereby in all respects validated as of the respective date of such proceedings. Any election held in such city, town or village resulting favorably to the issuance of bonds is hereby validated, and the governing body thereof is authorized to proceed with the issuance of such bonds.

Sec. 4. The proceedings for the adoption and adopting or attempting to adopt a Home Rule Charter for any and each city or town in this state where any legal step required to make such adoption effective has been omitted or was done in an irregular manner and where a majority of the qualified voters of said city voting at said election voted in favor of the adoption of any and each such charter are in all things validated, ratified and confirmed, and such charter shall constitute the Home Rule Charter of said city and each such city under the Constitution and laws of this state. All elections held under the provisions of said charter for the purpose of electing members of the governing body of each such city and the assumption of office by such elected members are hereby in all things validated.

Sec. 5. This Act shall not apply to any city, town or village which is now or was heretofore involved in litigation questioning in any District Court of this state, the Court of Civil Appeals, or the Supreme Court of Texas, the validity or legality of the charter, organization, incorporation, boundaries, extension of boundaries, or creation of such city, town or village. Nor shall this Act validate any act or proceedings of any city, town or village which upon the effective date of this Act is the subject of litigation in a court of competent jurisdiction. This Act shall neither validate any act or proceedings of any city, town or village done subsequent to October 1, 1962, nor shall the Act operate to affect any ordinance or ordinances annexing territory that have been passed on first or subsequent readings by a city, town or village prior to the passage of this Act. This Act shall not apply to any such extensions, acts or proceedings of any city, town or village if such extensions, acts or proceedings have been later rescinded.

Sec. 6. If any word, phrase, clause, sentence, or part of this Act shall be held by any court of competent jurisdiction to be invalid or unconstitu-

tional, or for other reasons void or unconstitutional, it shall not affect any other word, phrase, clause, sentence or part of this Act.

[Acts 1963, 58th Leg., p. 609, ch. 222.]

Art. 974d-11. Validation of Incorporation; Boundary Lines; Governmental Proceedings; Cities Within Extraterritorial Jurisdiction of Other Cities; Litigation

Sec. 1. The incorporation proceedings of all cities and towns in this State heretofore incorporated or attempted to be incorporated under the General Laws of the State of Texas, whether under the aldermanic or commission form of government, and which have functioned or attempted to function as incorporated cities or towns since the date of such incorporation or attempted incorporation, are hereby in all respects validated as of the date of such incorporation or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or incorporation proceedings may not have been in accordance with law.

Sec. 2. The boundary lines of all such cities and towns, including both the boundary lines covered by the original incorporation proceedings and any subsequent extensions thereof, are hereby in all things validated.

Sec. 3. All governmental proceedings performed by the governing bodies of all such cities and towns and all officers thereof since their incorporation or attempted incorporation are hereby in all respects validated as of the date of such proceedings.

Sec. 4. The provisions of this Act shall not apply to any city or town incorporated or attempted to be incorporated from and after August 23, 1963, which is situated in whole or in part within the extraterritorial jurisdiction of another city or town, unless consent or permission to incorporate was obtained in the manner prescribed by Chapter 160, Article I, Acts of the 58th Legislature, Regular Session, 1963, the Municipal Annexation Act, compiled as Article 970a, Vernon's Texas Civil Statutes.

Sec. 5. The provisions of this Act shall not apply to any city or town now involved in litigation questioning the legality of the incorporation or extension of boundaries or any of the acts or proceedings hereby validated if such litigation is ultimately determined against the legality thereof; nor shall this Act be construed as validating any proceeding which may have been nullified by a final judgment of a court of competent jurisdiction.

[Acts 1965, 59th Leg., p. 342, ch. 160, eff. May 17, 1965.]

Art. 974d-12. Validation of Incorporation; Boundary Lines; Governmental Proceedings; Exceptions; Home Rule Cities and Towns of 6,900 to 7,100

Sec. 1. The incorporation proceedings of all home-rule cities and towns having a population of

6,900 to 7,100 and all cities and towns in this state heretofore incorporated or attempted to be incorporated under the general laws of the State of Texas, whether under the aldermanic or commission form of government, and which have functioned or attempted to function as incorporated cities or towns since the date of such incorporation or attempted incorporation, are hereby in all respects validated as of the date of such incorporation or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or incorporation proceedings may not have been in accordance with law.

Sec. 2. The boundary lines of all such cities and towns, including both the boundary lines covered by the original incorporation proceedings and any subsequent extensions thereof, are hereby in all things validated. No boundary extension of any kind shall be deemed invalid by failure to comply with requirements of publication, whether such requirements are imposed by statute, general law or charter, and such extensions are hereby in all things validated. In the event of multiple annexations covering the same territory, the proceedings prior in time shall prevail despite any irregularities hereby validated.

Sec. 3. All governmental proceedings performed by the governing bodies of all such cities and towns and all officers thereof since their incorporation or attempted incorporation are hereby in all respects validated as of the date of such proceedings.

Sec. 4. The provisions of this Act shall not apply to any city or town now involved in litigation questioning the legality of the incorporation or extension of boundaries or any of the acts or proceedings hereby validated if such litigation is ultimately determined against the legality thereof; nor shall this Act be construed as validating any proceeding which may have been nullified by a final judgment of a court of competent jurisdiction.

[Acts 1967, 60th Leg., p. 2023, ch. 747, eff. June 18, 1967.]

Art. 974d-13. Validation of Incorporation; Charters and Amendments of Cities of More Than 5,000; Boundary Lines; Governmental Proceedings; Revenue Bonds; Exceptions

Sec. 1. The incorporation proceedings of cities and towns (including home rule cities) heretofore incorporated or attempted to be incorporated under the general laws of the State of Texas, whether under the aldermanic or commission form of government, and which have functioned or attempted to function as incorporated cities or towns since the date of such incorporation or attempted incorporation, are hereby in all respects validated as of the date of such incorporation or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or incorporation proceedings may not have been in accordance with law.

Sec. 2. That each charter, and amendment to a charter adopted by any city of more than 5,000 inhabitants in this state, or where such city has amended or attempted to amend or adopt such charter, since the enactment of Chapter 147, Acts of the Regular Session of the 33rd Legislature of the State of Texas, 1913, and as thereafter amended, relating to home rule, and all of the amendments and proceedings had under same, that all bonds issued under any amendment where said bonds issued under any amendment have been approved by the attorney general and registered with the comptroller of public accounts, are hereby fully validated, ratified and confirmed and are hereby declared to be in full force and effect as if adopted in strict compliance with all of the requirements of said Chapter 147, Acts of the 33rd Legislature and as thereafter amended and the general laws of Texas relating thereto.

Sec. 3. The boundary lines of all such cities and towns, including both the boundary lines covered by the original incorporation proceedings and any subsequent extensions thereof are hereby in all things validated.

Sec. 4. All governmental proceedings performed by the governing bodies of all such cities and towns and all officers thereof since their incorporation or attempted incorporation are hereby in all respects validated as of the date of such proceedings.

Sec. 5. Where any city in the state which operated under the general law or pursuant to a home rule charter has heretofore at an election submitted to the qualified electors who own taxable property in said city and who have duly rendered the same for taxation propositions for the issuance of the bonds of such city for the purposes stated in such propositions, such bonds being payable from the revenues stated in such propositions or payable from ad valorem taxes to be levied therefor, and such propositions having carried by the vote of a majority of the persons voting in such election, all of the proceedings heretofore had by such city, including all proceedings had and acts done in connection with the calling and holding of the election, despite any failure or failures in such proceedings to comply with the pertinent statutes and all proceedings heretofore had by any such city to authorize the issuance of revenue bonds under the provisions of Section 11 of Article 2368a, Vernon's Texas Civil Statutes (irrespective of the location of the improvements to be constructed or acquired with bond proceeds) are hereby ratified, validated, and confirmed. The governing body of each such city is authorized to adopt all proceedings necessary or desirable to complete the issuance of such bonds. All of such proceedings relating to the authorization of bonds shall be submitted to the Attorney General of Texas, and when such bonds have been or are hereafter approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts, they shall be incontestable.

Sec. 6. The provisions of this Act shall not apply to any city or town incorporated or attempted to be incorporated from and after August 23, 1963, which is situated in whole or in part within the extraterritorial jurisdiction of another city or town, unless consent or permission to incorporate was obtained in the manner prescribed by Chapter 160, Article I, Acts of the 58th Legislature, Regular Session, 1963, the Municipal Annexation Act, compiled as Article 970a, Vernon's Texas Civil Statutes.

Sec. 7. The provisions of this Act shall not apply to any city or town now involved in litigation questioning the legality of the incorporation or extension of boundaries hereby validated if such litigation is ultimately determined against the legality thereof; nor shall this Act be construed as validating any proceedings which may have been nullified by a final judgment of a court of competent jurisdiction.

[Acts 1969, 61st Leg., p. 44, ch. 15, eff. March 13, 1969.]

Art. 974d-14. Validation of Boundary Lines; Cities and Towns of 5,270 to 5,350

Sec. 1. This Act applies to cities and towns incorporated under the general laws of this state and having a population of not less than 5,270 and not more than 5,350 inhabitants and being situated in a county having a population less than 50,000 inhabitants, according to the last preceding federal census.

Sec. 2. The boundary lines of the cities and towns, including the boundary lines covered by the original incorporation proceedings and by subsequent extensions of the boundaries, are validated.

Sec. 3. No boundary extension is invalid for failure to comply with the provisions and requirements of the Municipal Annexation Act.

[Acts 1969, 61st Leg., p. 1021, ch. 331, eff. May 27, 1969.]

Art. 974d-15. Validation of Incorporation, Boundary Lines and Governmental Proceedings; Exceptions; Cities and Towns of 215 to 217

Sec. 1. All cities and towns in Texas having a population of not less than 215 nor more than 217 according to the last federal census, heretofore incorporated under a special Act of the Legislature and thereafter adopting or attempting to adopt the provisions of Chapter 1 of Title 28 of the Revised Civil Statutes of Texas, 1925, as provided in Article 961, thereof, and which have functioned as incorporated cities or towns since the adoption or attempted adoption of the said provisions of Title 28 either under the aldermanic, commission, or council form of government, are hereby in all respects validated, ratified and confirmed as of the date of such adoption or attempted adoption of the said provisions of Title 28; and the adoption of said provisions of Title 28 shall not be held invalid by reason of the fact the proceedings or findings of the governing bodies of said cities or towns may not have been in compliance with the law.

WTSC Civil Statutes—19

Sec. 2. All governmental proceedings performed by the governing bodies of such cities and towns and all officers thereof since their incorporation and the adoption or attempted adoption of the provisions of Chapter 1 of Title 28 of the Revised Civil Statutes of Texas, 1925, are hereby in all respects validated as of the respective date of such proceedings.

Sec. 3. All cities and towns in Texas having a population of not less than 215 nor more than 217, according to the last federal census, and heretofore incorporated under a special Act of the Legislature and thereafter adopting or attempting to adopt the provisions of Chapter 1 of Title 28 of the Revised Civil Statutes of Texas, 1925, which have extended or attempted to extend the corporate limits of such city or town to include territory, the majority of the inhabitants of said territory qualified to vote for members of the State Legislature having voted in favor of becoming a part of said town or city, are hereby in all respects ratified, validated and confirmed as of the date of such annexation or attempted annexation, as fully and completely as if said action had been taken and happened under legislative authority previously given, and such extension of boundaries and all proceedings had in connection therewith shall not be held invalid by reason of the fact that the election proceedings or other proceedings had in connection with such annexation may not have been in accordance with law nor because of the inclusion in such limits of more territory than is expressly authorized in Article 971, Revised Civil Statutes of Texas, 1925, or by reason of the inclusion in the corporate area of territory other than that which is intended to be used for strictly town purposes, provided, however, that the annexed area does not include any area that was validly within the extraterritorial jurisdiction of another incorporated city or town at the time of such annexation.

Sec. 4. The validation provisions of this Act shall not apply to litigation pending in any court of competent jurisdiction in this state on the effective date of this Act which litigation questions the legality of any of the matters which would otherwise be validated by the provisions hereof, if such litigation ultimately results in holdings or holding that the matters questioned thereby are invalid.

Sec. 5. If any part or provision of this Act or the application thereof to any person or circumstance shall be held invalid, it is hereby declared to be the intention of the Legislature that the remainder hereof and the application of such part or provision to other persons or circumstances shall not be affected thereby.

Sec. 6. As used in this Act, "the last federal census" means the 1970 census. This is despite any legislation that has been or may be enacted during any session of the 62nd Legislature delaying the effectiveness of the 1970 census for general state and local governmental purposes.

[Acts 1971, 62nd Leg., p. 945, ch. 157, eff. May 11, 1971.]

Art. 974d-16. Validation of Incorporation, Boundary Lines and Governmental Proceedings; Cities and Towns of 1,500 to 1,800

Sec. 1. All cities and towns in Texas of more than one thousand five hundred (1,500) and less than one thousand eight hundred (1,800) inhabitants, heretofore incorporated or attempted to be incorporated under the general laws of Texas, under the Commission form of government, and which have functioned as incorporated cities and towns since the date of such incorporation, and where there was an overlapping of territory with another city or town at the time of such incorporation and which overlapping of territory has been corrected by an ordinance of either of such cities or towns, are hereby in all respects validated, as of the date of such incorporation or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid on account of such overlapping of territory at the time of such original incorporation.

Sec. 2. That the boundary lines of all such cities and towns, including both the boundary lines covered by the original incorporation proceedings, as corrected by such city ordinance, or by any subsequent extension thereof, are in all things validated.

Sec. 3. All governmental proceedings performed by the governing bodies of such cities and towns and all officers thereof since their incorporation, or attempted incorporation, are hereby in all respects validated as of the respective date of such proceedings.

[Acts 1971, 62nd Leg., p. 2581, ch. 846, eff. Aug. 30, 1971.]

Art. 974d-17. Validation of Incorporation, Boundary Lines and Governmental Proceedings; Exceptions; Cities and Towns of 300 to 750

Sec. 1. All cities and towns in this state with not more than 750 inhabitants, nor less than 300 inhabitants, heretofore incorporated or attempted to be incorporated under the General Laws of Texas, whether under the aldermanic form of government or the commission form of government, and which have functioned as incorporated cities and towns since the date of such incorporation or attempted incorporation, are hereby in all respects validated as of the date of such incorporation or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or other incorporation proceedings may not have been in accordance with law.

Sec. 2. The boundary lines of all such cities and towns, including both the boundary lines covered by the original incorporation proceedings and by any subsequent extension thereof, are hereby in all things validated.

Sec. 3. All governmental proceedings performed by the governing bodies of such cities and towns

and all officers thereof since their incorporation, or attempted incorporation, are hereby in all respects validated as of the respective date of such proceedings.

Sec. 4. The provisions of this Act shall not apply to any city or town now involved in litigation questioning the legality of the incorporation.

[Acts 1971, 62nd Leg., p. 2941, ch. 972, eff. June 15, 1971.]

Art. 974d-18. Validation of Incorporation, Boundary Lines and Governmental Proceedings; Cities and Towns of 1,000 or Less

Sec. 1. All cities and towns in Texas of 1,000 inhabitants or less, heretofore incorporated, or attempted to be incorporated under the terms and provisions of the general laws of the State of Texas under the aldermanic form of government, and which are now functioning or attempting to function as incorporated cities or towns, are hereby in all respects validated as of the date of such incorporation, or attempted incorporation; and the incorporation of those cities and towns shall not be held invalid by reason of the fact that the election proceedings or other incorporation proceedings may not have been in accordance with law, or by reason of a failure to properly define the limits of the city or town.

Sec. 2. The areas and boundary lines of all cities and towns affected by this Act, including both the boundary lines covered by the original incorporation proceedings and by any subsequent extension thereof are in all things validated, and the incorporation of the cities and towns or any subsequent extension of the corporate limits of the cities and towns shall not be held invalid because of the inclusion in the limits of more territory than is expressly authorized in Article 971 of the Revised Civil Statutes of the State of Texas of 1925.

Sec. 3. All governmental proceedings and acts performed by the governing bodies of such cities and towns and all officers thereof since their incorporation, or attempted incorporation, are hereby in all respects validated as of the respective date of the proceedings and acts.

Sec. 4. The provisions of this Act shall not apply to any city or town now involved in quo warranto questioning the legality of the incorporation or extension of boundaries or any of the acts or proceedings hereby validated if such litigation is ultimately determined against the legality thereof.

Sec. 5. If any word, phrase, clause, sentence, paragraph, or provision of this Act is declared unconstitutional, it is the intention of the legislature that the remaining provisions thereof shall be effective, and that such remaining portions shall remain in full force and effect.

[Acts 1973, 63rd Leg., p. 363, ch. 160, eff. May 23, 1973.]

Art. 974d-19. Validation of Incorporation, Boundary Lines and Governmental Proceedings; Exceptions; Cities and Towns Under 10,000

Sec. 1. The incorporation proceedings of all cities and towns in this state with a population of less than 10,000 heretofore incorporated or attempted to be incorporated under the general laws of the State of Texas, whether under the aldermanic or commission form of government, and which have functioned or attempted to function as incorporated cities or towns since the date of such incorporation or attempted incorporation, are hereby in all respects validated as of the date of such incorporation or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or incorporation proceedings may not have been in accordance with law.

Sec. 2. The boundary lines of all such cities and towns, including both the boundary lines covered by the original incorporation proceedings and any subsequent extensions thereof by annexation are hereby in all things validated; provided, however, that no provisions of this Act shall validate any boundary line extended by annexation, which extends into or through the extraterritorial jurisdiction [as that term is defined by the Municipal Annexation Act, as amended (Article 970a, Vernon's Texas Civil Statutes)], of any other city or town.

Sec. 3. All governmental proceedings performed by the governing bodies of all such cities and towns and all officers thereof since their incorporation or attempted incorporation are hereby in all respects validated as of the date of such proceedings.

Sec. 4. The provisions of this Act shall not apply to any city or town incorporated or attempted to be incorporated from and after August 23, 1963, which is situated in whole or in part within the extraterritorial jurisdiction of another city or town, unless consent or permission to incorporate was obtained in the manner prescribed by the Municipal Annexation Act, as amended (Article 970a, Vernon's Texas Civil Statutes).

Sec. 5. The provisions of the Act shall not apply to any city or town now involved in litigation questioning the legality of the incorporation or extension of boundaries or any of the acts or proceedings hereby validated if such litigation is ultimately determined against the legality thereof; nor shall this Act be construed as validating any proceeding which may have been nullified by a final judgment of a court of competent jurisdiction.

[Acts 1973, 63rd Leg., p. 734, ch. 318, eff. Aug. 27, 1973.]

Art. 974d-20. Validation of Consolidation of Certain Cities

Sec. 1. In each instance where an election has heretofore been held in each of two adjoining incorporated cities within the same county in this state on the question of the consolidation or merger of

the two cities under one government, and a majority of the voters of each city who participated in the election voted in favor of the proposition submitted to them, and thereafter the officers of the smaller city turned over to the officers of the larger city the record books and assets of the smaller city and the officers of the larger city entered upon the performance of their duties as officers of the consolidated city, and the consolidated city is now functioning or attempting to function as a validly constituted municipality, the consolidation is hereby validated in all respects as of the date of the consolidation or attempted consolidation. All proceedings involved in the consolidation are hereby validated, and the consolidation shall not be held invalid by reason of the fact that the election proceedings in either or both of the elections may not have been in accordance with law in regard to the prerequisites for ordering the election, the time of holding the election, the wording of the ballot proposition, the registration of the results, or any other procedure.

Sec. 2. All governmental proceedings performed by the governing body and other officers of a consolidated city which is within the terms of this Act are hereby validated as of the date of the proceedings against any claim of invalidity because of any defect in the consolidation proceedings or because of any purported authorization for or utilization of advisory services of former officers of the smaller city during a period following the consolidation.

Sec. 3. This Act does not apply to any proceedings or actions the validity of which is involved in litigation on the effective date of this Act if such litigation is ultimately determined against the validity thereof; nor does it apply to any proceedings which may have been nullified by a final judgment of a court of competent jurisdiction before the effective date.

[Acts 1975, 64th Leg., p. 373, ch. 164, eff. May 8, 1975.]

Art. 974d-21. Validation of Incorporation, Boundary Lines and Governmental Proceedings; Exceptions

Sec. 1. The incorporation proceedings of all cities and towns incorporated or attempted to be incorporated under the general laws before the effective date of this Act, which have functioned or attempted to function as incorporated cities or towns since their incorporation or attempted incorporation, are validated in all respects as of the date of the incorporation or attempted incorporation. The incorporation proceedings may not be held invalid because they were not performed in accordance with law.

Sec. 2. The boundary lines of the cities and towns, including any extensions by annexation before June 3, 1975, are validated in all respects, except that the incorporation in or extension of a boundary line by annexation into the extraterritorial jurisdiction of another city or town, in violation of

the Municipal Annexation Act, as amended (Article 970a, Vernon's Texas Civil Statutes), is not validated by this Act.

Sec. 3. All governmental proceedings performed by the governing bodies of the cities and towns since their incorporation are validated in all respects as of the date of the proceedings.

Sec. 4. The provisions of this Act shall not apply to any city or town now involved in litigation questioning any of the acts or proceedings, other than incorporation proceedings or boundary extensions, hereby validated if such litigation is ultimately determined against the legality thereof; nor shall this Act be construed as validating any proceeding which may have been nullified by a final judgment of a court of competent jurisdiction.

[Acts 1975, 64th Leg., p. 1848, ch. 576, eff. Sept. 1, 1975.]

Art. 974d-22. Validation of Incorporation, Charters and Amendments of Cities over 5,000; Boundary Lines; Governmental Proceedings; Revenue Bonds; Exceptions

Sec. 1. The incorporation proceedings of cities and towns (including home-rule cities) heretofore incorporated or attempted to be incorporated under the general laws of the State of Texas, and which have functioned or attempted to function as incorporated cities or towns since the date of such incorporation or attempted incorporation, are hereby in all respects validated as of the date of such incorporation or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or incorporation proceedings may not have been in accordance with law.

Sec. 2. That each charter, and amendment to a charter adopted by any city of more than 5,000 inhabitants in this state, or where such city has amended or attempted to amend or adopt such charter, since the enactment of Chapter 147, Acts of the Regular Session of the 33rd Legislature of the State of Texas, 1913, and as thereafter amended, relating to home rule, and all of the amendments and proceedings had under same, and that all bonds issued under any amendment where said bonds issued under any amendment have been approved by the attorney general and registered with the comptroller of public accounts are hereby fully validated, ratified, and confirmed and are hereby declared to be in full force and effect as is adopted in strict compliance with all of the requirements of said Chapter 147, Acts of the 33rd Legislature, and as thereafter amended, and the general laws of Texas relating thereto.

Sec. 3. The boundary lines of all such cities and towns, including both the boundary lines covered by the original incorporation proceedings and any subsequent extensions thereof, are hereby in all things validated.

Sec. 4. All governmental proceedings performed by the governing bodies of all such cities and towns and all officers thereof since their incorporation or attempted incorporation are hereby in all respects validated as of the date of such proceedings.

Sec. 5. Where any city in the state which operated under the general law or pursuant to a home-rule charter has heretofore at an election submitted to the qualified electors who own taxable property in said city and who have duly rendered the same for taxation propositions for the issuance of the bonds of such city for the purposes stated in such propositions, such bonds being payable from the revenues stated in such proposition or payable from ad valorem taxes to be levied therefor, and such propositions having carried by the vote of a majority of the persons voting in such election, all of the proceedings heretofore had by such city, including all proceedings had and acts done in connection with the calling and holding of the election, despite any failure or failures in such proceedings to comply with the pertinent statutes and all proceedings heretofore had by any such city to authorize the issuance of revenue bonds under the provisions of Section 11 of Article 2368a, Vernon's Texas Civil Statutes (irrespective of the location of the improvements to be constructed or acquired with bond proceeds), are hereby ratified, validated, and confirmed. The governing body of each such city is authorized to adopt all proceedings necessary or desirable to complete the issuance of such bonds. All of such proceedings relating to the authorization of bonds shall be submitted to the Attorney General of Texas, and when such bonds have been or are hereafter approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts, they shall be incontestable.

Sec. 6. The provisions of this Act shall not apply to any city or town now involved in litigation questioning the legality of the incorporation or extension of boundaries or any of the acts or proceedings hereby validated if such litigation is ultimately determined against the legality thereof; nor shall this Act be construed as validating any proceeding which may have been nullified by a final judgment of a court of competent jurisdiction.

[Acts 1975, 64th Leg., p. 1897, ch. 605, eff. Sept. 1, 1975.]

Art. 974d-23. Validation of Consolidation and Governmental Proceedings of Certain Cities

Sec. 1. In each instance where an election has heretofore been held in each of two incorporated cities adjoining at a place within the same county in this state on the question of the consolidation or merger of the two cities under one government, and a majority of the voters in each city who participated in the election voted in favor of the proposition submitted to them, and thereafter the officers of the smaller city turned over to the officers of the larger city the record books and assets of the smaller city and the officers of the larger city entered

upon the performance of their duties as officers of the consolidated city, and the consolidated city is now functioning or attempting to function as a validly constituted municipality, the consolidation is hereby validated in all respects as of the date of the consolidation or attempted consolidation. All proceedings involved in the consolidation are hereby validated, and the consolidation shall not be held invalid by reason of the fact that the election proceedings in either or both of the elections may not have been in accordance with law in regard to the prerequisites for ordering the election, the time of holding the election, the wording of the ballot proposition, the registration of the results, or any other procedure.

Sec. 2. All governmental proceedings performed by the governing body and other officers of a consolidated city which is within the terms of this Act are hereby validated as of the date of the proceedings against any claim of invalidity because of any defect in the consolidation proceedings or because of any purported authorization for or utilization of advisory services of former officers of the smaller city during a period following the consolidation.

Sec. 3. Nothing in this Act shall relieve the consolidated city from legal claims or actions which may have existed against the smaller city prior to consolidation.

Sec. 4. This Act does not apply to any proceedings or actions the validity of which is involved in litigation on the effective date of this Act if such litigation is ultimately determined against the validity thereof, nor does it apply to any proceedings which may have been nullified by a final judgment of a court of competent jurisdiction before the effective date.

[Acts 1977, 65th Leg., p. 1010, ch. 374, eff. June 10, 1977.]

Art. 974d-24. Validation of Annexations and Other Proceedings of Municipalities of 20,000 or Less

Sec. 1. This Act applies only to incorporated cities, towns, or villages operating under general law or under a home-rule charter and having a population of 20,000 or less, according to the last preceding federal census.

Sec. 2. In any case where a city, town, or village covered by this Act extended its boundaries by annexing adjacent territory, the annexation and boundary lines and all related proceedings are validated, without regard to any procedural irregularity that may have occurred. All governmental acts and proceedings of the city, town, or village since the annexation are validated.

Sec. 3. This Act does not apply to any matter that on the effective date of this Act:

(1) is involved in litigation, if the litigation ultimately results in the matter being held invalid; or

(2) has been held invalid by a final judgment of a court of competent jurisdiction.

[Acts 1977, 65th Leg., p. 1229, ch. 475, eff. Aug. 29, 1977.]

Art. 974d-25. Validation of Boundary Actions of Cities within Counties of 1,000,000 or More

Sec. 1. This Act shall apply to all incorporated cities and towns within the boundaries of any county of this state with a population of 1,000,000 persons or more, according to the last preceding federal census.

Sec. 2. All elections, election orders, election proceedings, ordinances, resolutions, petitions, and agreed court judgments heretofore held, ordered, enacted, or completed involving annexation or the relinquishment of extraterritorial jurisdiction by cities within counties having a population of 1,000,000 persons or more, according to the last preceding federal census, are hereby in all things fully validated, confirmed, and approved, regardless of any irregularities or omissions in such ordinances, petitions, resolutions, elections, or other proceedings.

Sec. 3. The ordinances of all cities and towns in the class described in Section 1 of this Act fixing and prescribing the corporate limits extended by the annexation or attempted annexation of adjacent territory are hereby validated and confirmed.

Sec. 4. The boundary lines of all cities and towns within the classification described in Section 1 of this Act, including both the boundary lines covered by the original incorporation proceedings and any subsequent extensions thereof, are hereby in all things validated.

Sec. 5. The provisions of this Act shall not apply to any city or town now involved in litigation questioning the legality of the incorporation or extension of boundaries hereby validated if such litigation is ultimately determined against the legality thereof; nor shall this Act be construed as validating any proceedings which may have been nullified by a final judgment of a court of competent jurisdiction.

[Acts 1977, 65th Leg., p. 1882, ch. 748, eff. June 16, 1977.]

Art. 974d-26. Validation of Incorporation, Boundary Lines and Governmental Proceedings; Exceptions

Sec. 1. The incorporation proceedings of all cities and towns incorporated or attempted to be incorporated under the general laws before the effective date of this Act, which have functioned or attempted to function as incorporated cities or towns since their incorporation or attempted incorporation, are validated in all respects as of the date of the incorporation or attempted incorporation. The incorporation proceedings may not be held invalid because they were not performed in accordance with law.

Sec. 2. The boundary lines of such cities and towns, including any subsequent extensions of such

boundaries by annexation, and the reduction or contraction of such boundaries by the discontinuation and disannexation of territory are validated in all respects, except that the extension of a boundary line by annexation into the extraterritorial jurisdiction of another city or town or the incorporation of a city or town in the extraterritorial jurisdiction of another city or town without that city's or town's consent, in violation of the Municipal Annexation Act, as amended (Article 970a, Vernon's Texas Civil Statutes), is not validated by this Act.

Sec. 3. All governmental proceedings performed by the governing bodies of the cities and towns since their incorporation including annexations, disannexations, and apportionment of extraterritorial jurisdiction and notices and attempted notices required therefor are validated in all respects as of the date of the proceedings.

Sec. 4. This Act does not apply to any matter involved in litigation on the date this Act takes effect if the litigation ultimately results against the legality of the matter. This Act does not apply to any matter that has been nullified by a final judgment of a court of competent jurisdiction.

[Acts 1977, 65th Leg., p. 2075, ch. 826, eff. Aug. 29, 1977.]

Art. 974d-27. Validation of Assumption of Municipal Control of Certain Schools

Sec. 1. If an incorporated city or town has assumed control of the public free schools within its corporate limits and if that assumption was approved by a majority of the property taxpaying voters of the city or town voting at an election held for that purpose, the election, the assumption, and all governmental acts and proceedings performed in the election and assumption and in governing the municipal school district are validated in all respects as of the date of the act or proceeding. The acts and proceedings may not be held invalid by reason of the fact that they may not have been performed in accordance with law.

Sec. 2. This Act does not apply to any matter involved in litigation on the date this Act takes effect if the litigation is ultimately resolved against the legality of the matter. This Act does not apply to any matter that has been nullified by a final judgment of a court of competent jurisdiction.

[Acts 1977, 65th Leg., p. 2081, ch. 831, eff. June 16, 1977.]

Art. 974d-28. Validation of Incorporation and Boundary Lines; Exceptions

Purpose; Construction of Act

Sec. 1. This Act is to protect the public interest in confirmed and dependable boundaries and jurisdictions of municipalities. It shall be given the most comprehensive and liberal construction possible to achieve its remedial purpose.

Applicability

Sec. 2. This Act applies to any city, town, or village that incorporated or attempted to incorporate under general law before January 1, 1975, and that has functioned or attempted to function as an incorporated municipality since the date of the incorporation or attempted incorporation, including such a municipality that has adopted a home-rule charter.

Incorporation Proceedings

Sec. 3. The incorporation proceedings of each municipality covered by this Act are validated in all respects as of the date on which they occurred. The proceedings may not be held invalid because the election or other proceedings related to the incorporation were not in accordance with law.

Boundary Lines

Sec. 4. (a) The original boundary lines of each municipality covered by this Act and any extension of those boundaries adopted before January 1, 1975, are validated in all respects, even though the action adopting the original boundaries or an extension of them was not in accordance with law.

(b) Without limiting the generality of Subsection (a) of this section, it is expressly provided that an attempted annexation that occurred before January 1, 1975, may not be held invalid because it did not comply with the Municipal Annexation Act, as amended (Article 970a, Vernon's Texas Civil Statutes), or any other applicable law, or because the territory the municipality attempted to annex was not contiguous or adjacent to the then existing boundaries of the municipality, or because the municipality was not petitioned for annexation by the owners or residents of the annexed territory.

Exceptions

Sec. 5. This Act does not apply to:

(1) any matter that on the effective date of this Act is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court of competent jurisdiction; or

(2) any matter that on the effective date of this Act has been held invalid by a final judgment of a court of competent jurisdiction.

[Acts 1979, 66th Leg., p. 1043, ch. 473, eff. Aug. 27, 1979.]

Art. 974d-29. Validation of Incorporation, Boundary Lines and Governmental Proceedings; Cities and Towns of 1,000 or Less

Validation of the Incorporation of Certain Cities and Towns

Sec. 1. If any city or town with a population of 1,000 or less, according to the most recent federal census, that previously incorporated or attempted to incorporate under general law with the aldermanic form of government is now functioning or attempt-

ing to function as an incorporated city or town within three or more counties, its incorporation or attempted incorporation is in all respects validated as of the date that it occurred. The incorporation may not be held invalid because the incorporation election or other incorporation proceedings were not in accordance with law or because of a failure to properly define the limits of the city or town.

Validation of Boundary Lines

Sec. 2. The areas and boundary lines of each city and town covered by this Act, including the boundary lines and any subsequent extension of them, are validated in all respects. The incorporation of the city or town or any subsequent extension of its corporate limits may not be held invalid because of the inclusion in the limits of more territory than is authorized by the Municipal Annexation Act, as amended (Article 970a, Vernon's Texas Civil Statutes).

Validation of Proceedings and Acts

Sec. 3. All governmental proceedings and acts performed since the incorporation or attempted incorporation by the governing bodies or other officers of the cities and towns covered by this Act are in all respects validated as of the date of each proceeding and act.

Quo Warranto Proceedings

Sec. 4. This Act does not apply to any city or town now involved in quo warranto proceedings questioning the legality of its incorporation or extension of boundaries or the legality of any of the acts or proceedings validated by this Act if the litigation is ultimately determined against the legality of the matter.

[Acts 1979, 66th Leg., p. 1191, ch. 579, §§ 1 to 4, eff. June 13, 1979.]

Art. 974d-30. Validation of Incorporation and Boundary Lines; Exceptions

Incorporation Proceedings

Sec. 1. The incorporation proceedings of all cities and towns incorporated or attempted to be incorporated under the general laws before the effective date of this Act, which have functioned or attempted to function as incorporated cities or towns since their incorporation or attempted incorporation, are validated in all respects as of the date of the incorporation or attempted incorporation. The incorporation proceedings may not be held invalid because they were not performed in accordance with law.

Boundaries

Sec. 2. The boundary lines of the cities and towns, including any subsequent extensions of the boundaries by annexation, and the reduction or contraction of the boundaries by the discontinuation and disannexation of territory are validated in all

respects, except that the extension of a boundary line by annexation into the extraterritorial jurisdiction of another city or town or the incorporation of a city or town in the extraterritorial jurisdiction of another city or town without that city's or town's consent, in violation of the Municipal Annexation Act, as amended (Article 970a, Vernon's Texas Civil Statutes), is not validated by this Act.

Pending and Completed Litigation

Sec. 3. This Act does not apply to any matter involved in litigation on the date this Act takes effect if the litigation ultimately results against the legality of the matter. This Act does not apply to any matter that has been nullified by a final judgment of a court of competent jurisdiction.

[Acts 1979, 66th Leg., p. 1897, ch. 767, §§ 1 to 3, eff. June 13, 1979.]

Art. 974d-31. Validation of Consolidation and Governmental Proceedings of Certain Cities and Towns

Application

Sec. 1. This Act applies to any incorporated city or town that before the effective date of this Act consolidated with or attempted to consolidate with another incorporated city or town under the general laws and since the consolidation or attempted consolidation has been included as part of a consolidated city or town functioning or attempting to function as a validly constituted municipality.

Proceedings Validated

Sec. 2. (a) The governmental acts and proceedings of a city or town covered by this Act relating to the consolidation or attempted consolidation of the city or town with another city or town are validated as of the dates they occurred. The acts and proceedings may not be held invalid because they were not performed in accordance with law.

(b) The governmental acts and proceedings of the consolidated city or town since the consolidation are validated as of the dates they occurred.

Effect on Prior Claims

Sec. 3. This Act does not relieve the consolidated city or town from legal claims or actions that may have existed against a participating city or town before consolidation.

Effect on Litigation

Sec. 4. This Act does not apply to any matter that on the effective date of this Act:

(1) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court of competent jurisdiction; or

(2) has been held invalid by a final judgment of a court of competent jurisdiction.

[Acts 1981, 67th Leg., p. 454, ch. 189, eff. Aug. 31, 1981.]

Art. 974d-32. Validation of Incorporation and Governmental Proceedings; Cities and Towns of 200 or More

Incorporation Proceedings

Sec. 1. The incorporation proceedings of all cities and towns having a population of 200 or more, according to the most recent federal census, that incorporated or attempted to incorporate under the general laws of this state before the effective date of this Act (including any municipality that later adopted a home-rule charter) and that have functioned or attempted to function as incorporated cities or towns since their incorporation or attempted incorporation, are validated in all respects as of the date of the incorporation or attempted incorporation. The incorporation proceedings may not be held invalid because they were not performed in accordance with law.

Governmental Proceedings

Sec. 2. All governmental proceedings performed by the governing bodies of such cities and towns since their incorporation are validated in all respects as of the date of the proceedings.

Pending and Completed Litigation

Sec. 3. This Act does not apply to any matter involved in litigation on the date this Act takes effect if the litigation ultimately results against the legality of the matter. This Act does not apply to any matter that has been nullified by a final judgment of a court of competent jurisdiction.

[Acts 1981, 67th Leg., p. 2426, ch. 618, eff. Aug. 31, 1981.]

Art. 974d-33. Validation of Incorporation, Boundary Lines, and Governmental Proceedings; Exceptions

Incorporation Proceedings

Sec. 1. The incorporation proceedings of all cities and towns initially incorporated or attempted to be incorporated under the general laws after 1950, which have functioned or attempted to function as incorporated cities or towns since their incorporation or attempted incorporation, are validated in all respects as of the date of the incorporation or attempted incorporation. The incorporation proceedings may not be held invalid because they were not performed in accordance with law.

Boundaries

Sec. 2. The boundary lines of such cities and towns, including any subsequent extensions of the boundaries by annexation, and the reduction or contraction of the boundaries by the discontinuation and disannexation of territory are validated in all respects, except that the extension of a boundary

line by annexation into the extraterritorial jurisdiction of another city or town or the incorporation of a city or town in the extraterritorial jurisdiction of another city or town without that city's or town's consent, in violation of the Municipal Annexation Act, as amended (Article 970a, Vernon's Texas Civil Statutes), is not validated by this Act.

Governmental Proceedings

Sec. 3. All governmental proceedings performed by the governing bodies of such cities and towns since their incorporation are validated in all respects as of the date of the proceedings.

Pending and Completed Litigation

Sec. 4. This Act does not apply to any matter involved in litigation on the date this Act takes effect if the litigation ultimately results against the legality of the matter. This Act does not apply to any matter that has been nullified by a final judgment of a court of competent jurisdiction nor any matter which occurred after May 23, 1980.

[Acts 1981, 67th Leg., p. 2694, ch. 732, eff. June 16, 1981.]

Art. 974d-34. Validation of Annexation and Governmental Proceedings; Cities, Towns, and Villages of 200 or More

Application

Sec. 1. This Act applies to any incorporated city, town, or village having a population of 200 or more, according to the most recent federal census, that annexed or attempted to annex territory before January 1, 1983.

Proceedings Validated

Sec. 2. (a) Except as provided by Subsection (c) of this section, the governmental acts and proceedings of a city, town, or village covered by this Act relating to the annexation or attempted annexation of territory by the city, town, or village are validated as of the dates they occurred. The acts and proceedings may not be held invalid because they were not performed in accordance with law.

(b) The governmental acts and proceedings of the city, town, or village occurring since the annexation and before the effective date of this Act are validated as of the dates they occurred.

(c) This Act does not validate governmental acts or proceedings relating to a city's, town's, or village's annexation or attempted annexation of:

(1) territory in the extraterritorial jurisdiction of another city, town, or village without the consent of that city, town, or village in violation of the Municipal Annexation Act (Article 970a, Vernon's Texas Civil Statutes); or

(2) an area extending from the coastline into the Gulf of Mexico.

Effect on Litigation

Sec. 3. This Act does not apply to any matter that on the effective date of this Act:

(1) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court of competent jurisdiction; or

(2) has been held invalid by a final judgment of a court of competent jurisdiction.

[Acts 1983, 68th Leg., p. 4815, ch. 848, eff. June 19, 1983.]

Art. 974d-35. Validation of Incorporation and Governmental Proceedings; Cities and Towns of 5,000 or Less

Incorporation Proceedings

Sec. 1. The incorporation proceedings of all cities and towns having a population of 5,000 or less, according to the most recent federal census, that incorporated or attempted to incorporate under the general laws of this state before the effective date of this Act (including any municipality that later adopted a home-rule charter) and that have functioned or attempted to function as incorporated cities or towns since their incorporation or attempted incorporation, are validated in all respects as of the date of the incorporation or attempted incorporation. The incorporation proceedings may not be held invalid because they were not performed in accordance with law.

Governmental Proceedings

Sec. 2. All governmental proceedings performed by the governing bodies of such cities and towns since their incorporation are validated in all respects as of the date of the proceedings.

Pending and Completed Litigation

Sec. 3. This Act does not apply to any matter involved in litigation on the date this Act takes effect if the litigation ultimately results against the legality of the matter. This Act does not apply to any matter that has been nullified by a final judgment of a court of competent jurisdiction.

[Acts 1983, 68th Leg., p. 5198, ch. 945, eff. Aug. 29, 1983.]

Art. 974e. Procedure for Annexation of Unoccupied Lands to Cities or Towns of 4,190 to 4,250 Population

Sec. 1. The owner or owners of any land and/or territory, which is vacant and without residents, contiguous and adjacent to any city in this State having a population of not less than four thousand one hundred and ninety (4,190) inhabitants, and not more than four thousand two hundred and fifty (4,250) inhabitants, according to the last preceding Federal Census, may by petition in writing to the governing body of such city request the annexation of such contiguous and adjacent land and territory, describing the same by metes and bounds. The governing body of such city or town shall thereaft-

er, and not less than five and not more than thirty days after the filing of such petition, hear such petition and the arguments for and against the same, and grant or refuse such petition as such governing body may see fit. If such governing body shall grant such petition, the said governing body by proper ordinance may receive and annex such territory as a part of said city. Thereafter the territory so received and annexed shall become a part of said city, and the said land and any future inhabitants thereof shall be entitled to all the rights and privileges of other citizens of such city; and shall be bound by the acts and ordinances of such city.

Sec. 2. No such petition for annexation of such contiguous and adjacent territory shall be received and acted upon by such governing body of such city unless and until each and every person and corporation having any interest in such land and territory sought to be annexed, shall have executed the petition hereinabove mentioned and duly acknowledged same as provided for acknowledgments for deeds. If such petition shall be granted and the ordinance hereinabove mentioned adopted by such governing body, a certified copy of such ordinance together with a copy or a duplicate of such petition duly acknowledged as required for deeds by each and every person or corporation having an interest in such land, shall be filed in the office of the county clerk of the county in which such city is situated.

[Acts 1937, 45th Leg., p. 1052, ch. 447.]

Art. 974e-1. Procedure for Annexation of Unoccupied Lands to Cities or Towns of 1251 to 1259 Population

Sec. 1. The owner or owners of any land and/or territory, or the Board of Trustees of any school or schools which occupy such territory, which is vacant and without residents, contiguous and adjacent to any city in this State having a population of not less than twelve hundred fifty-one (1251) and not more than twelve hundred fifty-nine (1259) inhabitants, according to the last preceding Federal Census; may by petition in writing to the governing body of such city request the annexation of such contiguous and adjacent land and territory, describing the same by metes and bounds. The governing body of such city or town shall thereafter, and not less than five (5) and not more than thirty (30) days after the filing of such petition, hear such petition and the arguments for and against the same, and grant or refuse such petition as such governing body may see fit. If such governing body shall grant such petition, the said governing body by proper ordinance may receive and annex such territory as a part of said city. Thereafter the territory so received and annexed shall become a part of said city, and the said land and any future inhabitants thereof shall be entitled to all the rights and privileges of other citizens of such city; and shall be bound by the acts and ordinances of such city.

Sec. 2. No such petition for annexation of such contiguous and adjacent territory shall be received and acted upon by such governing body of such city unless and until each and every person and corporation having any interest in such land and territory sought to be annexed, shall have executed the petition hereinabove mentioned and duly acknowledged same as provided for acknowledgments of deeds. If such petition shall be granted and the ordinance hereinabove mentioned adopted by such governing body, a certified copy of such ordinance together with a copy or a duplicate of such petition duly acknowledged as required for deeds by each and every person or corporation having an interest in such land, shall be filed in the office of the county clerk of the county in which such city is situated. [Acts 1939, 46th Leg., Spec.L., p. 519.]

Art. 974e-2. Procedure for Annexation of Unoccupied Lands to Cities of 20,520 to 20,540 Population

Sec. 1. The owner or owners of any land and/or territory, or the Board of Directors of any University or College, which occupies such territory, which is vacant and without residents contiguous and adjacent to any city in this State having a population of not less than twenty thousand five hundred and twenty (20,520) nor more than twenty thousand five hundred and forty (20,540) inhabitants, according to the last preceding Federal Census, may by petition in writing to the governing body of such city request the annexation of such contiguous and adjacent land and territory, describing the same by metes and bounds. The governing body of such city or town shall thereafter, and not less than five (5) and not more than thirty (30) days after the filing of such petition, hear such petition and the arguments for and against the same, and grant or refuse such petition as such governing body may see fit. If such governing body shall grant such petition, the said governing body by proper ordinance may receive and annex such territory as a part of said city. Thereafter the territory so received and annexed shall become a part of said city, and the said land and any future inhabitants thereof shall be entitled to all the rights and privileges of other citizens of such city; and shall be bound by the acts and ordinance of such city.

Sec. 2. No such petition for annexation of such contiguous and adjacent territory shall be received and acted upon by such governing body of such city unless and until each and every person and corporation having any interest in such land and territory sought to be annexed, shall have executed the petition hereinabove mentioned and duly acknowledged same as provided for acknowledgments of deeds. If such petition shall be granted and the ordinance hereinabove mentioned adopted by such governing body, a certified copy of such ordinance together with a copy or a duplicate of such petition duly acknowledged as required for deeds by each and every person or corporation having an interest in

such land, shall be filed in the office of the county clerk of the county in which such city is situated. [Acts 1939, 46th Leg., Spec.L., p. 520.]

Art. 974e-3. Procedure for Annexation of Unoccupied Lands to Cities of 14,100 to 14,950 Population

Sec. 1. The owner or owners of any land or territory, which is vacant and without residents, contiguous and adjacent to any city in this State having a population of not less than fourteen thousand, one hundred (14,100) inhabitants and not more than fourteen thousand, nine hundred and fifty (14,950) inhabitants, according to the Federal Census last preceding the exercise of the power herein granted, may by petition in writing to the governing body of such city request the annexation of such contiguous and adjacent land and territory, describing the same by metes and bounds. The governing body of such city or town shall thereafter, not less than five (5) and not more than thirty (30) days after the filing of such petition, hear such petition and the arguments for and against the same and grant or refuse such petition as such governing body may see fit. If such governing body shall grant such petition the said governing body by proper ordinance may receive and annex such territory as a part of said city. Thereafter the territory so received and annexed shall become a part of said city, and the said land and any future inhabitants thereof shall be entitled to all the rights and privileges of other citizens of such city, and shall be bound by the acts and ordinances of such city.

Sec. 2. No such petition for annexation of such contiguous and adjacent territory shall be received and acted upon by such governing body of such city unless and until each and every person and corporation owning each part of such land and territory sought to be annexed shall have executed the petition hereinabove mentioned and duly acknowledged same as provided for acknowledgments for deeds. If such petition shall be granted and the ordinance hereinabove mentioned adopted by such governing body, a certified copy of such ordinance together with a copy or a duplicate of such petition duly acknowledged as required for deeds by the owners of such land shall be filed in the office of the County Clerk of the county in which such city is situated.

[Acts 1941, 47th Leg., p. 423, ch. 252.]

Art. 974e-4. Procedure for Annexation of Unoccupied Lands to Cities of 1,583 to 1,602 Population

Sec. 1. The owner or owners of any land and/or territory, which is vacant and without residents, contiguous and adjacent to any city in this State having a population of not less than one thousand, five hundred and eighty-three (1,583) inhabitants and not more than one thousand, six hundred and two (1,602) inhabitants, according to the last preceding Federal Census, may by petition in writing to

the governing body of such city request the annexation of such contiguous and adjacent land and territory, describing the same by metes and bounds. The governing body of such city or town shall thereafter, and not less than five (5) and not more than thirty (30) days after the filing of such petition, hear such petition and the arguments for and against the same, and grant or refuse such petition as such governing body may see fit. If such governing body shall grant such petition, the said governing body by proper ordinance may receive and annex such territory as a part of said city. Thereafter the territory so received and annexed shall become a part of said city, and the said land and any future inhabitants thereof shall be entitled to all the rights and privileges of other citizens of such city; and shall be bound by the acts and ordinances of such city.

Sec. 2. No such petition for annexation of such contiguous and adjacent territory shall be received and acted upon by such governing body of such city unless and until each and every owner of such land and territory sought to be annexed shall have executed the petition hereinabove mentioned and duly acknowledged same as provided for acknowledgments for deeds. If such petition shall be granted and the ordinance hereinabove mentioned adopted by such governing body, a certified copy of such ordinance together with a copy or a duplicate of such petition duly acknowledged as required for deeds by each and every owner of such land, shall be filed in the office of the County Clerk of the county in which such city is situated.

[Acts 1941, 47th Leg., p. 432, ch. 264.]

Art. 974e-5. Procedure for Annexation of Unoccupied Lands to Cities or Towns of 900 to 920 Population

Sec. 1. The owner or owners of any land and/or territory, or the Board of Trustees of any public school, which occupies such territory, which is vacant and without residents contiguous and adjacent to any city, in this State having a population of not less than nine hundred (900) nor more than nine hundred and twenty (920) inhabitants, according to the last preceding Federal Census, may by petition in writing to the governing body of such city request the annexation of such contiguous and adjacent land and territory, describing the same by metes and bounds. The governing body of such city or town shall thereafter, and not less than five (5) and not more than thirty (30) days after the filing of such petition, hear such petition and the arguments for and against the same, and grant or refuse such petition as such governing body may see fit. If such governing body shall grant such petition, the said governing body by proper ordinance may receive and annex such territory as a part of said city. Thereafter the territory so received and annexed shall become a part of said city, and the said land and any future inhabitants thereof shall be entitled to all the rights and privileges of

other citizens of such city; and shall be bound by the acts and ordinance of such city.

Sec. 2. No such petition for annexation of such contiguous and adjacent territory shall be received and acted upon by such governing body of such city unless and until each and every person and corporation having any interest in such land and territory sought to be annexed, shall have executed the petition hereinabove mentioned and duly acknowledged same as provided for acknowledgments of deeds. If such petition shall be granted and the ordinance hereinabove mentioned adopted by such governing body, a certified copy of such ordinance together with a copy or a duplicate of such petition duly acknowledged as required for deeds by each and every person or corporation having interest in such land, shall be filed in the office of the County Clerk of the county in which such city is situated.

[Acts 1941, 47th Leg., p. 1417, ch. 650.]

Art. 974e-6. Procedure for Annexation of Unoccupied Lands to Cities of 3,944 to 3,964

Sec. 1. The owner or owners of any land and/or territory, or the Board of Trustees of any public school, which occupies such territory, which is vacant and without residents, contiguous and adjacent to any city in this state having a population of not less than three thousand nine hundred and forty-four (3,944) nor more than three thousand nine hundred and sixty-four (3,964) inhabitants, according to the last preceding Federal Census, may by petition in writing to the governing body of such city request the annexation of such contiguous and adjacent land and territory, describing the same by metes and bounds. The governing body of such city or town shall thereafter, and not less than five (5) and not more than thirty (30) days after the filing of such petition, hear such petition and the arguments for and against the same, and grant or refuse such petition as such governing body may see fit. If such governing body shall grant such petition, the said governing body by proper ordinance may receive and annex such territory as a part of said city. Thereafter the territory so received and annexed shall become a part of said city, and the said land and any future inhabitants thereof shall be entitled to all the rights and privileges of other citizens of such city; and shall be bound by the acts and ordinance of such city.

Sec. 2. No such petition for annexation of such contiguous and adjacent territory shall be received and acted upon by such governing body of such city unless and until each and every person and corporation having any interest in such land and territory sought to be annexed, shall have executed the petition hereinabove mentioned and duly acknowledged same as provided for acknowledgments of deeds. If such petition shall be granted and the ordinance hereinabove mentioned adopted by such governing body, a certified copy of such ordinance together with a copy or a duplicate of such petition duly

acknowledged as required for deeds by each and every person or corporation having interest in such land, shall be filed in the office of the County Clerk of the county in which such city is situated.

[Acts 1945, 49th Leg., p. 147, ch. 97.]

Art. 974e-7. Annexation of Vacant Land to City of 2,315 to 2,400

Sec. 1. The owner or owners of any land and/or territory, which is vacant and without residents, contiguous and adjacent to any city in this State having a population of not less than two thousand, three hundred and fifteen (2,315) inhabitants, and not more than two thousand, four hundred (2,400) inhabitants, according to the last preceding Federal Census, may by petition in writing to the governing body of such city request the annexation of such contiguous and adjacent land and territory, describing the same by metes and bounds. The governing body of such city or town shall thereafter, and not less than five (5) and not more than thirty (30) days after the filing of such petition, hear such petition and the arguments for and against the same, and grant or refuse such petition as such governing body may see fit. If such governing body shall grant such petition, the said governing body by proper ordinance may receive and annex such territory as a part of said city. Thereafter the territory so received and annexed shall become a part of said city, and the said land and any future inhabitants thereof shall be entitled to all the rights and privileges of other citizens of such city, and shall be bound by the acts and ordinances of such city.

Sec. 2. No such petition for annexation of such contiguous and adjacent territory shall be received and acted upon by such governing body of such city unless and until each and every person and corporation having any interest in such land and territory sought to be annexed, shall have executed the petition hereinabove mentioned and duly acknowledged same as provided for acknowledgments for deeds. If such petition shall be granted and the ordinance hereinabove mentioned adopted by such governing body, a certified copy of such ordinance together with a copy or a duplicate of such petition duly acknowledged as required for deeds by each and every person or corporation having an interest in such land, shall be filed in the office of the county clerk of the county in which such city is situated.

[Acts 1949, 51st Leg., p. 584, ch. 313.]

Art. 974e-8. Annexation of Levee Improvement District; Effect; Contracts

Sec. 1. Any city, including Home Rule cities and those operating under General Laws or special charters, having a population in excess of four hundred twenty-five thousand (425,000) according to the last preceding Federal Census, which has heretofore annexed or may hereafter annex all of the territory within a levee improvement district organized under the laws of the State of Texas, shall take over the properties and assets and shall assume all debts,

liabilities and obligations and perform all functions and services of such district, and such district shall be abolished. No abolishment of such levee improvement district shall affect or impair any existing contracts by and between such levee improvement district and any flood control district or other governmental agency for operation or maintenance of levees or other flood control works, but the city shall assume the rights and obligations of the levee improvement district under such contract or contracts. In the event of annexation of the whole district, and the taking over of the assets and liabilities of such a district, the annexing city shall have the power and authority to refund, in whole or in part, any outstanding bonded indebtedness and provide for a sufficient sinking fund to meet the refunding bonds if any are issued.

When less than all of the territory within any such district is so annexed, the governing authorities of such city and district shall be authorized to enter into contracts in regard to the division and allocation of duplicate and overlapping powers, functions and duties between such agencies, and in regard to the use, management, control, purchase, conveyance, assumption and disposition of the properties, assets, debts, liabilities and obligations of such district; provided, however, that the amount of taxes levied by the levee improvement district against any parcel of real estate hereafter so annexed shall be credited against any ad valorem taxes levied against such parcel of real estate by the city. Any such district is expressly authorized to enter into agreements with such city for the operation of the district's utility systems and other properties by such city, and may provide for the transfer, conveyance or sale of such systems and properties of whatever kind and wherever situated (including properties outside the city) to such city upon such terms and conditions as may be mutually agreed upon by and between the governing bodies of such district and city. Such operating contracts may extend for such period of time not exceeding thirty (30) years as may be stipulated therein and shall be subject to amendment, renewal or termination by mutual consent of such governing bodies. No such contract shall contain any provision impairing the obligation of any existing contract of such city or district.

In the absence of such contract, the district shall be authorized to continue to exercise all the powers and functions and be required to discharge such duties and obligations granted to it, or imposed upon it, by law, wholly unaffected by the annexation. The annexing city shall not be required or be obligated to perform any drainage functions in the district; provided however, that the city may, with the consent of the district, construct and maintain drainage facilities therein consistent with the plan of reclamation of such district. The city may, however, perform all other municipal functions which it is authorized to perform and in which the district is not engaged, nor authorized to perform.

Sec. 2. If any clause, phrase, sentence, paragraph, section or provision of this Act, or the application thereof to any particular person or thing, is held to be invalid, such invalidity shall not affect the remainder of this Act or the application thereof to any other person or thing.

[Acts 1951, 52nd Leg., p. 561, ch. 326.]

Art. 974f. Annexation of Streets, Highways and Alleys by Cities and Towns of 1245 to 1260; Procedure

All cities and towns within the State of Texas, having a population of not less than twelve hundred and forty-five (1245) and not more than twelve hundred and sixty (1260), according to the last preceding census, may, by ordinance duly passed and enacted by the governing bodies of such cities and towns, after the same shall have been advertised as provided by Article 1013 of the Revised Civil Statutes of 1925, annex streets, highways, and alleys adjacent to the city limits of such cities and towns, and incorporate such highways, streets, and alleys within the corporate limits of such cities and towns.

[Acts 1941, 47th Leg., p. 1417, ch. 649, § 1.]

Art. 974f-1. Annexation of Streets, Highways, and Alleys by Cities of 17,850 to 17,900

Sec. 1. Any city incorporated and operating under the general laws of this State, having not less than 17,850 inhabitants nor more than 17,900 inhabitants according to the last preceding federal census may, by ordinance duly passed and enacted by its governing body, annex streets, highways, and alleys contiguous and adjacent to the city limits, and incorporate such streets, highways, and alleys within the corporate limits of the city.

Sec. 2. Before the governing body of a city may pass and enact the ordinance described in Section 1 of this Act, the governing body must advertise the ordinance as provided by Article 1013, Revised Civil Statutes of Texas, 1925, as amended.

[Acts 1967, 60th Leg., p. 107, ch. 51, eff. Aug. 28, 1967. Amended by Acts 1971, 62nd Leg., p. 1840, ch. 542, § 95, eff. Sept. 1, 1971; Acts 1981, 67th Leg., p. 559, ch. 237, § 4, eff. Sept. 1, 1981.]

Art. 974f-2. Annexation of Adjacent Streets, Highways, and Alleys by Cities of 4,350 to 4,375

Sec. 1. Any city incorporated and operating under the general laws of this state, having a population of not less than 4,350 but less than 4,375 according to the last preceding federal census may, by ordinance duly passed and enacted by its governing body, annex streets, highways, and alleys contiguous and adjacent to the city limits, and incorporate those streets, highways, and alleys within the corporate limits of the city.

Sec. 2. Before the governing body of a city may pass and enact the ordinance described in Section 1

of this Act, the governing body must advertise the ordinance as provided by Article 1013, Revised Civil Statutes of Texas, 1925, as amended.

[Acts 1971, 62nd Leg., p. 3068, ch. 1022, eff. June 15, 1971. Amended by Acts 1981, 67th Leg., p. 560, ch. 237, § 5, eff. Sept. 1, 1981.]

Art. 974f-3. Annexation of Adjacent Street, Highway, or Alley by City of Wickett

Sec. 1. The city of Wickett by ordinance may annex a street, highway, or alley adjacent to the city limits.

Sec. 2. Not later than the 10th day before the city enacts an annexation ordinance under Section 1 of this Act, the city shall publish notice of the proposed annexation in a newspaper of general circulation in the city. The notice shall generally describe the street, highway, or alley to be annexed.

[Acts 1981, 67th Leg., p. 2528, ch. 669, eff. June 15, 1981.]

Art. 974g. Annexation by Cities of Territory Occupied by Less Than Three Voters

Sec. 1. The owner or owners of any land or territory, to the extent of one-half (½) mile in width, which is vacant and without residents, or on which less than three (3) qualified voters reside, contiguous and adjacent to any incorporated city or town within this State, may by petition in writing to the governing body of such city or town request the annexation of such contiguous and adjacent land and territory, describing the same by metes and bounds, said petition to be duly acknowledged as required for deeds by each and every person or corporation having an interest in said land. The governing body of such city or town shall thereafter, and not less than five (5) and not more than thirty (30) days after the filing of such petition, hear such petition and the arguments for and against the same, and grant or refuse such petition as such governing body may see fit. If such governing body shall grant such petition, the said governing body by proper ordinance may receive and annex such territory as a part of such city or town. Thereafter the territory so received and annexed shall become a part of such city or town, and the said land and any future inhabitants thereof shall be entitled to all the rights and privileges of other citizens of such city or town, and shall be bound by the acts and ordinances of such city or town. If such petition shall be granted and the ordinance hereinabove mentioned adopted by such governing body, a certified copy of such ordinance together with a copy or a duplicate of such petition shall be filed in the office of the county clerk of the county in which such city or town is situated.

Sec. 2. The provisions of this Act shall be cumulative of all other laws on the subject of annexation of land or territory by incorporated cities and towns in the State.

[Acts 1949, 51st Leg., p. 451, ch. 243. Amended by Acts 1953, 53rd Leg., p. 367, ch. 93, § 1.]

Art. 974g-1. Cities, Towns, and Villages; Power to Annex Navigable Streams

Sec. 1. The governing body of any city, town, or village incorporated and operating under the general laws of this state may by ordinance extend the corporate limits thereof to include therein any navigable stream lying adjacent thereto and within the extraterritorial jurisdiction thereof as determined in accordance with the provisions of the Municipal Annexation Act (Article 970a, Vernon's Texas Civil Statutes).

Sec. 2. In any instance where any such city, town, or village incorporated and operating under the general laws of this state has extended its boundaries by annexing navigable streams lying adjacent thereto and within the extraterritorial jurisdiction thereof as determined in accordance with the provisions of the Municipal Annexation Act, the annexation and boundary lines and all related proceedings are validated, without regard to any procedural irregularity that may have occurred and without regard to any lack of authority on the part of such city, town, or village to annex such navigable stream. All governmental acts and proceedings of said city, town, or village since its annexation are valid.

Sec. 3. The validation contained in Section 2 of this article does not apply to any annexation that on the effective date of this article is involved in litigation and such litigation ultimately results in such annexation being held invalid, or to any annexation that has been held invalid by the final judgment of a court of competent jurisdiction on or before the effective date of this article.

[Acts 1983, 68th Leg., p. 5442, ch. 1019, § 1, eff. Aug. 29, 1983.]

Section 2 of the 1983 Act provides:

"If any word, phrase, clause, sentence, or part of this Act shall be held by any court of competent jurisdiction to be invalid or unconstitutional, or for other reasons void or unconstitutional, it shall not affect any other word, phrase, clause, sentence or part of this Act, and such remaining portions shall remain in full force and effect."

Art. 974g-2. Cities', Towns', and Villages' Power to Annex Gulfward up to 5,280 Feet

The governing body of any city, town, or village incorporated and operating under the general laws of this state and lying adjacent to the coastline of the Gulf of Mexico may by ordinance extend the corporate limits thereof up to 5,280 feet gulfward beyond the coastline, as that term is defined in Section 11.013 of the Natural Resources Code.

[Acts 1983, 68th Leg., p. 5444, ch. 1020, § 1, eff. Sept. 1, 1983.]

Art. 974-1. Annexation by Petition and Election

Territory adjoining the limits of any city having a population greater than 5,000 inhabitants according to the last preceding or any future Federal Census, and operating under the General Laws of Texas,

may become a part of such city in the following manner:

The inhabitants of such territory may petition said city to order an election to be held within such territory for the purpose of voting upon the question of whether such territory shall become a part of such city. Such petition shall contain a metes and bounds description of the territory, which shall not be more than one mile in width, be accompanied by a plat of the territory, and shall be signed by 100, or more, or by a majority, of the qualified electors residing within such territory. Upon the filing of such petition with the City Secretary or City Clerk of such city, the City Council may, by ordinance, order such election so requested. Such ordinance shall specify the day on which such election shall be held, designate the place or places for holding such election, appoint the election officers and prescribe the form of the ballot. Ten days notice of such election shall be given by posting a copy of such ordinance, certified by the City Secretary or City Clerk, in three public places in said territory, and by publishing the same for one time in some newspaper published in such territory or in such city. Such election shall be held in the manner prescribed for general city elections; only qualified electors residing within such territory shall be permitted to vote and the cost of such election shall be paid by such city. Returns of such election shall be made to the City Council of such city, and shall be canvassed and the result of such election declared by the City Council by an order entered in its minutes, which order shall be conclusive of the authority to annex such territory to such city. Should the results of such election show a majority in favor of becoming a part of such city, such City Council may by ordinance receive such territory as a part of such city. Thereafter, the territory so received shall be a part of such city, and the inhabitants thereof shall be entitled to all the rights and privileges of other citizens, and bound by the acts and ordinances made in conformity thereto and passed in pursuance of this title.

[Acts 1949, 51st Leg., p. 363, ch. 187, § 1.]

Art. 974-2. Contest of Annexation Proceeding

To contest the validity of any annexation proceeding had under the provisions of Section 1 of this Act,¹ such contestant shall, within 60 days after the effective date of the ordinance annexing such territory, file with the City Secretary or City Clerk of such city, written notice and a written statement of the grounds on which such contestant relies to sustain such contest. In the event no such contest is filed with the City Secretary or City Clerk in the manner and within the time above stated, it shall be conclusively presumed that said election as held and the results thereof as declared by the City Council or City Commission, are in all respects valid and final and binding upon all courts. The provisions of Chapter 9, Title 50, of the Revised Civil Statutes of the State of Texas of 1925, and amendments there-

to, not in conflict herewith, shall be applicable to all proceedings contesting the validity of any annexation proceeding had under Section 1 hereof, so far as applicable.

[Acts 1949, 51st Leg., p. 363, ch. 187, § 2.]

¹ Article 974-1.

Art. 975. Segregating Territory

Whenever fifty qualified voters of any territory within the limits of any incorporated town shall sign and present a petition to the mayor of such city, praying that such territory, setting the same out by metes and bounds, be declared no longer a part of such town, the mayor thereof shall order an election within thirty days thereafter to be held at the different voting precincts of said town; and if a majority of the legal voters of said town voting at such election cast their votes in favor of discontinuing said territory as a part of said town, the mayor of said city shall declare such territory no longer a part of said city, and shall enter an order to that effect on the minutes or records of the city council; and from and after the date of such order, said territory shall cease to be a part of said town; provided, no city or town shall thus be reduced to a less area than one square mile or one mile in diameter around the center of the original corporate limits.

[Acts 1925, S.B. 84.]

Art. 976. Liable for Debts

Whenever any territory shall withdraw as above provided, and such city or town shall at the time of such withdrawal owe any debts by bond or otherwise, such withdrawing territory shall not be released from the payment of its pro rata of such indebtedness; but it shall be the duty of said city council to continue to levy an ad valorem tax each year on the property of such territory of the same rate as is levied upon other property of such city, until the taxes collected from said territory shall equal its pro rata share of the indebtedness of said city or town at the time of the withdrawal. The taxes so collected shall be charged only with the cost of levying and collecting the same, and the same shall be applied exclusively to the payment of said pro rata share of indebtedness. Nothing herein shall be construed to prevent the inhabitants of said territory from paying in full, at any time, their pro rata share of the indebtedness of said city.

[Acts 1925, S.B. 84.]

Art. 976a. Zoning Ordinances Upon Annexation

Sec. 1. From and after the effective date of this Act, before any municipal corporation or city existing, or which may hereafter come into existence, as provided by Title 28 of the Revised Civil Statutes of this State, and which municipal corporation or city has in effect a comprehensive zoning ordinance as prescribed by the State Statutes, may be annexed to or incorporated into another such municipal corpora-

tion or city, the annexation ordinance or consolidation proceedings combining or incorporating such zoned territory, shall provide for and adopt the identical comprehensive zoning for such zoned territory as same existed prior to any such annexation to or incorporation by another or new municipal corporation. Any attempted annexation or incorporation of such zoned territory without an ordinance adopting the comprehensive zoning as the same existed prior to incorporation of such territory into a larger or another municipal area shall render any such attempted proceedings void. Such zoning ordinance shall be administered and enforced by the governing body within the combined municipal boundaries, as provided by law.

Sec. 2. Repealed by Acts 1977, 65th Leg., p. 2000, ch. 798, § 1, eff. June 16, 1977.

Sec. 3. Nothing in this Act shall be construed so as to permit consolidation or annexation of any such municipal corporation or city without a vote of the people thereof, as now provided by law.

Sec. 4. If any word, clause, sentence or Section of this Act shall be declared invalid, such holding shall not affect any other word, clause, sentence or Section of this Act.

[Acts 1949, 51st Leg., p. 729, ch. 392. Amended by Acts 1977, 65th Leg., p. 2000, ch. 798, § 1, eff. June 16, 1977.]

Art. 976b. Ascertainment of Population; Validation of Acts

All actions of the governing bodies of incorporated cities and towns in this State to ascertain the population of any such city or town which are evidenced by resolution or ordinance entered in its minutes, and all elections, election orders and other proceedings of every nature and kind in any manner dependent upon population affecting any such city or town are in all things ratified and confirmed, regardless of the population of such city or town as shown by the last Federal Census.

[Acts 1949, 51st Leg., p. 963, ch. 530, § 1.]

Art. 976c. Validation of Certain Contracts of Cities of 900,000

Sec. 1. This Act is applicable only to cities (including Home Rule Cities) having a population in excess of 900,000, according to the last preceding Federal Census or any future Federal Census.

Sec. 2. In every instance where the governing body of an incorporated city (including Home Rule Cities) in this State has, prior to the date when this Act becomes effective, entered into contracts involving terms in excess of five (5) years for the use of land or interest in land owned or to be acquired by such city and for the purchase of services related to garbage disposal and for the disposal of garbage on a contract basis and has, prior to the date when this Act becomes effective, adopted orders or ordinances to authorize or ratify execution of such contracts, all such contracts and all proceedings, governmental acts, ordinances, orders, resolutions and other in-

struments thus adopted or executed by or in behalf of the governing body of any such incorporated city (including Home Rule Cities) relating thereto are hereby in all things validated, ratified, confirmed and approved. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify or confirm any contract executed by any city (including Home Rule Cities) the validity of which is involved in litigation at the time this Act becomes effective.

Sec. 3. The Legislature hereby finds and declares that the enactment of this legislation is in fulfillment of the duty conferred upon it by the Constitution of the State of Texas wherein it is required to pass such laws as may be appropriate for the promotion of the health and public welfare of the inhabitants of this State, and that the contracts and proceedings hereby ratified, confirmed and validated and the contracts hereby authorized to be negotiated are for the protection and preservation of the health and public welfare of the inhabitants of this State, and that the matters herein set forth and the subject matter of this legislation are of public convenience, necessity and use, and essential to the accomplishment of such purposes and that this Act therefore operates on a subject in which the State and the public at large are interested and that this legislation is for a public purpose and use and promotes the public interest and welfare of this State.

[Acts 1965, 59th Leg., p. 639, ch. 314, eff. June 1, 1965.]

Acts 1966, 59th Leg., 1st C.S., H.C.R. No. 15, p. 32, provides in part as follows:

"Resolved, That the House of Representatives of the 59th Legislature of Texas, 1st Called Session, the Senate concurring, clarify that the legislative intent in passing House Bill No. 869, Chapter 314, Acts of the Fifty-ninth Legislature, Regular Session, was not to authorize the diversion of bond funds or any other action contrary to the charter and ordinances of the city concerned or of the statutes of the State of Texas, save and except the right to enter contracts for longer than five years' duration."

CHAPTER TWO. OFFICERS AND THEIR ELECTION

- Art.
977. City Officials.
978. Election.
978a. Date of Election in Home Rules Cities.
978b. Joint Elections in Cities and School Districts.
979. Ward Election of Councilmen.
980. Conduct of the Election.
980a. Election of Governing Body on Place System in Cities of 5,960 to 5,970.
980b. Election of Aldermen by Place System in Cities and Towns not Divided into Wards.
981, 982. Repealed.
983. Installation of Officers.
984 to 986. Repealed.
987. Qualifications of Officers.
988. Repealed.
988a. Purchases by City, Town, or County From Cooperative Association of Which Officer is Member.
988b. Actions in Which Local Public Official has Interest.
989. Vacancy or Vacancies.
990. Special Election.

- Art.
991. Mayor Pro Tempore.
992. Change of Wards.

Art. 977. City Officials

The municipal government of the city shall consist of a city council composed of the mayor and two (2) aldermen from each ward, a majority of whom shall constitute a quorum for the transaction of business, except at called meetings, or meetings for the imposition of taxes, when two-thirds ($\frac{2}{3}$) of a full board shall be required, unless otherwise specified, provided that where the city or town is not divided into wards, the city council shall be composed of the mayor and five (5) aldermen, and the provisions of this title relating to proceedings in a ward shall apply to a whole city or town. The above-named officers shall be elected by the qualified electors of the city for a term of two (2) years. Other officers of the corporation shall be a treasurer, an assessor and collector, a secretary, a city attorney, a marshal, a city engineer, and such other officers and agents as the city council may from time to time direct, who may either be appointed or elected as provided by ordinance. The city council may confer the powers and duties of one or more of these offices upon other officers of the city.

[Acts 1925, S.B. 84. Amended by Acts 1949, 51st Leg., p. 375, ch. 199, § 1.]

Art. 978. Election

An election shall be held annually in each ward of said city on the first Saturday in April, at such places as the city council may direct, and of which twenty days' notice shall be given. Such election shall be ordered and notice thereof given, and the election officers and watchers appointed, as provided by the general laws pertaining to elections. The election officers must be qualified voters in the city. The city council shall provide for their compensation.

[Acts 1925, S.B. 84. Amended by Acts 1967, 60th Leg., p. 1930, ch. 723, § 73, eff. Aug. 23, 1967.]

Art. 978a. Date of Election in Home Rule Cities

Sec. 1. The governing body of any Home Rule City is authorized to set the date of election of officers of such city.

Sec. 2. [Designated as art. 978b and amended].

[Acts 1965, 59th Leg., p. 972, ch. 467, eff. Aug. 30, 1965.]

Art. 978b. Joint Elections in Cities and School Districts

Whenever an election of members of the board of school trustees of any school district, all or part of which is located within all or part of the territory of any home rule city or general law city, is to be held on the same day as an election of city officers of such city, the various officers, boards or bodies charged with the duty of appointing the election officers, providing the supplies, canvassing the re-

turns, and paying the expenses of such elections may agree to hold the elections jointly and may agree upon the method for allocating the expenses for the joint election. Resolutions reciting the terms of the agreement shall be adopted by each of the participating boards or bodies. The agreement may provide for use of a single ballot form at each polling place, to contain all the offices to be voted on at that polling place, or for separate ballot forms, provided that all the offices and candidates for each city shall appear on the same ballot and all the offices and candidates for each school district shall appear on the same ballot; provided further, that no voter shall be given a ballot containing the name of any candidate for whom the voter is ineligible to vote. One set of election officers may be appointed to conduct the joint election, and any person otherwise qualified who is a resident of either the city or school district concerned shall be eligible to serve as an election officer. Poll lists, tally sheets, and return forms for the various elections may be combined in any manner convenient and adequate to record and report the results of each election, and one set of ballot boxes and one stub box may be used for receiving all ballots and ballot stubs for the joint election. Returns on joint or separate forms may be made to, and the canvass made by, each officer, board or body designated by law to receive and canvass the returns of each election, or one of such officers, boards or bodies may be designated to receive and canvass the returns for the joint election and to report the results of each election to the proper authority. Where the counted ballots for two or more of the elections are deposited in a single ballot box, the box containing the counted ballots shall be returned to the officer or board designated in the agreement, which shall be an officer or board designated by law to receive and preserve the counted ballots for one of the elections constituting a part of the joint election.

[Acts 1965, 59th Leg., p. 972, ch. 467, § 2, eff. Aug. 30, 1965. Amended by Acts 1967, 60th Leg., p. 1931, ch. 723, § 74, eff. Aug. 28, 1967.]

Art. 979: Ward Election of Councilmen

At the first election under this title there shall be elected a mayor, and two aldermen from each ward, one of whom shall hold office for one year, and the other for two years from the date of their election, to be determined by lot at the first regular meeting after said election. At each annual election thereafter there shall be elected one alderman from each ward, who shall hold office for two years. If the city or town is not divided into wards, the city council may determine by ordinance what number of aldermen shall go out of office in one year, and the manner of deciding which shall hold for the long term and which for the short term.

[Acts 1925, S.B. 84.]

Art. 980. Conduct of the Election

The ballots for each ward shall be taken separately. Except as otherwise provided in this chapter, the election shall be held and the returns thereof shall be made and canvassed in accordance with the general laws pertaining to municipal elections, and the persons receiving the highest number of votes for the respective offices shall be declared elected. In the first election held hereunder, the two persons from the same ward receiving the highest number of votes in the city for aldermen of the wards for which they are candidates shall be declared elected aldermen of such wards.

[Acts 1925, S.B. 84. Amended by Acts 1963, 58th Leg., p. 1017, ch. 424, § 119.]

Art. 980a. Election of Governing Body on Place System in Cities of 5,960 to 5,970

The governing body of a city with a population larger than 5,960 but smaller than 5,970, according to the last preceding federal census, may, by ordinance, provide that the members of the governing body shall be elected on the place system rather than the precinct system.

[Acts 1965, 59th Leg., p. 1095, ch. 526, eff. Aug. 30, 1965. Amended by Acts 1971, 62nd Leg., p. 1839, ch. 542, § 93, eff. Sept. 1, 1971; Acts 1981, 67th Leg., p. 560, ch. 237, § 6, eff. Sept. 1, 1981.]

Art. 980b. Election of Aldermen by Place System in Cities and Towns not Divided into Wards

In any city or town not divided into wards and incorporated under the general laws, and which city or town elects its aldermen from the city at large, at least sixty (60) days prior to any regular city election the city council may by ordinance provide that aldermen shall be elected by the place system. As soon as possible after the enactment of such ordinance, the city council shall assign place numbers to the offices of aldermen then held by the incumbent members thereof. Thereafter, as terms of incumbent aldermen expire, any candidate for the office of alderman in any city election in such city or town shall file his application for a specific place on the council, such as, "Alderman, Place No. 1", "Alderman, Place No. 2", "Alderman, Place No. 3", "Alderman, Place No. 4", or "Alderman, Place No. 5." In such election the ballot shall show each office of alderman as a separate office by place number, with the name of each candidate printed thereon under the specific office for which he is a candidate.

[Acts 1967, 60th Leg., p. 293, ch. 138, § 1, eff. Aug. 28, 1967.]

Arts. 981, 982. Repealed by Acts 1963, 58th Leg., p. 1017, ch. 424, §§ 119, 121

Art. 983. Installation of Officers

The newly elected officers may enter upon their duties on the fifth day thereafter, Sundays excepted. If any such officer fails to qualify within thirty

days after his election, his office shall be deemed vacant, and a new election held to fill the same. The city council-elect shall meet at the usual place of meeting on the fifth day, Sundays excepted, after their election or as soon thereafter as possible, and be installed under the provisions of this title.

[Acts 1925, S.B. 84.]

Arts. 984 to 986. Repealed by Acts 1963, 58th Leg., p. 1017, ch. 424, §§ 119, 121.

Art. 987. Qualifications of Officers

Sec. 1. No person shall be eligible to the office of mayor unless he is a qualified elector and has resided twelve months next preceding the election within the city limits. In determining whether a person has complied with the durational residency requirement, residency in an area while the area was not within the city limits is considered as residency within the city limits if the area is a part of the city on the date of the election.

Sec. 2. To be eligible for aldermen, one must reside in the ward from which he may be elected at the time of his election. If any alderman removes from the ward in which he was elected, his office shall be deemed vacant.

[Acts 1925, S.B. 84. Amended by Acts 1983, 68th Leg., p. 2745, ch. 469, § 2, eff. Aug. 29, 1983.]

Art. 988. Repealed by Acts 1983, 68th Leg., p. 4082, ch. 640, § 7, eff. Jan. 1, 1984

See, now, art. 988b.

Art. 988a. Purchases by City, Town, or County From Cooperative Association of Which Officer is Member

An incorporated city or town or a county may purchase equipment or supplies from a cooperative association to which one or more members of its governing body or of an appointed board or commission thereunder belongs if no member of the governing body, board, or commission will receive a pecuniary benefit from the purchase except as is reflected in an increase in dividends distributed generally to members of the cooperative association.

[Acts 1981, 67th Leg., p. 2229, ch. 527, § 1, eff. June 12, 1981.]

Art. 988b. Actions in Which Local Public Official has Interest

Definitions

Sec. 1. In this Act:

(1) "Local public official" means a member of the governing body or another officer, whether elected or appointed, paid or unpaid, of any district (including a school district), county, city, precinct, central appraisal district, transit authority or district, or other local governmental entity who exercises responsibilities beyond those that are advisory in nature.

(2) "Business entity" means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or any other entity recognized in law.

Substantial Interest

Sec. 2. (a) A person has a substantial interest in a business if:

(1) the interest is ownership of 10 percent or more of the voting stock or shares of the business entity or ownership of \$2,500 or more of the fair market value of the business entity; or

(2) funds received by the person from the business entity exceed 10 percent of the person's gross income for the previous year.

(b) A person has a substantial interest in real property if the interest is an equitable or legal ownership with a fair market value of \$2,500 or more.

(c) An interest of a person related in the first or second degree by either affinity or consanguinity to the local public official is a "substantial interest."

Prohibited Acts

Sec. 3. (a) Except as provided by Section 5 of this Act, a local public official commits an offense if he knowingly:

(1) participates in a vote or decision on a matter involving a business entity in which the local public official has a substantial interest if it is reasonably foreseeable that an action on the matter would confer an economic benefit to the business entity involved;

(2) acts as surety for a business entity that has a contract, work, or business with the governmental entity; or

(3) acts as surety on any official bond required of an officer of the governmental entity.

(b) An offense under this section is a Class A misdemeanor.

Affidavit

Sec. 4. If a local public official or a person related to that official in the first or second degree by either affinity or consanguinity has a substantial interest in a business entity that would be peculiarly affected by any official action taken by the governing body, the local public official, before a vote or decision on the matter, shall file an affidavit stating the nature and extent of the interest and shall abstain from further participation in the matter. The affidavit must be filed with the official record-keeper of the governmental entity.

Exceptions

Sec. 5. (a) The governing body of a governmental entity may contract for the purchase of services or personal property with a business entity in which a member of the governing body has a substantial

interest if the business entity is the only business entity that provides the needed service or product within the jurisdiction of the governmental entity and is the only business entity that bids on the contract.

(b) The governing body must take a separate vote on any budget item specifically dedicated to a contract with an entity in which a member of the governing body has a substantial interest and the affected member must abstain from that separate vote. The member who has complied in abstaining in such vote under procedures set forth in Sections 3 and 4 of this Act may vote on a final budget only after the matter in which he is concerned has been resolved.

Removal From Office

Sec. 6. The penalties and remedies provided by this article do not limit common law remedies of tort, contract, or equity, including a suit for damages, injunction, or mandamus. The finding by a court of a violation under this article does not render an action of the governing body voidable unless the measure that was the subject of an action involving conflict of interest would not have passed the governing body without the vote of the person who violated this article.

[Acts 1983, 68th Leg., p. 4079, ch. 640, §§ 1 to 6, eff. Jan. 1, 1984.]

Art. 989. Vacancy or Vacancies

In the event of a vacancy or vacancies from any cause in the office of mayor or alderman, such vacancy or vacancies may be filled as follows:

(a) If no more than one vacancy on the city council exists, a majority of the remaining members of the city council may fill such vacancy by appointment, such appointee to serve until the next regular city election; provided, however, in filling such vacancy, the mayor, if any, shall have a vote only in the event of a tie.

(b) In lieu of filling one vacancy on the city council by appointment as provided for in paragraph (a) above, a special election may be called to fill such vacancy.

(c) If two or more vacancies on the city council exist at the same time, a special election shall be called to fill such vacancies.

(d) Any special election to fill a vacancy or vacancies shall be ordered, held, and conducted in accordance with the general laws of the State of Texas.

(e) In the event of a vacancy in any other office in the city, the mayor or acting mayor shall fill such vacancy by appointment, to be confirmed by the city council.

[Acts 1925, S.B. 84. Amended by Acts 1963, 58th Leg., p. 1017, ch. 424, § 119; Acts 1965, 59th Leg., p. 974, ch. 469, § 1.]

Art. 990. Special Election

Whenever a vacancy occurs by resignation or otherwise, in the municipal offices of any incorporated city or town in this State, so that the vacancy cannot be filled under the charter of said city or town, or under the laws of this State now in force, then the commissioners court of said county in which said town or city is situated, upon a petition of not less than twenty-six tax paying voters living in such city, shall order an election to be held to fill such vacancy, giving notice of not less than ten days in the usual manner provided for such elections, which shall be held in like manner as similar elections and the officers so elected shall in like manner be qualified and installed.

[Acts 1925, S.B. 84.]

Art. 991. Mayor Pro Tempore

At the first meeting of each new council, or as soon thereafter as practicable, one of the aldermen shall be elected president pro tempore, who shall hold his office for one year. In case of the failure, inability or refusal of the mayor to act, the president pro tempore shall perform the duties and receive the fees and compensation of the mayor.

[Acts 1925, S.B. 84.]

Art. 992. Change of Wards

The wards of each city accepting the provisions of this title shall be and remain unchanged by its acceptance. The city council shall have power from time to time to cause a division of said city to be made into as many wards as they may deem necessary, and for the good of the inhabitants of said city, and may change the boundaries of the same. No such division or change shall be made unless it be done at least three months preceding the city election next ensuing; and said wards so established shall contain as far as practicable an equal number of voters.

[Acts 1925, S.B. 84.]

CHAPTER THREE. DUTIES AND POWERS OF OFFICERS

Art. 993.	Oath.
994.	Duties of Mayor.
995.	Special Police Force.
996.	Powers of the Mayor.
997.	Ordinances and Resolutions.
998.	Police Officers.
998a.	Police Reserve Force.
999.	Marshal, Duties, etc.
999a.	Marshal May be Dispensed With.
999b.	Law Enforcement Officers; Interlocal Assistance.
999c.	Payment of Hospitalization Costs for Peace Officers and Firemen.
999d.	Purchase of Liability Insurance for Certain Municipal Employees.

Art.

- 999d-1. Automobile Liability Insurance for Fire and Police Department Officers and Employees in Certain Cities.
- 999e. Automobile Liability Coverage for Peace Officers and Fire Fighters.
- 999f. Salary Continuation Payments to Municipal Employees; Subrogation.
- 1000. Secretary, Duties, etc.
- 1001. Treasurer, Duties, etc.
- 1002. Control of Officers.
- 1003. Repealed.
- 1004. Officer Disqualified.
- 1005. Resignation of Officers.
- 1006. Removal of Officers.

Art. 993. Oath

Every person elected or appointed to fill an office under this title shall, before entering upon the duties of his office, take and subscribe the official oath. The city council by ordinance may require such additional oath as it may deem best calculated to secure faithfulness in the performance of their duties by such officers.

[Acts 1925, S.B. 84.]

Art. 994. Duties of Mayor

The mayor shall be the chief executive officer of said corporation, and shall be active at all times in causing the laws and ordinances of said city to be duly executed and put in force. He shall inspect the conduct of all subordinate officers in the government thereof, and, shall cause all negligence, carelessness and other violations of duty to be prosecuted and punished. He shall have power, if in his judgment the good of the city may require it, to summon meetings of the city council; and he shall communicate to that body such information and recommend such measures as may tend to the improvement of the finances, the police, health, security, cleanliness, comfort, ornament and good government of said city.

[Acts 1925, S.B. 84.]

Art. 995. Special Police Force

Whenever the mayor deems it necessary, in order to enforce the laws of the city, or to avert danger, or to protect life or property, in case of riot or any outbreak or calamity or public disturbance, or when he has reason to fear any serious violation of law or order, or any outbreak or any other danger to said city, or the inhabitants thereof, he shall summon into service as a special police force, all or as many of the citizens as in his judgment may be necessary. Such summons may be by proclamation or other order addressed to the citizens generally, or those of any ward of the city, or subdivision thereof, or may be by personal notification. Such special police force while in service, shall be subject to the orders of the mayor, shall perform such duties as he may require, and shall have the same power while on duty as the regular police force of said city.

[Acts 1925, S.B. 84.]

Art. 996. Powers of the Mayor

The mayor shall have power to administer oaths of office. He shall have authority in case of a riot or any unlawful assemblage, or with a view to preserve peace and good order in said city, to order and enforce the closing of any theatre, ball room, or other place of resort, or public room or building, and may order the arrest of any person violating in his presence, the laws of this State, or any ordinance of the city. He shall perform such other duties and possess and exercise such other power and authority as may be prescribed and conferred by the city council.

[Acts 1925, S.B. 84.]

Art. 997. Ordinances and Resolutions

All ordinances and resolutions adopted by the council shall, before they take effect, be placed in the office of the city secretary; and the mayor shall sign those he approves. Such as he shall not sign, he shall return to the city council with his objections thereto. Upon the return of any ordinance or resolution by the mayor, the vote by which the same was passed shall be reconsidered. If, after such reconsideration, a majority of the whole number of aldermen agree to pass the same, and enter their votes on the journal of their proceedings, it shall be in force. If the mayor shall neglect to approve or object to any such proceedings for a longer period than three days after the same shall be placed in the secretary's office as aforesaid, the same shall go into effect.

[Acts 1925, S.B. 84.]

Art. 998. Police Officers

The city or town council in any city or town in this State, incorporated under the provisions of this title may, by ordinance, provide for the appointment, term of office and qualifications of such police officers as may be deemed necessary. Such police officers so appointed shall receive a salary or fees of office, or both, as shall be fixed by the city council. Such council may, by ordinance, provide that such police officers shall hold their office at the pleasure of the city council, and for such term as the city council directs. Such police officers shall give bond for the faithful performance of their duties, as the city council may require. Such officers shall have like powers, rights, authority and jurisdiction as are by said title vested in city marshals. Such police officers may serve all process issuing out of a corporation court anywhere in the county in which the city, town or village is situated. If the city, town or village is situated in more than one county, such officers may serve the process throughout those counties.

[Acts 1925, S.B. 84. Amended by Acts 1967, 60th Leg., p. 1171, ch. 523, § 2, eff. Aug. 28, 1967.]

Art. 998a. Police Reserve Force

(a) The governing body of any city, town, or village may provide for the establishment of a police reserve force. Members of the police reserve force, if authorized, shall be appointed at the discretion of the chief of police and shall serve as peace officers during the actual discharge of official duties.

(b) The governing body shall establish qualifications and standards of training for members of the police reserve force, and may limit the size of the police reserve force.

(c) No person appointed to the police reserve force may carry a weapon or otherwise act as a peace officer until he has been approved by the governing body. After approval, he may carry a weapon only when authorized by the Chief of Police, and when discharging official duties as a duly constituted peace officer.

(d) Members of the police reserve force serve at the discretion of the chief of police and may be called into service at any time the chief of police considers it necessary to have additional officers to preserve the peace and enforce the law.

(e) Members of the police reserve force may serve without compensation but the governing body may provide uniform compensation for members of the police reserve force. The compensation shall be based solely upon time served by a member of the police reserve force while in training for, or in the performance of, official duties.

(f) The governing body may provide hospital and medical assistance to a member of the police reserve force who sustains injury in the course of performing official duties in the same manner as provided by the governing body for a full time police officer, and reserve officers shall be eligible for death benefits as set out in Chapter 86, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6228f, Vernon's Texas Civil Statutes), provided, however, that nothing in this Act shall be construed to authorize or permit a member of the police reserve force to become eligible for participation in any pension fund created pursuant to State statute to which regular officers may become a member by payroll deductions or otherwise.

(g) Reserve police officers shall act only in a supplementary capacity to the regular police force and shall in no case assume the full time duties of regular police officers without first complying with all requirements for such regular police officers.

(h) This Act does not limit the power of the mayor of any general-law city to summon into service a special police force, as provided by Article 995, Revised Civil Statutes of Texas, 1925.

[Acts 1971, 62nd Leg., p. 2532, ch. 829, § 3, eff. Aug. 30, 1971.]

Art. 999. Marshal, Duties, etc.

The marshal of the city shall be ex officio chief of police, and may appoint one or more deputies which appointment shall only be valid upon the approval of the city council. Said marshal shall, in person or by deputy, attend upon the corporation court while in session, and shall promptly and faithfully execute all writs and process issued from said court. For the purpose of executing all writs and process issued from the corporation court, the jurisdiction of the marshal extends to the boundaries of the county in which the corporation court is situated. If the corporation court is in a city which is situated in more than one county, the jurisdiction of the marshal extends to all those counties. He shall have like power, with the sheriff of the county, to execute warrants; he shall be active in quelling riots, disorder and disturbance of the peace within the city limits and shall take into custody all persons so offending against the peace of the city and shall have authority to take suitable and sufficient bail for the appearance before the corporation court of any person charged with an offense against the ordinance or laws of the city. It shall be his duty to arrest, without warrant, all violators of the public peace, and all who obstruct or interfere with him in the execution of the duties of his office or who shall be guilty of any disorderly conduct or disturbance whatever; to prevent a breach of the peace or preserve quiet and good order, he shall have authority to close any theatre, ballroom, or other place or building of public resort. In the prevention and suppression of crime and arrest of offenders, he shall have, possess and execute like power, authority, and jurisdiction as the sheriff. He shall perform such other duties and possess such other powers and authority as the city council may by ordinance require and confer, not inconsistent with the Constitution and laws of this State. The marshal shall give such bond for the faithful performance of his duties as the city council may require. He shall receive a salary or fees of office, or both, to be fixed by the city council. The governing body of any city or town having less than five thousand inhabitants according to the preceding Federal census, may by an ordinance, dispense with the office of marshal, and at the same time by such ordinance confer the duties of said office upon any peace officer of the county, but no marshal elected by the people shall be removed from his office under the provisions of this article.

[Acts 1925, S.B. 84. Amended by Acts 1967, 60th Leg., p. 1172, ch. 523, § 3, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 1605, ch. 496, § 2, eff. June 10, 1969.]

Art. 999a. Marshal May be Dispensed With

The governing body of any city or town operating under the general laws having less than five thousand (5,000) inhabitants according to the last preceding Federal Census, may by ordinance, dispense with the office of marshal, and at the same time by such ordinance confer the duties of said office upon

a city police officer to be appointed as the city council shall direct.

[Acts 1949, 51st Leg., p. 375, ch. 199, § 2]

Art. 999b. Law Enforcement Officers; Interlocal Assistance

Sec. 1. "Municipality" as used herein means any city or town, including home-rule city or a city operating under the general law or a special charter. "Law enforcement officer" as used herein means any policeman, sheriff, or deputy sheriff, constable, or deputy constable, marshal, or deputy marshal.

Sec. 2. Any county or municipality shall have the power by resolution or order of its governing body to make provision for, or to authorize its major or chief administrative officer, chief of police or marshal to make provision for, its regularly employed law enforcement officers to assist any other county or municipality, when in the opinion of the mayor, or other officer authorized to declare a state of civil emergency in such other county or municipality, there exists in such other county or municipality a need for the services of additional law enforcement officers to protect the health, life, and property of such other county or municipality, its inhabitants, and the visitors thereto, by reason of riot, unlawful assembly characterized by the use of force and violence, or threat thereof by three or more persons acting together or without lawful authority, or during time of natural disaster or manmade calamity.

Sec. 2a. A county or municipality may by resolution or order of its governing body enter into an agreement with any neighboring municipality or contiguous county to form a mutual aid law enforcement task force to cooperate in the investigation of criminal activity and enforcement of the laws of this state. Peace officers employed by counties or municipalities entering into such agreements shall have only such additional investigative authority throughout the region as may be set forth in the agreement. The counties or municipalities shall provide for compensation of peace officers involved in the activities of a mutual aid law enforcement task force, which provision for compensation shall be contained in the agreement.

A law enforcement officer employed by a county or municipality covered by an agreement authorized by this section may make arrests outside the county or municipality in which he is employed, but within the area covered by the agreement, provided however, that the law enforcement agencies within such county or municipality shall be notified of such arrest without delay. Such notified agency shall make available the notice of such arrest in the same manner as if said arrest were made by a member of the law enforcement agency of said county or municipality.

Sec. 3. While any law enforcement officer regularly employed as such in one county or municipality

is in the service of another county or municipality pursuant to this Act, he shall be a peace officer of such other county or municipality and be under the command of the law enforcement officer therein who is in charge in that county or municipality, with all the powers of a regular law enforcement officer in such other county or municipality, as fully as though he were within the county or municipality where regularly employed and his qualification, respectively, for office where regularly employed shall constitute his qualification for office in such other county or municipality, and no other oath, bond, or compensation need be made.

Sec. 4. Any law enforcement officer who is ordered by the official designated by the governing body of any county or municipality to perform police or peace duties outside the territorial limits of the county or municipality where he is regularly employed as such officer, shall be entitled to the same wage, salary, pension, and all other compensation and all other rights for such service, including injury or death benefits, the same as though the service had been rendered within the limits of the county or municipality where he is regularly employed, and shall also be paid for any reasonable expenses of travel, food, or lodging that he may incur while on duty outside such limits.

Sec. 5. All wage and disability payments, pension payments, damage to equipment and clothing, medical expense, and expenses of travel, food, and lodging shall be paid by the county or municipality regularly employing such law enforcement officer. Upon making such payments, the county or municipality that furnished the services shall, when it so requests, be reimbursed by the county or municipality whose authorized official requested the services out of which the payments arose. Each such county or municipality is hereby expressly authorized to make such payments and reimbursements notwithstanding any provision in its charter or ordinances to the contrary.

[Acts 1969, 61st Leg., p. 201, ch. 81, eff. April 17, 1969. Amended by Acts 1973, 63rd Leg., p. 1626, ch. 587, § 1, eff. June 15, 1973.]

Art. 999c. Payment of Hospitalization Costs for Peace Officers and Firemen

Sec. 1. As used in this Act:

(1) "Peace officer" means a peace officer as defined in Article 2.12, Code of Criminal Procedure, 1965, as amended.

(2) "City" means an incorporated city or town, whether operated under a home-rule charter or incorporated under the general laws of this state.

Sec. 2. If a peace officer or fireman employed by a city sustains an injury in the performance of his duties which results in permanent incapacity for work and requires constant confinement in a hospital or other institution providing medical treatment, the city may pay all costs of such confinement in

excess of amounts which are paid under any policy of insurance or by another governmental entity.

Sec. 3. To the extent it is permitted to make payments under this Act, the city is subrogated to the rights of the peace officer or fireman in a suit against a third party because of the injury.

Sec. 4. To receive funds under this Act, a peace officer or fireman must furnish the governing body of the city:

(1) proof that he sustained an injury in the course of his duties resulting in permanent incapacity for work and requiring constant confinement for medical treatment;

(2) proof of the portion of the cost of confinement not paid under any policy of insurance or by another governmental entity; and

(3) any other information or evidence required by the governing body.

Sec. 5. This Act does not permit payment of costs of constant confinement for medical treatment incurred prior to the effective date of the Act. [Acts 1973, 63rd Leg., p. 1696, ch. 616, eff. Aug. 27, 1973.]

Art. 999d. Purchase of Liability Insurance for Certain Municipal Employees

A municipality may insure the officers and employees of the fire and police departments and other municipal employees who drive emergency vehicles against liability to third persons arising from and out of the use and operation of automobiles, motor trucks, and other motor vehicles used as municipal emergency medical, fire, or police vehicles in the line of duty by procuring policies for that purpose with insurance companies authorized to do business in this state. All insurance taken out by a municipality shall be on forms approved by the State Board of Insurance. No municipality may purchase liability insurance in excess of \$20,000 because of bodily injury to or death of one person in any one accident, \$100,000 because of bodily injury to or death of two or more persons in any one accident, and \$5,000 because of injury to or destruction of property of others in any one accident.

[Acts 1975, 64th Leg., p. 970, ch. 369, § 1, eff. June 19, 1975.]

Art. 999d-1. Automobile Liability Insurance for Fire and Police Department Officers and Employees in Certain Cities

Sec. 1. A city with a population of at least 1,550,000, according to the most recent federal census, shall insure the officers and employees of the fire and police departments against liability to third persons arising out of the operation, maintenance, or use of a motor vehicle owned or leased by the city.

Sec. 2. The city may elect to be self-insured or may purchase insurance with an insurance company authorized to do business in this state. All insur-

ance taken out by the city shall be on forms authorized by the State Board of Insurance.

Sec. 3. A city purchasing insurance under this article may not purchase liability insurance in excess of \$100,000 because of bodily injury to or death of one person in any one accident, \$300,000 because of bodily injury to or death of two or more persons in any one accident, and \$10,000 because of injury to or destruction of property of others in any one accident.

[Acts 1983, 68th Leg., p. 5232, ch. 961, § 1, eff. Aug. 29, 1983.]

Art. 999e. Automobile Liability Coverage for Peace Officers and Fire Fighters

Sec. 1. (a) The state and every incorporated city or town shall provide for insuring peace officers and fire fighters in its employ against liability to third persons arising out of the operation, maintenance, or use of any motor vehicle owned or leased by the state, city or town.

(b) The state and any incorporated city or town may elect to be self-insured or to reimburse the actual cost of extended automobile liability insurance endorsements obtained by its peace officers and fire fighters on the individually owned automobile liability insurance policies of such peace officers and fire fighters. Such extended endorsement shall be in amounts not less than those required under this Act and shall extend the coverage to include the operation and use of city vehicles by such peace officers or fire fighters in the scope of their employment. Provided, however, that the state and any incorporated city or town which elects to use the reimbursement method authorized under this subsection may require that all peace officers and fire fighters who operate and use motor vehicles present proof that an extended coverage endorsement has been purchased and that such extended coverage is current.

Sec. 2. Liability coverage provided pursuant to the requirements of this Act shall be in amounts not less than the amounts required by the Texas Motor Vehicle Safety-Responsibility Act, as amended (Article 6701h, Vernon's Texas Civil Statutes), to provide proof of financial responsibility.

Sec. 3. "Motor vehicle" means any motor vehicle for which motor vehicle automobile insurance is written under the provisions of Subchapter A, Chapter 5, Insurance Code, as amended.

[Acts 1977, 65th Leg., p. 1394, ch. 560, §§ 1 to 3, eff. Aug. 29, 1977. Amended by Acts 1981, 67th Leg., p. 2483, ch. 646, § 1, eff. Aug. 31, 1981.]

Art. 999f. Salary Continuation Payments to Municipal Employees; Subrogation

If an incorporated city, town, or village pays benefits to a municipal employee under a salary continuation program when the employee is injured, the municipality is subrogated to the employee's right of recovery for personal injuries caused by the

tortious conduct of a third party other than another employee of the same municipality. The subrogation extends only to the extent of payments made by the municipality. That a municipal employee has a cause of action against a third party for personal injuries is not a ground for the municipality to deny benefits under a salary continuation program.

[Acts 1977, 65th Leg., p. 1129, ch. 423, § 1, eff. June 15, 1977.]

Art. 1000. Secretary, Duties, etc.

The city secretary shall attend every meeting of the city council, and keep accurate minutes of the proceedings thereof in a book to be provided for that purpose, and engross and enroll all laws, resolutions and ordinances of the city council, keep the corporate seal, take charge of and preserve and keep in order all the books, records, papers, documents and files of said council, countersign all commissions issued to city officers, and licenses issued by the mayor, and keep a record or register thereof, and make out all notices required under any regulation or ordinance of the city. The city secretary shall notify the Texas Judicial Council of the name of any person elected or appointed as a mayor, municipal court judge, or clerk of a municipal court of the city not later than the 30th day after the date of that person's election or appointment. He shall draw all the warrants on the treasurer and countersign the same and keep an accurate account thereof in a book provided for that purpose. He shall be the general accountant of the corporation, and shall keep in books regular accounts of the receipts and disbursements for the city, and separately, under proper heads, each cause of receipt and disbursement, and also accounts with each person including officers who have money transactions with the city, crediting accounts allowed by proper authority and specifying the particular transaction to which such entries apply. He shall keep a register of bonds and bills issued by the city, and all evidence of debt due and payable to it, noting the particulars thereof, and all facts connected therewith, as they occur. He shall carefully keep all contracts made by the city council; and he shall perform all such other duties as may be required of him by law, ordinance, resolution or order of the city council. He shall receive for his services an annual salary payable at stated periods, and such additional fees as the city council may allow.

[Acts 1925, S.B. 84. Amended by Acts 1983, 68th Leg., p. 2342, ch. 422, § 2, eff. Jan. 1, 1984.]

Art. 1001. Treasurer, Duties, etc.

The treasurer shall give bond in favor of the city in such amount, and in such form as the city council may require, with sufficient security to be approved by the city council, conditioned for the faithful discharge of his duties. He shall receive and securely keep all moneys belonging to the city, and make all payments for the same upon the order of the mayor, attested by the secretary under the seal

of the corporation. No order shall be paid unless the said order shall show upon its face that the city council has directed its issuance, and for what purpose. He shall render a full and correct statement of his receipts and payments to the city council, at their first regular meeting in every quarter and whensoever, at other times, he may be required by them so to do. He shall do and perform such other acts and duties as the city council may require. He shall receive such compensation as the city council shall fix.

[Acts 1925, S.B. 84. Amended by Acts 1977, 65th Leg., p. 1716, ch. 683, § 2, eff. Aug. 29, 1977.]

Art. 1002. Control of Officers

The city council shall have power from time to time to require other and further duties of all officers whose duties are herein prescribed, and to define and prescribe the powers and duties of all officers appointed or elected to any office under this title whose duties are not herein specially mentioned, and fix their compensation. They may also require bonds to be given to the said corporation by all officers for the faithful performance of their duties. The city council shall provide for filling vacancies in all offices, not herein provided for. In all cases of vacancy, the same shall be filled only for the unexpired term.

[Acts 1925, S.B. 84.]

Art. 1003. Repealed by Acts 1983, 68th Leg., p. 2153, ch. 395, § 1, eff. June 17, 1983

Art. 1004. Officer Disqualified

Any officer who has been intrusted with the collection or custody of funds belonging to a city who shall be in default to said city, shall thereafter be incapable of holding any office under said city, until the amount of his defalcation shall have been fully paid to said city, with ten per cent interest.

[Acts 1925, S.B. 84.]

Art. 1005. Resignation of Officers

Resignation by any officer authorized by this title to be elected or appointed shall be made to the city council in writing, subject to their approval and acceptance. Any appointee of the mayor may present his written resignation to that officer for his action.

[Acts 1925, S.B. 84.]

Art. 1006. Removal of Officers

The city council shall have power to remove any officer for incompetency, corruption, misconduct or malfeasance in office, after due notice and an opportunity to be heard in his defense. The city council shall also have power at any time to remove any officer of the corporation elected by them, by resolution declaratory of its want of confidence in said

officer; provided, that two-thirds of the aldermen elected vote in favor of said resolution.

[Acts 1925, S.B. 84.]

CHAPTER FOUR. THE CITY COUNCIL

- Art.**
1007. Presiding Officer.
1008. Meetings.
1009. Attendance of Officers.
1010. Salary of Officers.
- 1010a. Cities of 1,200,000 or More; Salary and Expenses of Elected Officials.
1011. Powers.
- 1011a. Grant of Power for Zoning.
- 1011b. Districts.
- 1011c. Purposes in View.
- 1011d. Method of Procedure.
- 1011e. Changes.
- 1011f. Zoning Commission.
- 1011g. Board of Adjustment.
- 1011h. Enforcement and Remedies.
- 1011i. Repealed.
- 1011j. Conflict with Other Laws.
- 1011k. Neighborhood Zoning Areas in Cities over 290,000.
- 1011l. Joint Municipal Planning in Certain Areas.
- 1011m. Regional Planning Commissions.
1012. Style of Ordinances.
1013. Publication of Ordinances.
1014. May Remit Fines.
1015. Other Powers.
- 1015a. Condemnation of Lands for Parks.
- 1015b. Repealed.
- 1015c. Parks and Recreation Projects.
- 1015c-1. Recreational Programs and Facilities; Establishment by Counties, Cities and Towns, Jointly or Singly, Authorized.
- 1015c-2. Swimming Pools.
- 1015d. Acquisition of Gas Systems and Distribution of Gas by Cities.
- 1015e. Licensing Dealers in Motor Vehicles or Accessories.
- 1015f. Motor Vehicles, Regulation of Operation by Cities of 230,000 to 232,000 Inhabitants.
- 1015g. Toll Bridges Over International Boundary Rivers, Powers Respecting.
- 1015g-1. Pledge of Revenue Derived from Operation of Toll Bridge.
- 1015g-2. Validation of Proceedings for Issuance and Sale of Time Warrants for International Toll Bridges.
- 1015g-3. Revenue Bonds by Border Cities; Pledge of Revenue from Toll Bridges; Approval and Registration.
- 1015g-4. Eligible City Operating Toll Bridge Over Rio Grande River; Acquisition of Property, etc.; Revenue Bonds.
- 1015g-5. Eligible City Operating International Toll Bridge over Rio Grande; Acquisition, Construction, Operation, and Financing.
- 1015h. Public Building; Powers of City Owning Natural Gas Distribution System.
- 1015i. Lease of City Owned Hospital; Cities of 65,000 or Less.
- 1015j. Appropriations for Advertising and Promoting Growth and Development of General Law Cities.

Art.

- 1015j-1. Promotional Advertising for Growth and Development in Cities of Not More Than 500,000; Board of Development; Appropriations and Expenditures Authorized; Appointment of Manager.
- 1015k. Regulation of Rendering Plants.
- 1015l. Parking on Private Property.
- 1015m. Repealed.
- 1015n. Dilapidated Structures; Authority of Certain Cities and Towns.
1016. Streets and Alleys, etc.
1017. Sale of Parks, Land for Buildings and Abandoned Streets, etc.; Disposition of Proceeds.
1018. Use by Railway, etc.
1019. Special Election.
1020. Towns so Empowered.
1021. Interest on Indebtedness.
- 1022, 1023. Repealed.
- 1023a. Auditing of Records and Accounts; Annual Statements.
1024. Receiver Appointed.
- 1024a. Relief to Municipalities and Taxing Districts Under Federal Bankruptcy Laws.
- 1024b. Composition with Creditors Under Federal Bankruptcy Laws.
1025. Official Paper.

Art. 1007. Presiding Officer

The mayor shall preside at all meetings of the city council, and shall have a casting vote, except in elections. If he and the president pro tem are absent, any alderman may be appointed to preside.

[Acts 1925, S.B. 84.]

Art. 1008. Meetings

Petitions and remonstrances may be presented to the council in writing only. The city council shall hold stated meetings at such times and places as they shall by resolution direct. The mayor, of his own motion, or on the application of three aldermen, may call special meetings, by notice to each member of said council, the secretary and city attorney, served personally or left at their usual place of abode. The council shall determine the rules of its proceedings and be the judge of the election and qualification of its own members, and may compel the attendance of absent members and punish them for disorderly conduct.

[Acts 1925, S.B. 84.]

Art. 1009. Attendance of Officers

Each alderman shall be fined three dollars for each meeting which he fails to attend, unless on account of his own sickness or that of his family. Any member of the city council remaining absent for three regular consecutive meetings of the board, unless prevented by sickness, without first having obtained leave of absence at a regular meeting, shall be deemed to have vacated his office, and the mayor shall proceed to fill the vacancy in accordance with the charter.

[Acts 1925, S.B. 84.]

Art. 1010. Salary of Officers

The city council shall, on or before the first day of January next preceding each election, fix the salary and fees of office of the mayor to be elected at the next regular election, and fix the compensation to be paid to the officers elected or appointed by the city council. The compensation so fixed shall not be changed during the term for which said officers shall be elected or appointed.

[Acts 1925, S.B. 84.]

Art. 1010a. Cities of 1,200,000 or More; Salary and Expenses of Elected Officials

Sec. 1. The city council of an incorporated city having a population of 1,200,000 or more, according to the last preceding or any future federal census, may set the salary and expenses to be paid elected city officials. Said ordinance shall not take effect until the succeeding term, and the salary of a state district court judge of the county in which the city is located shall be the comparative salary; provided that a councilman's salary shall not exceed 40 percent of the comparative salary; the comptroller's salary shall not exceed the comparative salary; and the mayor's salary shall not exceed 150 percent of the comparative salary.

Sec. 2. (a) The city council may not adopt an ordinance under this Act unless the procedures prescribed by this section are followed.

(b) Before adopting an ordinance the city council shall publish notice in a newspaper of general circulation in the city. Notice must be published for two consecutive weeks immediately preceding the week in which the meeting is to be held and at which the proposed ordinance is to be considered. The notice must include a general description of the proposed ordinance, a statement that a public hearing will be held before the ordinance is adopted, a statement of the time and place of the hearing, and a statement that any interested person may appear and testify at the hearing.

(c) The city council must hold a public hearing before taking up an ordinance for consideration.

(d) An ordinance must be approved by a majority vote of the membership of the city council.

(e) A certified copy of an ordinance must be filed with the city secretary within 10 days after enactment, and it is effective on the first day of the succeeding term unless the ordinance prescribes a later effective date.

Sec. 3. (a) The city council may submit an ordinance adopted under this Act to the voters for their approval in the same fashion as charter amendments as provided in Article 1170, Revised Civil Statutes of Texas, 1925, as amended.

(b) After an election held under this Act, a two-year period of time must elapse prior to the calling of another election on the same proposition.

[Acts 1977, 65th Leg., p. 2079, ch. 829, §§ 1 to 3, eff. Aug. 29, 1977.]

Art. 1011. Powers

The City Council, or other governing body shall have power to pass, publish, amend or repeal all ordinances, rules and police regulations, not contrary to the Constitution of this State, for the good government, peace and order of the City and the trade and commerce thereof, that may be necessary or proper to carry into effect the powers vested by this title in the corporation, the city government or in any department or office thereof; to enforce the observance of all such rules, ordinances and police regulations, and to punish violations thereof. No fine or penalty shall exceed \$1,000 for violations of all such rules, ordinances and police regulations that govern fire safety, zoning and public health and sanitation other than vegetation and litter violations nor exceed \$200 for all other violations.

[Acts 1925, S.B. 84. Amended by Acts 1949, 51st Leg., p. 367, ch. 190, § 1; Acts 1983, 68th Leg., p. 3839, ch. 601, § 1, eff. Sept. 1, 1983.]

Art. 1011a. Grant of Power for Zoning

For the purpose of promoting health, safety, morals, and for the protection and preservation of places and areas of historical, cultural, or architectural importance and significance, or the general welfare of the community, the legislative body of cities and incorporated villages is hereby empowered to regulate and restrict the height, number of stories, and size of buildings, and other structures, the percentage of lot that may be occupied, the size of the yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purpose; and, in the case of designated places and areas of historic, cultural, or architectural importance and significance, to regulate and restrict the construction, alteration, reconstruction, or razing of buildings and other structures.

[Acts 1927, 40th Leg., p. 424, ch. 283, § 1. Amended by Acts 1959, 56th Leg., p. 883, ch. 406, § 1; Acts 1983, 68th Leg., p. 4575, ch. 764, § 1, eff. Aug. 29, 1983.]

Section 2 of the 1983 amendatory act provides:

"The provisions of this Act shall not apply to buildings, structures, or land under the control, administration, or jurisdiction of any federal or state agency."

Art. 1011b. Districts

For any or all of said purposes the local legislative body may divide the municipality into districts of such number, shape, and area as may be deemed best suited to carry out the purposes of this Act,¹ and within such districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or

land. All such regulations shall be uniform for each class or kind of building throughout each district, but the regulations in one district may differ from those in other districts.

[Acts 1927, 40th Leg., p. 424, ch. 283, § 2.]

¹ Article 1011a et seq.

Art. 1011c. Purposes in View

Such regulations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. Such regulations shall be made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such municipality, and it is hereby provided that this Act¹ shall not enable cities and incorporated villages aforesaid to require the removal or destruction of property, existing at the time such city or incorporated village shall take advantage of this Act, actually and necessarily used in a public service business.

[Acts 1927, 40th Leg., p. 424, ch. 283, § 3.]

¹ Article 1011a et seq.

Art. 1011d. Method of Procedure

The legislative body of such municipality shall provide for the manner in which such regulations and restrictions and the boundaries of such districts shall be determined, established, and enforced, and from time to time amended, supplemented, or changed. However, no such regulation, restriction, or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least 15 days' notice of the time and place of such hearing shall be published in an official paper, or a paper of general circulation, in such municipality.

[Acts 1927, 40th Leg., p. 424, ch. 283, § 4.]

Art. 1011e. Changes

(a) Such regulations, restrictions, and boundaries may from time to time be amended, supplemented, changed, modified, or repealed. In case, however, of a written protest against such change, signed by the owners of 20 per cent or more either of the area of the lots or land included in such proposed change, or of the lots or land immediately adjoining the same and extending 200 feet therefrom, such amendment shall not become effective except by the favorable vote of three-fourths of all members of the legislative body of such municipality. The legislative body of a municipality may also provide by ordinance that a vote of three-fourths of all its

members is required to overrule a recommendation of the zoning commission that a proposed amendment, supplement, or change be denied.

(b) The provisions of the previous section relative to public hearing and official notice shall apply equally to all changes or amendments.

(c) In addition to the notice required by Subsection (b) of this section, a general law municipality without a Zoning Commission must provide notice of a proposed change to each property owner who would be entitled to notice under Section 6 of this Act if the municipality had a Zoning Commission. Notice must be given in the same manner as is required for notice to property owners under Section 6 of this Act. The legislative body may not adopt a change until after the 30th day after the day that notice required by this subsection is given.

[Acts 1927, 40th Leg., p. 425, ch. 283, § 5. Amended by Acts 1971, 62nd Leg., p. 2864, ch. 942, § 1, eff. June 15, 1971; Acts 1977, 65th Leg., p. 1308, ch. 516, § 1, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 1869, ch. 754, § 1, eff. Aug. 27, 1979.]

Art. 1011f. Zoning Commission

(a) In order to avail itself of the powers conferred by this Act, the legislative body of a home-rule city shall, and the legislative body of a general law municipality may, appoint a commission, to be known as the Zoning Commission.

(b) If a Zoning Commission is appointed, it shall recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. Such Commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and such legislative body shall not hold its public hearings or take action until it has received the final report of such Commission; provided, however, that any city or town, by ordinance, may provide for the holding of any public hearing of the legislative body, after published notice required by Section 4 of this Act, jointly with any public hearing required to be held by the Zoning Commission, but such legislative body shall not take action until it has received the final report of such Zoning Commission. Where a City Plan Commission already exists, it may be appointed as the Zoning Commission. Written notice of all public hearings before the Zoning Commission on proposed changes in classification shall be sent to owners of real property lying within two hundred (200) feet of the property on which the change in classification is proposed, such notice to be given, not less than ten (10) days before the date set for hearing, to all such owners who have rendered their said property for city taxes as the ownership appears on the last approved city tax roll. Such notice may be served by depositing the same, properly addressed and postage paid, in the city post office. Where property lying within two hundred (200) feet of the property proposed to be changed is located in territory which was annexed to the city after the final date for making the renditions which are included on the

last approved city tax roll, notice to such owners shall be given by publication in the manner provided in Section 4 of this Act.

(c) Any other law that refers to a municipal Zoning Commission or Planning Commission shall be construed as referring to the legislative body in the case of a general law municipality that exercises zoning power without appointment of a Zoning Commission.

[Acts 1927, 40th Leg., p. 424, ch. 283, § 6. Amended by Acts 1949, 51st Leg., p. 205, ch. 111, § 1; Acts 1953, 53rd Leg., p. 732, ch. 287, § 1; Acts 1961, 57th Leg., p. 570, ch. 267, § 1; Acts 1979, 66th Leg., p. 1869, ch. 754, § 1, eff. Aug. 27, 1979.]

Art. 1011g. Board of Adjustment

(a) Such local legislative body may provide for the appointment of a Board of Adjustment, and in the regulations and restrictions adopted pursuant to the authority of this Act may provide that the said Board of Adjustment may, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of the ordinance in harmony with its general purpose and intent and in accordance with general or specific rules therein contained.

(b) The Board Adjustment shall consist of five (5) members, each to be appointed for a term of two (2) years and removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. Provided, however, that the governing body of any city may, by charter provision or ordinance, provide for the appointment of four (4) alternate members of the Board of Adjustment who shall serve in the absence of one or more regular members when requested to do so by the mayor or city manager, as the case may be. All cases to be heard by the Board of Adjustment will always be heard by a minimum number of four (4) members. These alternate members, when appointed, shall serve for the same period as the regular members and any vacancies shall be filled in the same manner and shall be subject to removal as the regular members.

(c) The Board shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to this Act. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

(d) Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board, or bureau of the municipality affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom the appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

(e) An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown.

(f) The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

(g) The Board of Adjustment shall have the following powers:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this Act or of any ordinance adopted pursuant thereto.

2. To hear and decide special exceptions to the terms of the ordinance upon which such Board is required to pass under such ordinance.

3. To authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.

(h) In exercising the above-mentioned powers such Board may, in conformity with the provisions of this Act, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

(i) The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such

administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance, or to effect any variation in such ordinance.

(j) Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any taxpayer, or any officer, department, board or bureau of the municipality, may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within ten (10) days after the filing of the decision in the office of the Board.

(k) Upon presentation of such petition the court may allow a writ of certiorari directed to the Board of Adjustment to review such decision of the Board of Adjustment and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten (10) days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the Board and on due cause shown, grant a restraining order.

(l) The Board of Adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

(m) If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm wholly or partly, or may modify the decision brought up for review.

(n) Costs shall not be allowed against the Board unless it shall appear to the court that it acted with gross negligence, or in bad faith, or with malice in making the decision appealed from.

(o) Repealed by Acts 1981, 67th Leg., p. 2646, ch. 707, § 4(54), eff. Aug. 31, 1981.

[Acts 1927, 40th Leg., p. 425, ch. 283, § 7. Amended by Acts 1959, 56th Leg., p. 545, ch. 244, § 1; Acts 1961, 57th Leg., p. 687, ch. 322, § 1; Acts 1971, 62nd Leg., p. 2385, ch. 742, § 1, eff. June 8, 1971; Acts 1981, 67th Leg., p. 2646, ch. 707, § 4(54), eff. Aug. 31, 1981.]

Art. 1011h. Enforcement and Remedies

The local legislative body may provide by ordinance for the enforcement of this Act¹ and of any ordinance or regulation made thereunder. A violation of this Act or of such ordinance or regulation is hereby declared to be a misdemeanor, and such local

legislative body may provide for the punishment thereof by fine or imprisonment or both. It is also empowered to provide civil penalties for such violation.

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this Act or of any ordinance or other regulation made under authority conferred hereby, the proper local authorities of the municipality, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure, or land, or to prevent any illegal act, conduct, business, or use in or about such premises.

[Acts 1927, 40th Leg., p. 424, ch. 283, § 8.]

¹ Article 1011a et seq.

Art. 1011i. Repealed by Acts 1975, 64th Leg., p. 2352, ch. 721, § 90, eff. Sept. 1, 1976

See, now, the Public Utility Regulatory Act, classified as art. 1446c.

Art. 1011j. Conflict with Other Laws

Wherever the regulations made under authority of this Act¹ require a greater width or size of yards, courts, or other open spaces, or require a lower height of building or less number of stories, or require a greater percentage of lot to be left unoccupied, or impose higher standards than are required in any other statute or local ordinance or regulation, the provisions of the regulations made under authority of this Act shall govern. Wherever the provisions of any other statute or local ordinance or regulation requires a greater width or size of yards, courts, or other open spaces, or require a lower height of building or a less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the regulations made under authority of this Act, the provisions of such statute or local ordinance or regulation shall govern.

[Acts 1927, 40th Leg., p. 424, ch. 283, § 9.]

¹ Article 1011a et seq.

Art. 1011k. Neighborhood Zoning Areas in Cities over 290,000

The legislative body of any city having a population of more than 290,000 inhabitants according to the last preceding Federal Census, and which has adopted a comprehensive zoning ordinance under the law of the State of Texas, may by ordinance divide the city into such neighborhood zoning areas after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen days notice of the time and place of such hearing shall be published in an official paper or a paper of general circulation in such municipality. The Mayor of such city,

with the approval of its legislative body, may thereupon appoint for each of said areas a Neighborhood Advisory Zoning Council, consisting of five citizens residing in the area, who shall hold office for two years or until their successors are appointed and qualify. It shall be the duty of such Neighborhood Advisory Zoning Council to furnish to the Zoning Commission of such city information, advice and recommendations with respect to all applications filed with the Zoning Commission for changes in the zoning regulations of such city affecting property within said area. As soon as any such application is filed with the Zoning Commission of the city, the Zoning Commission shall furnish the Neighborhood Advisory Zoning Council for the area which would be affected by such application if granted with a copy thereof, and thereupon it shall be the duty of the Neighborhood Advisory Zoning Council to hold a public hearing in relation thereto, giving at least ten days notice of the time and place of such hearing by publication in an official paper or a paper of general circulation in such municipality, and at or before the hearing on such application before the Zoning Commission it shall be the duty of the Neighborhood Advisory Zoning Council to furnish and submit to the Zoning Commission such information, advice and recommendations with respect to such application as it deems proper. Overruling of any recommendation of the Neighborhood Advisory Zoning Council with respect to the disposition of such application shall require the vote of at least three-fourths (¾) of the members of the Zoning Commission present.

[Acts 1945, 49th Leg., p. 202, ch. 155, § 1.]

Art. 1011l. Joint Municipal Planning in Certain Areas

Grant of Power to Expend Public Funds

Sec. 1. Each city (including home rule charter cities), town, or village incorporated under the laws of this State, or by special act or charter, is hereby authorized, by ordinance duly passed, to expend public funds from the municipal treasury for compiling statistics, conducting studies and formulating plans relative to the future growth and development of such municipality or municipalities.

Municipalities Subject to Act

Sec. 2. Municipalities located or situated in whole or in part within an area wherein the sphere of zoning influence of each municipality is adjacent or contiguous to the other may contribute, and/or expend, public funds from the municipal treasury, to a joint planning commission for the joint planning of the growth and development of two (2) or more of such municipalities that are located or situated in whole or in part within the sphere of influence of such planning commission.

Joint Planning Commission

Sec. 3. Municipalities affected by this Act shall, if they adopt the provisions hereof, by the governing bodies of each of such municipalities, appoint an equal number of representatives, from each of the municipalities affected hereby, to a joint planning commission, and it shall be the duty of such joint planning commission to meet and determine the sphere of influence of such planning commission which they shall describe by metes and bounds in writing and cause the same to be placed upon a map and the same shall be recorded for record with the county clerk of the county within which such municipalities are located or situated.

Powers and Duties of Commission

Sec. 4. The duties, powers and authorities of such joint planning commission, so appointed by the governing body of such municipalities, shall be as follows, as authorized by ordinances duly passed within each of such municipalities, to wit:

(a). To employ engineers, clerks, secretaries, field personnel, and administrative personnel as are necessary to formulate, prepare, and design an organized master plan for the area as designated.

(b). To prepare, formulate, and design an organized master plan for the area which such members represent, including, but not limited to, highway design, street layout, park layout, schooling areas, residential areas, business areas, commercial areas, industrial areas, and water reservoir areas, for the orderly growth of the area, such plan must be approved by each of the municipalities within the area.

(c). To make aerial photographs, land surveys, and topography studies to facilitate such planning.

(d). To keep and maintain a complete record of all activities, meetings, expenditures, and plans.

(e). To submit regular reports of income, expenditures, accounts, and progress reports to each municipality represented.

(f). All records, minutes, books, accounts and meetings shall be open to the public for attendance and/or examination.

(g). To prepare and submit to each municipality represented an annual audit of all accounts, expenditures, funds and moneys coming into the hands of said joint planning commission.

(h). To make all reports, accounts, and records as may be required by each of the municipalities represented, by ordinance or resolution duly passed.

(i). To perform such duties and functions as may be required by each of the municipalities represented, by ordinance or resolution duly passed where the same is approved by a majority of the governing bodies of such municipalities so represented and where such is not inconsistent with the purposes of this Act.

Authority Cumulative

Sec. 5. The authority granted and conferred in Sections 1 and 2 of this Act is cumulative of all other existing authority of municipalities to expend public funds from the municipal treasury for the purpose or purposes of municipal planning and this Act shall not be construed to limit such authority in any manner.

[Acts 1957, 55th Leg., p. 423, ch. 202.]

Art. 1011m. Regional Planning Commissions**Definitions**

Sec. 1. A. "City" means any incorporated city, town or village in the State of Texas.

B. "Governmental Unit" means any county, city, town, village, authority, district or other political subdivision of the state.

C. "Commission" means a Regional Planning Commission, Council of Governments or similar regional planning agency created under this Act.

D. "Region," "Area," or "Regional" means a geographic area consisting of a county or two or more adjoining counties which have common problems of transportation, water supply, drainage or land use, similar, common or interrelated forms of urban development or concentration, or special problems of agriculture, forestry, conservation or other matters, or any combination thereof. It is the intention of this Act to permit the greatest possible flexibility among the various participating governmental units to organize and establish Commissions most suitable to the nature of the area problems as they see them.

E. "Comprehensive Development Planning Process" means the process of (1) assessing the needs and resources of an area; (2) formulating goals, objectives, policies and standards to guide its long-range physical, economic, and human resource development; and (3) preparing plans and programs therefor which (a) identify alternative courses of action and the special and functional relationships among the activities to be carried out thereunder, (b) specify the appropriate ordering in time of such activities, (c) take into account other relevant factors affecting the achievement of the desired development of the area, (d) provide an overall framework and guide for the preparation of function and project development plans, (e) make recommendations for long-range programming and financing of capital projects and facilities which are of mutual concern to two or more member governments, and (f) make such other recommendations as may be deemed appropriate.

F. "General purpose governmental unit" means a county or incorporated municipality.

Objectives

Sec. 2. The purpose of this Act is to encourage and permit local units of government to join and

cooperate with one another to improve the health, safety and general welfare of their citizens; to plan for the future development of communities, areas, and regions to the end that transportation systems may be more carefully planned; that communities, areas, and regions grow with adequate street, utility, health, educational, recreational, and other essential facilities; that needs of agriculture, business, and industry be recognized; that residential areas provide healthy surroundings for family life; that historical and cultural value be preserved; and that the growth of the communities, areas, and regions is commensurate with and promotive of the efficient and economical use of public funds.

Creation

Sec. 3. (a) Any two or more general purpose governmental units may join in the exercise, performance, and cooperation of planning, powers, duties, and functions as provided by law for any or all such governmental units. When two or more such governmental units agree, by ordinance, resolution, rule, order, or other means, to cooperate in regional planning, they may establish a Regional Planning Commission. But nothing in this Act shall be construed to limit the powers of the participating governmental units as provided by existing law. The participating governmental units, by appropriate mutual agreement, may establish a Regional Planning Commission for a region designated in such agreement, provided that such region shall consist of territory under their respective jurisdictions, including extraterritorial jurisdiction.

(b) The geographic boundaries of Commissions established under this Act must be consistent with State Planning Regions or Subregions as delineated by the Governor and subject to review and modification at the end of each State biennium.

Powers

Sec. 4. (a) Under this Act, a Regional Planning Commission shall be a political subdivision of this State, the general purpose of which is to make studies and plans to guide the unified, far-reaching development of the area, to eliminate duplication, and to promote economy and efficiency in the coordinated development of the area. The Commission may make plans for the development of the area which may include recommendations on major thoroughfares, streets, traffic and transportation studies, bridges, airports, parks, recreation sites, school sites, public utilities, land use, water supply, sanitation facilities, drainage, public buildings, population density, open spaces, and other items relating to the effectuation of the general purpose.

(b) The plans and recommendations of the Commission may be adopted in whole or in part by the respective governing bodies of the cooperating governmental units. The Commission may assist the participating governmental units individually or collectively in carrying out plans or recommendations developed by the Commission. The Commission

may assist any participating governmental unit individually in the preparation or effectuation of local planning consistent with the general purposes of this Act.

(c) The Commission may contract with one or more of its member governments to perform any service which that government could, by contract, have any private organization without governmental powers perform, provided that such contract imposes no cost or obligation upon any member government not signatory thereto.

(d) A Commission may purchase, lease or otherwise acquire, hold, sell or otherwise dispose of real and personal property. It may employ such staff, and consult with and retain such experts as it deems necessary. It may provide for retirement benefits for its employees by means of a jointly contributory retirement plan with an agency, firm, or corporation authorized to do business in this State. A Commission may participate in the Texas Municipal Retirement System, the State Employees Retirement System or the City, County, and District Retirement System when such established systems by legislation or administrative arrangement make such participation permissible.

(e) Agencies of the State government and of governmental units are authorized to detail or loan employees to a Commission on either a reimbursable or nonreimbursable basis as may be mutually agreed by the State agency or governmental unit and the Commission. During the period of loan or detail the person will continue to be an employee of the lending agency or unit for purposes of salary, leave, retirement and other personnel benefits but will work under the direction and supervision of the Commission. A loan or detail made pursuant to this section shall expire at the mutual consent of the loaning or detailing agency or governmental unit and the Commission.

(f) In each State Planning Region or Subregion in which a Commission has been organized, the governing body of each governmental unit within the Region or Subregion, whether or not such unit is a member of the Commission, shall submit to the Commission for review and comment any application for loans or grants-in-aid from agencies of the federal government (for a project for which the federal government at the time is requiring the review and comment of an areawide planning agency) or agencies of the State of Texas before such application is filed with the federal or State government. For federally-aided projects for which an areawide review is required by federal law or regulation, the Commission shall review such application from the standpoint of consistency with regional plans and such other considerations as may be specified in federal or State regulations and shall enter its comments upon the application, returning same to the originating governmental unit.

(g) With respect to other federally-aided projects and to State-aided projects, the Commission shall

advise the governmental unit as to whether or not the proposed project for which funds are requested has region wide significance. If it does not have region wide significance, the Commission shall certify that it is not in conflict with the regional plan or policies. If it does have region wide significance, the Commission shall determine whether or not it is in conflict with the regional plan or policies. In making such determination, it may also consider whether the proposed project is properly coordinated with other existing or proposed projects within the region. The Commission shall thereupon record upon the application its views and comments and transmit the application to the originating governmental unit, with a copy to the federal or State agency concerned.

(h) The Governor shall issue guidelines to Commissions and governmental units to carry out the provisions of this Act relating to review and comment procedures.

(i) The Governor and agencies of the State shall provide such technical information and assistance to members of Commissions and their staffs as will increase to the greatest extent feasible the capabilities of such Commissions in discharging the various duties and responsibilities set forth in this Act.

Operations

Sec. 5. The cooperating governmental units may through joint agreement determine the number and qualifications of the governing body of the Commission. The governing body of the Commission shall consist of at least sixty-six and two-thirds percent (66 $\frac{2}{3}$ %) elected officials of general purpose governmental units. The joint agreement may provide for the manner of cooperation and the means and methods of the operation of the Commission. The joint agreement may provide a method for the employment of the staff and consultants, the apportionment of the cost and expenses, and the purchase of property and materials. The joint agreement may allow for the addition of other governmental units to the cooperative arrangement.

Provision of Legal Services

Sec. 5A. (a) A person who provides legal services to a Regional Planning Commission and/or who is a member of the governing body of a Regional Planning Commission may not:

(1) provide legal representation before or to such Regional Planning Commission on behalf of a governmental unit any part of which is located within the boundaries of the Regional Planning Commission; or

(2) be a shareholder, partner, or employee of a law firm that provides such legal services to the governmental unit.

(b) A person who violates Subsection (a) of this section may not receive any compensation or reimbursement for expenses from the Regional Planning Commission or governmental unit.

Funds

Sec. 6. (a) A Regional Planning Commission is authorized to apply for, contract for, receive and expend for its purposes any funds or grants from any participating governmental unit or from the State of Texas, federal government, or any other source.

(b) The Commission shall have no power to levy any character of tax whatever. The participating governmental units may appropriate funds to the Commission for the cost and expenses required in the performance of its purposes.

(c) A Commission which meets the conditions set forth below shall be annually eligible for a maximum amount of State financial assistance based on the formula: Ten Thousand Dollars (\$10,000.00) base grant to each certified organization, plus an additional One Thousand Dollars (\$1,000.00) per dues paying member county, plus an additional ten cents (\$.10) per capita for all population served of dues paying member counties and incorporated municipalities. The minimum amount of annual State financial assistance for which a Commission shall apply shall be Fifteen Thousand Dollars (\$15,000.00).

(d) A Commission to qualify for State financial assistance must have an amount of funds available annually from sources other than federal or state governments equal to or greater than one-half of the State financial assistance amount for which the Commission applies.

(e) In order to be eligible for State financial assistance, a Commission shall comply with the regulations of the agency responsible for administering this Act and shall:

(1) Offer membership in the Commission to all general purpose governments (counties and incorporated municipalities) included in the State Planning Region or Subregion;

(2) Be composed of two or more general purpose governments having a combined population equal to not less than sixty percent (60%) of the total population of the State Planning Region or Subregion, and for purposes of this Act the population of the county shall be the population outside any dues paying member incorporated municipality;

(3) Encompass a geographical area that is economically and geographically interrelated and which forms a logical planning area or region and includes at least one full county;

(4) Be engaged in a comprehensive development planning process.

Interstate Commissions

Sec. 7. With advance approval of the Governor, a Commission including a region or area which is contiguous to an area lying in another state may join with any similar commission or planning agency in such areas to form an interstate Regional Plan-

ning Commission or may permit the Commission in the contiguous area to participate in the planning functions of a Commission formed pursuant to this Act, and the funds provided under the provisions of Section 6 of this Act may be commingled with the funds provided by the state governments having jurisdiction over the contiguous areas.

International Areas

Sec. 8. With advance approval of the governor, a Commission in a region or area contiguous to areas in the Republic of Mexico may expend the funds available under the provisions of Section 6 of this Act in cooperation with agencies of the Republic of Mexico or its constituent states or local governments for planning studies encompassing areas lying both in this state and in contiguous territory of the Republic of Mexico.

Dissolution

Sec. 9. Unless it has been agreed to the contrary, any participating governmental unit may, by a majority vote of its membership qualified in serving, withdraw from its participation in any Regional Planning Commission.

[Acts 1965, 59th Leg., p. 1248, ch. 570, eff. Aug. 30, 1965. Amended by Acts 1969, 61st Leg., p. 1367, ch. 413, § 1, eff. Sept. 1, 1969; Acts 1971, 62nd Leg., p. 1699, ch. 492, §§ 1, 2, eff. May 28, 1971; Acts 1981, 67th Leg., p. 2726, ch. 742, § 1, eff. Sept. 1, 1981.]

Art. 1012. Style of Ordinances

The style of all ordinances shall be "Be it ordained by the city council of the city of _____" (inserting the name of the city); but it may be omitted when published in the form of a book or pamphlet.

[Acts 1925, S.B. 84.]

Art. 1013. Publication of Ordinances

(1) Every ordinance imposing any penalty, fine or forfeiture shall, after the passage thereof, be published in every issue of the official paper for ten (10) days. If the official paper be published weekly, the publication shall be made in one issue thereof. Proof of such publication shall be made by the printer or publisher of such paper by affidavit filed with the city secretary, and shall be prima-facie evidence of such publication and promulgation of such ordinances in all courts of the State. Such ordinances shall take effect and be in force from and after the publication thereof, unless otherwise expressly provided. Ordinances not required to be published shall take effect from their passage, unless otherwise provided.

(2) In lieu of the publication required in Section (1) of this Article, the governing body may in its discretion provide for the publication of a descriptive caption or title, stating in summary the purpose of the ordinance and the penalty for violation thereof.

(3) Any town or city desiring to publish its ordinances in pamphlets or book form need not republish such ordinances as have been previously published. All such ordinances, where printed and published by authority of the city council, shall be admitted and received in all courts without further proof.

[Acts 1925, S.B. 84. Amended by Acts 1947, 50th Leg., p. 462, ch. 263, § 1.]

Art. 1014. May Remit Fines

The city or town council shall have power to remit in whole or in part by a vote of two-thirds of the members present, any fine or penalty belonging to the city, which may be imposed or incurred under this title, or under any ordinance or resolution passed in pursuance thereof.

[Acts 1925, S.B. 84.]

Art. 1015. Other Powers

The governing body shall also have power:

1. Promotion of health.—To do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease.

2. Quarantine regulations.—To make regulations to prevent the introduction of contagious disease into the city; to make quarantine laws for that purpose, and to enforce them within the city and within ten miles thereof.

3. Joint sanitary regulations.—To co-operate with the commissioners' court of the county in which the municipality is situated in making such improvements as may, by it and said court, be deemed necessary to improve the public health and promote efficient sanitary regulations, and to arrange for the construction of, and payment for, said improvements.

4. Hospitals.—To erect or establish one or more hospitals, and control and regulate the same, and to prohibit or to permit and regulate the establishment of private hospitals.

5. Food inspection, etc.—To regulate the inspection of beef, pork, flour, meal, salt and other provisions; to appoint weighers, gaugers and inspectors, and to prescribe their duties and regulate their fees.

6. Sale of bread.—To regulate the weight and quality of the bread to be sold or used within the city.

7. Butchers.—To make such rules and regulations in relation to butchers as they may deem necessary and proper.

8. Unclean establishments.—To compel the owner or occupant of any grocery, soap, tallow, or chandler establishment, or blacksmith shop, tannery, stable, slaughterhouse, sewers, privy, hide house or other unwholesome or nauseous house or place, to cleanse, remove or abate the same, as may

be necessary for the health, comfort and convenience of the inhabitants.

9. Location of establishment.—To direct the location of business, tanneries, blacksmith shops, foundries, livery stables and any manufacturing establishments; to direct the location and regulate the management and construction of, restrain, abate and prohibit within the city limits, slaughtering establishments and hide houses or establishments for making soap, for steaming or rendering lard, tallow, offal and such other substances as may be rendered; and all other establishments or places where any nauseous, offensive or unwholesome business may be carried on.

10. Drains, sinks, etc.—To require the owner of private drains, sinks and privies to fill up, cleanse, drain, alter, relay, repair, fix or improve the same as may be ordered by any resolution or ordinance of said city; and in the event of any failure, neglect or refusal to comply with any such order, the party so failing shall be liable to fine. In the event of there being no person in the city on whom such order can be served, the city may have such work done and such improvements made on account of the owner thereof. All costs, charges and expenses shall be a lien on the property, on the filing of a memorandum by the mayor, under the seal of the corporation thereof, and recording the same with the clerk of the district court. The city may enforce said lien and institute suit in the corporate name and obtain judgment against said party for the amount so due as aforesaid in any court having jurisdiction.

11. Nuisances.—To abate and remove nuisances and to punish the authors thereof by fine, and to define and declare what shall be nuisances and authorize and direct the summary abatement thereof; and to abate all nuisances which may injure or affect the public health or comfort in any manner they may deem expedient.

12. Dead animals, etc.—To prevent any person from bringing, depositing or having within the limits of said city any dead carcass, or other offensive or unwholesome substance or matter, and to require the removal or destruction by any person who shall have placed or caused to be placed upon or near his premises, or elsewhere, of any substance or matter, filth, or any putrid or unsound beef, pork or fish, hides or skins of any kind; and, on his default, to authorize the removal or destruction thereof by some officer of the city, and to require the owner of any dead animal to remove the same to such place as may be designated.

13. Burial of dead, etc.—To regulate the burial of the dead; to purchase, establish and regulate one or more cemeteries; to regulate the registration of marriages; and to direct the returning and keeping of bills of mortality.

14. Driving animals in city.—To prevent, regulate and control the driving of cattle, horses and other animals into or through the city.

15. Dogs.—To tax, regulate or restrain and prohibit the running at large of dogs and to authorize their destruction when at large contrary to ordinances, and to impose penalties for violation of such ordinances.

16. Pounds.—To establish and regulate public pounds, and to regulate, restrain and prohibit the running at large of horses, mules, cattle, sheep, swine, and goats, and to authorize the distraining, impounding and sale of the same for the costs of the proceedings and the penalty incurred, and to order their destruction when they cannot be sold and to impose penalties on the owners thereof for the violation of any ordinance.

17. Breeding animals.—To pass necessary ordinances to prevent any person, corporation or association of individuals from keeping for breeding purposes a jack, bull or stallion within the corporate limits of such city or town.

18. Control of police.—To create, establish and regulate the police of the city; to appoint watchmen and policemen, and to prescribe their duties and powers and compensation.

19. Workhouses.—To erect and establish one or more workhouses or houses of correction, within or without the city limits, make all necessary rules and regulations therefor, and appoint all necessary keepers or assistants. In such workhouse or house of correction may be confined all vagrants and disorderly persons, who may be committed by the mayor or recorder, and any person who shall fail or refuse to pay the fine or costs imposed for any offense may, instead of being committed to jail, be kept therein.

20. Breach of peace, etc.—To prevent all trespasses, breaches of the peace and good order, assaults and batteries, fighting, quarreling, using abusive, obscene, profane or insulting language and all disorderly conduct, and punish all persons thus offending.

21. Public disturbances.—To suppress and prevent any riot, affray, noise, disturbance or disorderly assembly in any public or private place within the city.

22. Noises and annoyances.—To prohibit and restrain the firing of firecrackers, guns and pistols, use of velocipedes, or use of any pyrotechnic or any other amusements or practices tending to annoy persons passing in the streets or sidewalks, or to frighten horses or teams; to restrain and prohibit the ringing of bells, blowing of horns and bugles, crying of goods, and all other noises, practices and performances tending to the collection of persons on the streets and sidewalks, by auctioneers and others, for the purpose of business, amusement or otherwise.

23. Obstructions on public ways, etc.—To prevent the incumbering of the streets, alleys, sidewalks, and public grounds, with any vehicle whatsoever, boxes, lumber, posts, awnings, signs, or any

other substance or material whatever, to compel persons to keep all weeds, filth or any kind of rubbish from the sidewalks and streets and gutters in front of their premises, and to compel the owners of property to fill up, grade, gravel and otherwise improve the sidewalks in front of same.

24. Dangerous buildings, etc.—To order, whenever in the opinion of the city council, any building, fence, shed, awning or any erection of any kind or any part thereof is liable to fall down and endanger persons or property, any owner or agent of the same, or any owner or occupant of the premises on which such building, shed, awning or other erection stands or to which it is attached, to take down and remove the same, or any part thereof, within such time as they may direct; and to punish by fine and imprisonment, or either, any neglect, failure or refusal to comply therewith. The city council shall have power to remove the same at the expense of the city, on account of the owner of the property or premises, and assess the expenses on the land on which it stood or to which it was attached, and shall, by ordinance, provide for such assessment, the mode and manner of giving notice and the means of recovering any such expenses.

25. Bridges, sewers, etc.—To establish, erect, construct, regulate and keep in repair, bridges, culverts, and sewers, sidewalks and crossways, and to regulate the construction and use of the same, and to abate any obstructions or encroachments thereon; and the cost of construction of sidewalks shall be defrayed by the owner of the lot, or part of lot or block, fronting on the sidewalk. The cost of any sidewalk constructed by the city shall be collected, if necessary, by the sale of the lot, or part of lot or block on which it fronts, together with the cost of collection, in such manner as the city council may by ordinance provide. A sale of any lot or part of lot or block to enforce collection of costs of sidewalks shall convey a good title to the purchaser. The balance of proceeds of such sale, after paying the amount due the city and costs of sale, shall be paid to the owner.

26. Street railways.—To compel street railway companies to keep their roads in repair, and to make them conform to the grades of the streets upon which their tracks may be laid, whenever said streets shall have been graded by the city, and to restrain the rate of speed and to compel such railroads to supply ample accommodation for the safe and convenient travel of the people on the street where their track may run. The city council may enforce these regulations by proper ordinances with suitable penalties.

27. Railway companies.—To direct and control the laying and constructing of railroad tracks, turnouts and switches, or prohibit the same in the streets, avenues and alleys, unless the same have been authorized by law, and the location of depots within the city; to require that railroad tracks, turnouts and switches shall be so constructed as to

interfere as little as possible with the ordinary travel and use of streets, avenues and alleys and that sufficient space shall be left on either side of a track for the safe and convenient passage of teams, carriages and other vehicles, and persons; to require railroad companies to keep in repair the streets, avenues or alleys through which their track may run, and, if ordered by the city council, to construct and keep in repair, suitable crossings at the intersection of streets, avenues and alleys, and ditches, sewers and culverts, when the city council shall deem it necessary; to direct the use and regulate the speed of locomotive engines in said city, or to prevent and prohibit the use or running of the same within the city.

28. Unsafe driving.—To prevent, prohibit and suppress horseracing, immoderate riding or driving in the streets; to compel persons to fasten their horses or other animals attached to vehicles, or otherwise, while standing or remaining in the streets.

29. Light and gas.—To provide for lighting the streets and erecting lamp posts therein, and regulating the lighting thereof, and from time to time create, alter or extend lamp districts, to exclusively regulate, direct and control the laying and repairing of the gas pipes and gas fixtures in the streets, alleys, sidewalks and elsewhere.

30. Water system.—To provide, or cause to be provided, the city with water; to make, regulate and establish public wells, pumps and cisterns, hydrants and reservoirs in the streets or elsewhere within said city or beyond the limits thereof, for the extinguishment of fires and the convenience of the inhabitants, and to prevent the unnecessary waste of water. Any city or town owning, or that may hereafter own, its water system and plant, shall not lease or sell the same without first submitting the question of such proposed lease or sale to a vote of the qualified voters who are property taxpayers of such town or city as shown by the last preceding tax rolls, at a general election, or at one held for that especial purpose, nor unless a majority of those voting shall vote in favor thereof. Before submitting such question to a vote as aforesaid, the proposed contract of lease or sale shall be distinctly set forth in the form of an ordinance or contract, and shall be filed with the city or town secretary or clerk at least twenty days prior to the day of the election, and shall at all times be subject to inspection by the people of such city.

31. Market house.—To establish or erect, or cause to be established or erected, markets and market houses; designate, control and regulate market places and privileges; inspect and determine the mode of inspecting meat, fish, vegetables and all produce and every article and thing therein brought for sale.

32. Parks, etc.—To provide for inclosing, regulating and improving all public grounds and cemeteries belonging to the city, and to direct and regu-

late the planting and preserving of ornaments and shade trees in the streets, sidewalks or public grounds.

33. Libraries.—To establish a free library in such city or town; to adopt rules and regulations for the proper management thereof, and to appropriate such part of the revenues of such city or town for the management and increase of such free library as the municipal government of such city or town may determine.

34. Street car taxes.—To assess and collect the ordinary municipal taxes upon street railways.

35. Trade taxes.—To tax all trades, professions, occupations and callings, the taxing of which is not prohibited by the Constitution of this State; which tax shall not be construed to be a tax on property.

36. Chauffeurs, porters, etc.—To license, tax and regulate hackmen, draymen, omnibus drivers and drivers of baggage wagons, porters, and all others pursuing like occupations, with or without vehicles, and prescribe their compensation, and provide for their protection and make it a misdemeanor to attempt to defraud them of any legal charge for services rendered, and to regulate, license and restrain runners for railroads, stages and public houses.

37. Peddlers, theaters, etc.—To license, tax and regulate or suppress and prevent hawkers, peddlers, pawnbrokers and keepers¹ or other exhibitions, shows and amusements.

38. Circuses, etc.—To license, tax or regulate theaters, circuses, the exhibitions of common showmen, shows of any kind, and the exhibition of natural and artificial curiosities, caravans, menageries and musical exhibitions and performances.

39. Licenses and fees.—To authorize the proper officer of the city to grant and issue licenses, and to direct the manner of issuing and registering thereof, and the fees to be paid therefor. No license shall be issued for a longer period than one year, and shall not be assignable except by permission of the city council.

40. Finances and property.—To manage and control the finances and all property, real and personal and mixed, belonging to the corporation.

41. Appropriations.—To appropriate money, and provide for the payment of debts and expenses of the city.

42. Special funds.—To provide by ordinance special funds for special purposes, and to make the same disbursable only for the purpose for which the fund was created. Any officer of the city misappropriating said special fund shall be deemed guilty of malfeasance in office, and shall, on complaint of any one interested in said funds misappropriated, be removed from office, and be incapable thereafter to hold any office in said city.

43. Improvements.—To appropriate so much of the revenues of the city emanating from whatever

source, for the purpose of retiring and discharging the accrued indebtedness of the city, and for the purpose of improving the public markets and streets, erecting and conducting city hospitals, city hall, waterworks, and so forth, as they may from time to time deem expedient; and in furtherance of these objects, to borrow money upon the credit of the city.

[Acts 1925, S.B. 84.]

¹ So in enrolled bill. Words "of theatrical" probably should be inserted.

Art. 1015a. Condemnation of Lands for Parks

In case of the condemnation of land for laying out, establishing or enlarging any parks, parkways or pleasure grounds by any city in Texas which now has or may hereafter have a population of 12,000 or more inhabitants, the governing body of said city may, by ordinance, provide that the cost of such land and improvements shall be paid for, wholly or in part to an extent not exceeding the special benefits received by the property owners owning property in the vicinity thereof and benefited thereby, and may fix liens against said property so benefited to the extent same is specially benefited, provided, however, no assessments nor liens shall hold against homestead property so designated under existing laws and the procedure for and manner of assessing and collecting said benefits against and from said property owners and their said property shall be the same as that authorized by law in such city in which such proceedings are had in connection with the opening or widening of streets. Such assessments may be made payable in not exceeding sixteen (16) installments, the last maturing in not over fifteen (15) years, and may bear interest at not more than eight per cent (8%) per annum.

[Acts 1927, 40th Leg., p. 433, ch. 288, § 1.]

Art. 1015b. Repealed by Acts 1969, 61st Leg., p. 362, ch. 131, § 1, eff. Sept. 1, 1969.

Art. 1015c. Parks and Recreation Projects

Purchase and Encumbrance

Sec. 1. All cities and towns, including Home Rule cities, in the State of Texas, shall have power to build and purchase, to mortgage and encumber any of the hereinafter named project and/or projects, to wit: parks and/or swimming pools, golf courses, golf course club houses, ball parks, fairgrounds, exposition buildings, airports, and the land upon which the same are situated, either or all, and the income therefrom and everything pertaining thereto acquired or to be acquired and to evidence the obligation therefor by the issuance of bonds, notes or warrants, and to secure the payment of funds to purchase same or funds with which to construct and equip the same; and as additional security therefor, by the terms of such encumbrance, may grant to the purchaser under sale or foreclosure thereunder, a franchise to operate the projects herein enumerated and properties so pur-

chased for a term of not over twenty (20) years after purchase, subject to all laws regulating same then in force. No such obligation of any such project and/or projects shall ever be a debt of said city or town, but solely a charge upon the properties of the project and/or projects so encumbered, and shall never be reckoned in determining the power of any such city or town to issue any bonds for any purpose authorized by law.

Election to Authorize Sale

Sec. 2. None of the projects named in Section 1 of this Act, nor the land upon which the same are situated, shall ever be sold until such sale is authorized by a majority vote of the qualified voters of such city or town; nor shall the same be encumbered for more than Five Thousand Dollars (\$5000), except for purchase money, or funds with which to construct and equip the same or to refund any existing indebtedness lawfully created, until authorized in like manner. Such vote in either case shall be ascertained at an election, which election shall be held and notice thereof given as is provided in the case of the issuance of municipal bonds by such cities and towns, provided that no election shall be necessary for the encumbering of golf courses, golf course club houses, fairgrounds, airports and exposition buildings and the land upon which the same are situated, where encumbrances of any such project and/or projects has or have already been authorized at the time of the passage of this Act by a majority vote of the qualified voters at an election held for such purpose.

Validation of Bonds or Warrants

Sec. 3. All proceedings heretofore had by the governing bodies of all cities and towns, including Home Rule cities, in the State of Texas in the issuance and sale of bonds, notes and warrants or other obligations to aid in financing any of such project and/or projects for which a loan or grant has been made or applied for the United States through the Federal Emergency Administrator of Public Works or any agency, department or division of the Government of the United States of America are herein in all things fully validated, confirmed, approved and legalized, and all such bonds, notes or warrants or other obligations issued thereunder are hereby declared to be the valid and binding obligation of said cities or towns and all such bonds, notes or warrants or other obligations which have been heretofore authorized but not yet issued, shall, when delivered and paid for, constitute valid and binding obligations of such cities or towns, and any election heretofore held in such cities and towns, including Home Rule cities, in which the qualified votes of any such city or town have authorized the mortgage or encumbrance of any such project and/or projects named in this Act and the ground on which the same was to be erected, is hereby in all things fully validated, ratified, confirmed, approved, and legalized.

Records and Accounts; Penalty

Sec. 4. It shall be the duty of the mayor of such cities or towns to install and maintain, or cause to be installed and maintained, a complete system of records and accounts showing the free service rendered, and the value thereof, and showing separately the amounts expended and/or set aside for operation, salaries, labor, materials, repairs, maintenance, depreciation, replacements, extensions, interest and the creation of a sinking fund to pay off such bonds and indebtedness.

It shall likewise be the duty of the superintendent or manager of such project and/or projects to file with the mayor of such cities or towns, not later than February 1st, a detailed report of the operations of such project and/or projects for the year ending January 1st preceding, showing the total sum of money collected and the balance due, as well as the total disbursements made and the amounts remaining unpaid as the result of operation of such project and/or projects during such calendar year.

Failure or refusal on the part of the mayor to install and maintain, or cause to be installed and maintained, such system of records and accounts within ninety (90) days after the completion of such project and/or projects, or on the part of such superintendent or manager, to file or cause to be filed such report, shall constitute a misdemeanor and, on conviction thereof, such mayor or superintendent or manager shall be subject to a fine of not less than One Hundred Dollars (\$100), nor more than One Thousand Dollars (\$1,000); and any taxpayer residing within such city or town, or holder of such indebtedness, shall have the right, by appropriate civil action in the District Court of the county in which such city or town is located, to enforce the provisions of this Act.

[Acts 1935, 44th Leg., 2nd C.S., p. 1741, ch. 453.]

Art. 1015c-1. Recreational Programs and Facilities; Establishment by Counties, Cities and Towns, Jointly or Singly, Authorized

Purpose

Sec. 1. The purpose of this Act is to promote the establishment, operation and support of public recreational facilities and programs by local government units of this State either singly or jointly.

Definitions

Sec. 2. As used in this Act:

(a) The term "governing body" means any city council, city commission, county commissioners court, or other body acting in lieu thereof.

(b) The term "governmental unit" means any city, town, or county.

(c) The term "board" means any board, commission, committee or council appointed or designated to carry out the provisions of this Act.

Recreational Powers

Sec. 3. Any governmental unit may establish, provide, acquire, maintain, construct, equip, operate, and supervise recreational facilities and programs, either singly or jointly in cooperation with one (1) or more other governmental units.

Elections

Sec. 4. Any governmental unit may submit the question of whether it shall exercise the powers conferred in Section 3 to an election of the qualified electors of such unit.

Finances

Sec. 5. Any governmental unit may pay costs and expenses of carrying out the provisions of this Act from the general revenues of the unit, or from other revenues now provided by law for the establishment or the operation of parks and recreational facilities. Governmental units jointly exercising the powers conferred in Section 3 may agree upon the manner and method of division of costs and expenses.

Administration

Sec. 6. A governing body may administer and operate recreational facilities and programs through a bureau or department of recreation or through a board established jointly with another governing body. The Board shall adopt and promulgate rules and regulations for administration and operation of recreational facilities and programs in its charge subject to the approval of the establishing governing bodies.

Acceptance of Gifts

Sec. 7. Any governmental unit may accept any grant, lease, loan or devise of real estate, or gift or bequest of money, either principal or income, or any other personal property for either temporary or permanent use for the establishment, operation, or support of public recreation facilities and programs.

Limitations

Sec. 8. This Act shall be cumulative as to all laws, ordinances, and charter provisions relating to public recreation and parks.

[Acts 1955, 54th Leg., p. 1179, ch. 458.]

Art. 1015c-2. Swimming Pools

Power of Cities; Obligations as Debts of Cities or Towns

Sec. 1. All cities and towns, including Home Rule Cities, operating under Title 28, Revised Civil Statutes, 1925, as amended,¹ shall have the power to build, purchase, improve, enlarge and repair, to mortgage and encumber their swimming pools and the gross income and revenues thereof, either or both, and everything pertaining thereto acquired or to be acquired, and to evidence the obligation there-

of by the issuance of its revenue bonds. No such obligation shall ever be a debt of such city or town, but shall be solely a charge upon the properties or income so encumbered, and such bonds shall never be reckoned in determining the power of such city or town to issue bonds for any other purpose authorized by law.

¹ Article 961 et seq.

Bond Issues

Sec. 2. Except as modified by the provisions of this Act, the issuance of bonds, additional bonds or refunding bonds shall be governed by the provisions of Chapter 10 of Title 28, Revised Civil Statutes of Texas, 1925, as amended,¹ which Chapter is hereby made applicable to the bonds authorized to be issued under the provisions of this Act.

¹ Article 1106 et seq.

Examination and Approval of Bonds; Registration

Sec. 3. Prior to delivery thereof, all bonds authorized to be issued hereunder and the records relating to their issuance shall be submitted to the Attorney General of Texas for examination, and if he finds that they have been issued in accordance with the Constitution and this Act, and that they will be binding special obligations of the city or town authorizing their issuance, he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas, and after such approval and registration they shall be incontestable.

Bonds Eligible for Investment and to Secure Deposits

Sec. 4. Such bonds shall be and are hereby declared to be legal and authorized investments of banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and sinking funds of cities, towns, villages, counties, school districts, or other political subdivisions of the State of Texas, and for all public funds of the State of Texas or its agencies including the State Permanent School Fund. Such bonds shall be eligible to secure deposit of public funds of the State of Texas and public funds of cities, towns, villages, counties, school districts or other political subdivisions or corporations of the State of Texas, and such bonds shall be lawful and sufficient security for said deposits to the extent of their value when accompanied by all unmatured coupons appurtenant thereto.

Cumulative Effect of Law

Sec. 5. This Act is cumulative of all other Acts on the subject and shall not repeal or affect any other law or part of law relating to such subject unless they are expressly inconsistent and then only to the extent of such inconsistency. It is expressly provided that all existing laws relating to the issuance of revenue bonds by cities and towns, including but not limited to those found in Chapter 10,

Title 28 of the Revised Civil Statutes of Texas, 1925, as amended, shall remain unimpaired by the provisions of this Act.

[Acts 1965, 59th Leg., p. 1452, ch. 640, eff. Aug. 30, 1965.]

Art. 1015d. Acquisition of Gas Systems and Distribution of Gas by Cities

Sec. 1. Any city (or), town, or village, whether created by general or special law, including cities operating under the Home Rule Amendment to the State Constitution, which is served neither by an artificial gas distribution system nor by a natural gas distribution system, privately owned or owned by said city, may acquire either by purchase, construction, or otherwise a system designed to prepare, to make available, and to distribute to the inhabitants of the city who may subscribe for such service, artificial gas useful for fuel and lighting purposes, manufactured and compounded substantially in the following manner: liquefied butane, a by-product obtained in the manufacture of gasoline from natural gas, is mixed with a proper proportion of propane, resulting in a liquefied gas capable of being transported in tank cars or otherwise to storage tanks, whence it may be drawn and mixed by automatically controlled mixing machines and released into gas storage tanks, said mixture then being suitable for distribution in mains and laterals to consumers, or manufactured and compounded in any other manner which will result in making available for distribution in mains and laterals, an economically useful gas for domestic and commercial fuel and lighting uses.

Sec. 2. The provisions of Articles 1111 to 1118, inclusive, of Revised Civil Statutes of 1925 with all amendments thereto are hereby adopted by reference as prescribing the procedure to be used by such cities and towns in acquiring such gas systems, and in making and evidencing their obligations to pay for same out of revenues pledged for the purpose, in encumbering said systems, in operating said systems and in reference to the enforcement of such obligations to the extent that such provisions are not in conflict with the provisions of this Act, as fully as if all of said provisions were copied herein, including that provision that every contract, note or other evidence of indebtedness issued or under this law shall contain this clause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation."

Sec. 3. In letting contracts for construction of such systems and in providing for the issuance of revenue bonds, notes or warrants under authority of this Act, the applicable provisions of Chapter 163, Acts of the Regular Session of the Forth-second Legislature,¹ known as "The Bond and Warrant Law of 1931" are hereby adopted as the procedure to be followed under this Act insofar as said provisions have reference to revenue bonds, notes and warrants.

Sec. 4. This Act shall be cumulative of all existing laws and the powers herein conferred shall be considered as in addition to powers now possessed by cities of the class included in this Act.

[Acts 1935, 44th Leg., 2nd C.S., p. 1866, ch. 473. Amended by Acts 1937, 45th Leg., p. 567, ch. 278, § 1.]

¹ Article 2368a.

Art. 1015e. Licensing Dealers in Motor Vehicles or Accessories

Sec. 1. The power and authority is hereby conferred upon all cities and towns of Texas, whether incorporated under general or special law, to provide suitable ordinance, for the regulation, supervision, control and licensing of all persons, firms or corporations engaged, primarily or incidentally, in the sale, barter or exchange of motor vehicles, or parts thereof or accessories thereto within the corporate limits of such city, and to fix penalties for the violation thereof; provided that all sums of money collected from such dealers shall be used by the city for the enforcement hereof, and for the enforcement of all provisions of the law regulating the sale, theft or exchange of motor vehicles or parts, or accessories thereto and for no other purpose.

Sec. 2. In case any section, subdivision, paragraph, or sentence of this Act is declared unconstitutional the validity of the remainder of this Act shall not be affected thereby.

[Acts 1937, 45th Leg., p. 404, ch. 203.]

Art. 1015f. Motor Vehicles, Regulation of Operation by Cities of 230,000 to 232,000 Inhabitants

Ordinances Authorized

Sec. 1. All Cities and Towns in the State of Texas, whether incorporated under General or Special Law, including Home Rule Cities, having a population in excess of 230,000 and not exceeding 232,000 inhabitants, according to the last preceding or any future Federal Census, shall have and they are hereby given the power and authority to pass an ordinance or ordinances:

(a) Requiring all residents of said City, including corporations having their principal office or place of business in said City, owning a motor vehicle used for the transportation of persons or property, to have each and every such motor vehicle tested and inspected and to comply with such requirements, as may be imposed by said ordinance, not more than four times in each calendar year;

(b) Requiring that other and additional tests and inspections may be required of all such motor vehicles involved in any wreck, collision, or accident before the same may be operated on the streets, alleys, or other public thoroughfares of said City after said wreck, collision, or accident;

(c) Requiring as a condition precedent to the right to use the streets, alleys, or other public thorough-

fares of said City that such motor vehicles operated thereupon shall have been tested and inspected, shall have been approved by said testing and inspecting authorities, including the State Highway Patrol, and shall have complied with all provisions of said ordinance;

(d) Authorizing City Patrolmen and State Highway Patrolmen in uniform to stop without warrant such drivers of motor vehicles as may fail to comply with said ordinance and issue to the violators such traffic violation tickets as may be provided under said ordinance;

(e) Providing a penalty subject to the limitations of Article 1011 of the Revised Civil Statutes of the State of Texas for the violation of any of the terms of said ordinance.

Testing Stations

Sec. 2. Said Cities shall be and they are hereby authorized to acquire, establish, erect, equip, improve, enlarge, repair, operate, and maintain motor vehicle testing stations and to pay for the same out of the fees charged for testing and inspecting said motor vehicles.

Fees for Testing and Inspecting Vehicles

Sec. 3. Said Cities shall have and they are hereby given power and authority to prescribe and collect a fee, not to exceed One (\$1.00) Dollar per year per vehicle, for the testing and inspecting of each such motor vehicle. All fees so collected to be placed in a separate fund, out of which costs and expenses in connection with, or growing out of the acquisition, establishment, erection, equipping, improvement, enlargement, repairing, operating, and maintaining said testing stations, and automotive and Safety Education programs, may be paid.

Financing Purchase of Testing Stations

Sec. 4. Said Cities shall have and they are hereby given power and authority to pay for such testing stations and the equipping, maintaining, and operating thereof out of past or future earnings of said stations, and may mortgage and encumber said stations and everything pertaining thereto acquired, to secure the payment of funds to construct the same or any part thereof, or to erect, equip, improve, enlarge, repair, operate, or maintain said stations. No such mortgage or encumbrance shall ever be a debt of such City, but solely a charge upon the properties so mortgaged or encumbered, and shall never be reckoned in determining the power of such City to issue bonds for any purpose authorized by law. Said Cities may borrow money and issue warrants to finance in whole or in part the cost of the acquisition, erection, equipping, improvement, enlargement, or repair of said stations and to pledge for the punctual payment of said warrants and interest thereon all or any part of the fees or other receipts derived from the operation of such stations.

Partial Invalidity

Sec. 5. If any section, subsection, paragraph, sentence, clause, phrase, or word of this Act, or the application thereof to any person or circumstance, is held invalid or unconstitutional, such holding shall not affect the validity of the remaining portions of the Act, and the Legislature hereby declares that it would have passed such remaining portions despite such invalidity or unconstitutionality.

Not Applicable to Vehicles Operating Under Certificate from Railroad Commission

Sec. 5a. Nothing herein or in any ordinance passed pursuant hereto shall apply to motor vehicles, trailers, or semitrailers operated under a certificate or permit from the Railroad Commission of Texas.

[Acts 1937, 45th Leg., p. 750, ch. 368.]

Art. 1015g. Toll Bridges Over International Boundary Rivers, Powers Respecting**Acquisition**

Sec. 1. Any city or town in this State now or hereafter incorporated under the General Laws of the State, or incorporated and acting under its Special Charter or Home Rule Charter, and having located within its corporate limits or outside its corporate limits but within a distance of fifteen (15) miles from such corporate limits thereof, a toll bridge over a river between the State of Texas and the Republic of Mexico shall have power to acquire any such toll bridge, with its rights and franchises and appurtenant properties, by purchase thereof from the owner or owners thereof; either by purchase of the properties, as such, or, if such toll bridge is owned by a private corporation, either by purchase from it of the properties, as such, or by purchasing the capital stock of such corporation from the owner or owners of such stock, either all of the outstanding capital stock of such corporation or a sufficient amount thereof as required under the law for the dissolution and liquidation of such corporation, and immediately liquidating such corporation, paying the debts and obligations or liabilities thereof, and winding up its business and affairs, and causing conveyance of its properties to said city or town, taking the Title to such stock either in the name of such city or town or in the name of a trustee therefor, and voting or causing such stock to be voted to carry out and accomplish such purposes, and all in such manner and to such effect as to vest title to such toll bridge, with its right and franchises and appurtenant properties, in such city or town; and to thus purchase and acquire any such properties or stock of such corporation, from the owner or owners thereof, for such price, upon such terms and conditions, and upon such covenants and agreements in respect thereto, and to make and enter into such contracts and agreements with such owner or owners therefor, in respect thereto, and to

accomplish the purposes of this Act, as may be agreed upon by and between such owner or owners and the Governing Body of any such city or town, the action of the latter being expressed by Ordinance, all as consistent with and subject to the provisions of this Act.

General Powers after Acquiring Bridge

Sec. 2. Any such city or town thus acquiring any such toll bridge shall have power to maintain and operate same, and to own, hold, and control the same, and to make or cause to be made any repairs, improvements, replacements, extensions, or additions thereto, and to renew or extend any franchises therefor, and to obtain new or additional franchises therefor, and to do any and all things required or that may be proper or necessary to the maintenance and operation thereof, and conduct of the business thereof, and of rendering the services thereof to the public and to the patrons of said toll bridge; and to such end and for such purposes shall have power to make and enter into, and to carry out, observe, and perform, any and all contracts, agreements, and undertakings, of any and every kind, required by the United States of America or any of its departments, officers, or governmental agencies, or the public authorities thereof; or required by the Republic of Mexico, or any of its departments, officers, or governmental agencies, or the public authorities thereof.

Tolls and Charges

Sec. 3. Any such city or town thus acquiring any such toll bridge shall have power, to be exercised by its Governing Body as expressed by Ordinance, to fix and to enforce and collect tolls and charges for the use thereof, and for the passage or transportation of persons or property, passengers, vehicles, freight and commodities, over and across such toll bridge. Such tolls and charges shall be fixed from time to time by the Governing Body of any such city or town, and collected under its direction, in accordance with the provisions and requirements of any permits or franchises granted or extended by any governmental authority in respect of or applicable thereto; and, subject to the provisions and requirements of any such permits or franchises, shall be just and reasonable and non-discriminatory, as determined by such Governing Body of any such city or town, and with no free service until the bonds herein provided to be issued to acquire such properties, together with the interest thereon, and all duties and obligations incident thereto or arising therefrom are first fully paid, met, and discharged; and, subject to the provisions and requirements of any such permits and franchises, shall be sufficient to produce revenues adequate:

(a) to pay all expenses necessary to the maintenance and operation of such toll bridge, and to comply with the requirements and make all payments necessary under the provisions of any such permits and franchises therefor;

(b) to pay the interest on and the principal of all bonds and/or warrants issued under this Act when and as the same shall become due and payable;

(c) to pay all sinking fund and/or reserve fund payments agreed to be made in respect of any such bonds and/or warrants, and payable out of such revenues, when and as the same shall become due and payable; and

(d) to fulfill the terms of any agreements made with the holders of such bonds and/or warrants and/or with any person in their behalf;

(d-1) to recover a reasonable rate of return on invested capital;

(e) out of the revenues which may be received in excess of those required for the purposes specified in subparagraphs (a), (b), (c), (d), and (d-1) above, the Governing Body of any such city or town may in its discretion use such excess revenues for any or all of the following:

(1) to establish a reasonable depreciation and emergency fund;

(2) to retire by purchase and cancellation or redemption any outstanding bonds or outstanding warrants issued under the authority of this Act and amendments thereto;

(3) to provide needed budgetary support to local government for legitimate public purposes and for the general welfare;

(4) to apply the same to accomplish the purposes of this Act and amendments thereto.

(f) It is the intention of this Act that the tolls and charges herein provided for shall be those necessary to fulfill all obligations imposed by this Act and amendments thereto, and shall be sufficient to produce revenues to comply with the above subparagraphs (a), (b), (c), (d), (d-1), and (e). Nothing herein shall be construed as depriving the State of Texas or the United States of America, or other appropriate agencies having jurisdiction, of power to regulate and control tolls and charges to be collected for such purposes, or to provide for bridges over any such river to be used free of any tolls or charges, provided that the State of Texas does hereby pledge to and agree with the purchasers and successive holders of the bonds and/or warrants issued hereunder that the State will not limit or alter the power hereby vested in any such city or town or the Governing Body thereof to establish and collect such tolls and charges as will produce revenues sufficient to pay the items specified in subparagraphs (a), (b), (c), (d), (d-1), and (e) of this Section 3 of this Act, or exercise its powers in any way to impair the rights or remedies of the holders of the bonds and/or warrants, or of any person in their behalf, until the bonds and/or warrants, together with the interest thereon, with interest on unpaid installments of interest and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders and/or

warrant holders and all other obligations of any such city or town in connection with such bonds and/or warrants are fully met and discharged.

(g) This section shall apply to international toll bridges now in existence and owned by a city or that may be acquired or controlled by a city in the future.

Definition of Toll Bridge with its Rights and Franchises and Appurtenant Properties; Acquisition of All or Part

Sec. 4. The term "toll bridge, with its rights and franchises and appurtenant properties" is hereby defined to mean and include the physical properties of any such bridge, together with and including all permits, grants, franchises, rights, and privileges, of every kind granted or extended by the United States of America, or the Congress thereof, or any department, officer, agency, or governmental authority thereof; or by the Republic of Mexico, or the Congress thereof, or any department, officer, agency, or governmental authority thereof; or by any State or municipality or political subdivision of either or both said two (2) Nations; for or in relation to or in respect of the construction, maintenance, or operation of any such toll bridge; or the collection of tolls and charges for the uses thereof; and including all lands, rights of way, easements, leasehold, contractual or other interest of any kind in any lands in either or both said two (2) Nations, held or used or in any manner incident to or for the construction, maintenance, or operation of such bridge, or the approaches thereto, or for the use or occupancy of any buildings, structures, appurtenances, appliances, roads, streets, parks, grounds, or conveniences or facilities of any kind, related or in any manner incident thereto; and including all buildings, structures, appurtenances, appliances, equipment, conveniences and facilities, of every kind, held or used or in any manner incident to or for the construction, maintenance, and operation of said bridge; and including all leases and contracts of every kind for the use or occupancy of any such lands, buildings, structures, conveniences, appliances and facilities; and including all rights and properties of every kind incident to or used for the construction, maintenance, or operation of any such toll bridge; each and all whereof shall be construed as included within the meaning of such term "toll bridge, with its rights and franchises and appurtenant properties" as such term is used in this Act; provided, however, that any such city or town, in exercising the powers herein granted, may acquire by purchase as herein provided, all or any part of any such toll bridge, that is, either the entire bridge or only that part thereof which is situated in the State of Texas; and either all or any part of or any of the respective such grants, permits, franchises, rights, contracts, privileges, easements, leases, lands, rights of way, buildings, structures, appurtenances, appliances, equipment, facilities, and other interests and items above enumerated, as included within the meaning of such term "toll bridge, with

its rights and franchises and appurtenant properties" as used in this Act; as the Governing Body of any such city or town may, in its discretion, determine and deem best.

**Parks, Recreation Grounds, Camps, Quarters,
Accommodations and Facilities**

Sec. 5. Any such city or town acquiring any such toll bridge shall have the power, in connection with the maintenance and operation thereof, to acquire lands and a site or sites for the purpose either within or without the corporate limits of such city or town, within territory adjacent to said city or town or to said toll bridge, and to construct, maintain, and operate parks, recreation grounds and facilities, camps, quarters, accommodations and facilities, for the use and convenience of the public; and to fix and to enforce and collect fees, rentals, and charges, for the use thereof, which shall be just and reasonable and non-discriminatory, as determined by and fixed from time to time by the Governing Body of such city or town; and to make and enforce reasonable rules and regulations therefor; and if such toll bridge is located within the corporate limits of the city, to manage, control, govern, police and regulate the same, and if the toll bridge is situated outside of the corporate limits of the city to manage, control, govern, police and regulate the same to the same extent as if it were located within the corporate limits of the city.

**Borrowing Money; Grants from United States
or Agencies**

Sec. 6. Any such city or town, to accomplish the purposes of this Act, shall have power to borrow money from any person or corporation, and, without limitation of the generality of the foregoing, to borrow money and accept grants from the United States of America, or from any corporation or agency created by the United States of America or designated or empowered to act as an agency thereof, and, in connection with any such loan or grant, to enter into such agreements as the United States of America or such agency or corporation may require in respect or in relation thereto.

Issuance of Bonds

Sec. 7. Any such city or town shall have the power to accomplish the purposes of this Act, to issue, sell and deliver, its negotiable bonds; which bonds or the proceeds of the sale thereof may be used to purchase and acquire from the owner or owners thereof any such toll bridge, with its rights and franchises and appurtenant properties, or such part or portion thereof as may be purchased by any such city or town as herein provided for, either by purchase of the properties, as such, or by using such bonds or the proceeds of the sale thereof for the purchase from the owner or owners thereof of the stock of any corporation owning such toll bridge and for the liquidation and winding up of the business and affairs of such corporation and paying the debts and obligations or liabilities thereof, and all in

such manner and to such effect as to vest title to such toll bridge, with its rights and franchises and appurtenant properties, or such part or portion thereof as may be purchased, in said city or town as provided for herein; and which bonds may be exchanged for property or sold as herein provided; to accomplish any of the purposes of this Act as herein provided.

Mortgages or Pledges

Sec. 8. Any such city or town shall have the power, in respect to any such bonds issued in pursuance of the provisions of this Act to accomplish any of the purposes of this Act, to mortgage or pledge all or any part of or any interest in any such toll bridge, with its rights and franchises and appurtenant properties, or any of the properties acquired or to be acquired with such bonds or the proceeds of the sale thereof; and all or any part of the gross or net revenues thereafter received by said city or town from or in respect of any such properties so acquired or to be acquired by said city or town with such bonds or the proceeds of the sale thereof; to secure the payment of the principal of and interest on such bonds, and of the sinking fund and reserve fund payments agreed to be made in respect of such bonds; and to make and enter into such covenants and agreements with the purchasers of such bonds or any person in their behalf in respect thereto and for securing the payment thereof and for providing rights and remedies to the owners and holders of such bonds or to any person in their behalf, as the Governing Body of any such city or town may in its discretion approve and determine and provide by an Ordinance or Ordinances adopted for such purposes; all in accordance with the provisions of this Act.

Amount, Denominations and Terms of Bonds

Sec. 9. Any such bonds issued by any such city or town in pursuance of and to accomplish the purposes of this Act, shall be in such aggregate principal amount or amounts, of such denominations, bearing such date or dates, of such maturities, bearing interest at such rate or rates, not exceeding six (6) per cent per annum, payable annually or semi-annually on such respective dates, in such form, containing such terms, provisions, and conditions, either coupon or registered, with such registration privileges, such provisions for the call or redemption thereof before maturity, payable at such place or places within or without the State of Texas, as the Governing Body of any such city or town may in its discretion approve and determine and provide by an Ordinance or Ordinances adopted for such purposes; all in accordance with the provisions of this Act.

Sale or Exchange of Bonds

Sec. 10. Any such bonds issued by any such city or town in pursuance of and to accomplish the purposes of this Act, may either be:

(a) sold for cash, at public or private sale, at such price or prices as the Governing Body of any such city or town shall determine, provided, that the interest cost of the money received therefor, computed to maturity in accordance with standard bond tables in general use by banks and insurance companies, shall not exceed six (6) per cent per annum; or,

(b) may be issued on such terms as the Governing Body of any such city or town shall determine in exchange for property of any kind, real, personal or mixed, or any interest therein, which the Governing Body of such city or town shall determine to be proper and necessary to accomplish any of the purposes of this Act; or,

(c) may be issued in exchange for like principal amounts of any other bonds of such issue, matured or unmatured.

Deposit of Proceeds

Sec. 11. If such bonds are sold for cash, the proceeds of the sale of such bonds shall be deposited in such depository and shall be paid out pursuant to such terms and conditions, as may be agreed upon between the Governing Body of such city or town and the purchasers of such bonds.

Negotiability; Exemption From Taxation; Investment in Bonds

Sec. 12. Any such bonds issued by any such city or town in pursuance of and to accomplish the purposes of this Act, shall constitute negotiable instruments under the Negotiable Instruments Act of this State; and are hereby exempted from any and all State, county, municipal, and other taxation under the laws of this State; and shall be legal investments for banks, trust companies, and insurance companies organized under the laws of this State.

Application of Other Laws

Sec. 13. The provisions of Articles 1111 to 1118, inclusive, of the Revised Civil Statutes of Texas of 1925, as amended, and of the Bond and Warrant Law of 1931, as amended,¹ shall apply to and govern the purchase of any such properties by any such city or town, in pursuance of the provisions of this Act, and the issuance, sale, and delivery of any such bonds, and manner of securing the payment thereof, and in respect to the enforcement of such obligations, and the rights and remedies of the owners and holders of such bonds or of any person acting in their behalf, in respect to the maintenance and operation of the properties acquired in pursuance of this Act, and in respect to the accomplishment of all the purposes of this Act; except as herein specifically provided for and prescribed by the terms of this Act; and except that none of the limitations and restrictions contained in or imposed by Sections 2, 3, and 4 of said Bond and Warrant Law of 1931, as amended, shall apply to or govern any such purchase of any such properties or issuance of any

such bonds by any such city or town; and except that, as is hereby expressly provided, any such city or town may purchase any such properties and issue any such bonds, and may use such bonds or the proceeds of the sale thereof for the purchase of any such properties or to accomplish any of the purposes of this Act, by action of its Governing Body as expressed by Ordinance authorizing and effecting same, and without the necessity of any referendum, and without the necessity of calling or holding any election to authorize any such action, and without the necessity of giving or publishing any notice of intention to acquire any such properties or to issue any such bonds, and without the necessity of advertising or calling for any competitive bids in respect thereto; and provided that in the event there is any conflict between the provisions of this Act and the provisions of said Articles 1111 to 1118, inclusive, Revised Civil Statutes of Texas of 1925, as amended, or the provisions of said Bond and Warrant Law of 1931, as amended, or the provisions of any other applicable Act or law, the provisions of this Act shall control; and, in all events, all specific provisions of this Act shall control.

¹ Article 2366a.

Approval of Bonds by Attorney General; Incontestability

Sec. 13(a). After any such bonds are authorized by the governing body of any such city, the bonds and the record relating to their issuance shall be submitted to the Attorney General for examination by him. If such bonds shall have been issued in accordance with the Constitution and Laws of the State they shall be approved by the Attorney General and shall be registered by the Comptroller of Public Accounts, and after such approval and registration the bonds shall be incontestable.

Bonds or Warrants to Repair, Improve, Alter or Reconstruct Toll Bridge; Issuance

Sec. 13(b). After any such city or town shall have acquired a toll bridge as defined and used in Section 4 of this Act, it may in the manner prescribed in Section 13 of this Act issue and deliver bonds for the purpose of repairing or improving or altering or reconstructing or replacing the toll bridge, or building an additional or supplementary, or auxiliary bridge, or for any one or more of said purposes, subject only to the restrictions contained in the ordinance authorizing the original issue and/or subsequent issue of toll bridge revenue bonds, or both, and in the deed of indenture securing such original issue or subsequent issue of bonds, or it may issue warrants, including revenue time warrants, in accordance with applicable Texas law, to accomplish any one or more of such purposes, subject to the restrictions contained in ordinances and deed of indenture authorizing prior issue or issues of bonds or warrants.

**Revenue Bonds or Revenue Time Warrants; Charge
Against Pledged Revenues**

Sec. 13(c). Revenue bonds or revenue time warrants only may be issued to accomplish the purposes of this Act. Such bonds or warrants shall not constitute indebtedness of any such city or town, but shall be a charge only against the pledged revenues, and against the property comprising the toll bridge if a lien is given on such property. And every such bond or warrant shall contain substantially this clause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation."

Refunding Bonds

Sec. 13(d). The governing body of any such city or town which shall have issued bonds or warrants pursuant to this Act or has outstanding bonds or warrants or bonds and warrants, the interest on and the principal of which are payable from all or part of the gross or net revenues received by said city or town from or in respect to any such properties, shall have power and authority to issue refunding bonds to refinance or refund any or all of such bonds and warrants by the issuance of its refunding bonds, and any said governing body may pledge all or part of said gross or net revenues to the refunding bonds and may provide that the refunding bonds shall have the same relative priorities of lien as the bonds or warrants refunded, or in providing for the security of the refunding bonds, may combine liens of differing priorities securing the bonds or warrants refunded, into one or more issues of refunding bonds. The provisions of this Act, where not inconsistent with this Section, concerning form of bonds, sale, approval by the Attorney General, registration by the Comptroller of Public Accounts, and delivery pertaining to other bonds authorized to be issued pursuant to this Act shall apply to said refunding bonds.

**Taxes or Assessments; Pledge of Credit;
Not Authorized**

Sec. 14. Nothing in this Act shall authorize any such city or town, acting in pursuance hereof or to accomplish any of the purposes hereof, to levy or collect any taxes or assessments therefor or in respect thereto, or to pledge the credit of the State in any manner; or to issue or to sell or deliver any bonds or to create any obligations of any kind or to incur any liabilities of any kind or to make or enter into any contracts or agreements of any kind, to be paid or performed or met or discharged out of or from any taxes or assessments.

How Powers Exercised

Sec. 15. All powers, rights, privileges and functions, conferred by this Act upon any such city or town shall be exercised by and through the Governing Body thereof as expressed by an Ordinance or Ordinances duly adopted to authorize and effectuate the same. No referendum and no election by the

voters of any such city or town shall be necessary or required to authorize the exercise of any such powers, rights, privileges, or functions, or the doing of any act or thing to accomplish the purposes of this Act.

Application of Other Laws

Sec. 16. This Act shall constitute full authority for the authorization and issuance of bonds hereunder and no other Act or law with regard to the authorization or issuance of obligations, or the deposit of the proceeds thereof, in any way impeding or restricting the carrying out of the acts and things herein authorized to be done shall be construed as applying thereto or to any acts or proceedings taken hereunder and acts or things done pursuant hereto, and for the accomplishment of the purposes of this Act.

Cumulative Character

Sec. 17. This Act shall be cumulative of all other Acts and laws; and the powers, rights, privileges, and functions hereby conferred on any such city or town, shall not prevent the exercise by any such city or town of any and all other powers, rights, privileges, or functions conferred upon any such city or town by any other Act or law now existing or hereafter enacted.

Liberal Construction

Sec. 18. This Act and all of the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein.

Partial Invalidity

Sec. 19. If any provision of this Act or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

[Acts 1945, 49th Leg., p. 397, ch. 258. Amended by Acts 1955, 54th Leg., p. 551, ch. 175, §§ 1 to 3; Acts 1965, 59th Leg., p. 770, ch. 361, §§ 1, 2, eff. June 9, 1965; Acts 1967, 60th Leg., p. 561, ch. 248, § 1, eff. May 22, 1967; Acts 1977, 65th Leg., p. 366, ch. 180, § 1, eff. Aug. 29, 1977.]

**Art. 1015g-1. Pledge of Revenue Derived from
Operation of Toll Bridge**

Any city or town in this State incorporated under the General Laws of the State, or incorporated and acting under its Special Charter or Home Rule Charter which is receiving revenue, by virtue of a contract with another city or town concerning the operation of a toll bridge over a river between the State of Texas and the Republic of Mexico, may appropriate or pledge all or any part of such revenue to redeem or pay any bonds, notes or warrants, as well as interest thereon, authorized to be issued by such city or town under any provision of law or to retire any other indebtedness which such city or town may legally incur.

[Acts 1961, 57th Leg., p. 520, ch. 246, § 1.]

Art. 1015g-2. Validation of Proceedings for Issuance and Sale of Time Warrants for International Toll Bridges

Sec. 1. That all proceedings heretofore had by the governing bodies of all cities and towns, including Home Rule Cities in the State of Texas, in the issuance and sale of revenue time warrants under the provisions of Articles 1111 to 1118, Revised Civil Statute of Texas, 1925, as amended, and Chapter 258, Acts of the 49th Legislature, 1945, as amended (Article 1015g, Vernon's Texas Civil Statutes), to finance and undertaking to finance the cost of repairing, improving, reconstructing, or replacing any existing international toll bridge owned by such city or town is hereby in all things fully validated, confirmed, approved, ratified, and legalized, and any such warrants heretofore sold or heretofore authorized but not yet delivered, are in all things fully validated, confirmed, ratified, approved, and legalized and such warrants are hereby declared to be the valid and binding special obligations of such cities or towns, payable only from sources other than taxation and which do not constitute a tax obligation. All orders, resolutions, ordinances, and actions authorizing the issuance of any such warrant and setting aside and pledging the revenues of any such international toll bridge system are hereby in all things validated, confirmed, approved, ratified, and legalized, and the fact that any city or town, in the issuance and sale of any such obligations or in the pledging of any said revenues of such systems to the payment of such warrants, failed to have or lacked the power and right to do all things necessary to make said obligations legal, shall in no wise impair such obligations nor the pledge of such revenues, but the same are in all things validated, confirmed, ratified, and approved.

Sec. 2. The provisions of this Act shall not apply to any such proceedings or any obligations issued thereunder, the validity of which has been contested or attacked in any pending suit or litigation; nor shall the provisions of this Act affect, in any way, the title to real estate, the ownership of which has been contested or attacked in any pending suit or litigation.

[Acts 1965, 59th Leg., p. 742, ch. 348, eff. June 9, 1965.]

Art. 1015g-3. Revenue Bonds by Border Cities; Pledge of Revenue from Toll Bridges; Approval and Registration

Sec. 1. Any city or town in this state, including Home Rule Cities, having located within its corporate limits, or outside its corporate limits but within a distance of fifteen (15) miles from such corporate limits, a toll bridge over a river between the State of Texas and the Republic of Mexico, shall have the power, subject to any outstanding covenants relating to or made in favor of the holders of outstanding bonds of any such city or town, to appropriate or pledge all or any part of any revenues derived by any such city or town from or on account of any such toll bridge, including revenues derived by any

such city or town from or on account of and pursuant to any contract with another city or town covering or relating to the operation of such a toll bridge, to the payment of bonds issued under and for the purposes permitted by this Act.

Sec. 2. Revenue bonds, payable from the source aforesaid, may be issued by any such city and town for the purpose of acquiring by purchase, construction or otherwise, or making repairs to, or extending or improving, any or all public buildings, utility system or systems and/or other public properties or facilities, considered necessary and appropriate by the governing body of such city or town. Such revenue bonds may be issued without the necessity of an election when authorized by an ordinance or ordinances of such governing body, which ordinance may provide and contain such terms and conditions for such bonds and such covenants and commitments to bondholders with respect thereto as may be deemed appropriate by such governing body, except that each issue of such bonds shall mature in not more than forty (40) years from their date and shall bear interest not to exceed the rate or rates as provided in and computed in accordance with Senate Bill No. 20, 61st Legislature, Regular Session, 1969.¹ Additionally, such bonds may be refunded upon such terms and at such times, and maturing at such times and bearing such rate or rates of interest as the issuer shall deem appropriate.

Sec. 3. The proceedings authorizing such bonds shall be presented to the Attorney General for review and to the Comptroller of Public Accounts for registration, all as in the case of other bonds issued by cities and counties in this state. Upon the approval thereof by the Attorney General, the bonds and such proceedings thus approved shall be incontestable for any cause.

[Acts 1969, 61st Leg., p. 1472, ch. 436, eff. June 4, 1969.]

¹ Article 717k-2, §§ 1 to 3.

Art. 1015g-4. Eligible City Operating Toll Bridge Over Rio Grande River; Acquisition of Property, etc.; Revenue Bonds

Definition

Sec. 1. As used in this Act the term "eligible city" is defined as and means any incorporated city which owns and operates any portion of a toll bridge over the Rio Grande River.

General Authority

Sec. 2. Each eligible city is authorized to acquire, purchase, construct, improve, enlarge, equip, operate, and maintain any property, buildings, structures, activities, operations, or other facilities, for any public purpose.

Authority to Issue Revenue Bonds

Sec. 3. For the purpose of providing funds to acquire, purchase, construct, improve, enlarge, and equip any property, buildings, structures, or other

facilities, for any public purpose, the governing body of an eligible city may issue revenue bonds of said eligible city from time to time and in one or more issues or series, to be payable from and secured by liens on and pledges of all or any part of any of the revenues, income, or receipts derived by the eligible city from its ownership and operation of any portion of any toll bridge or bridges over the Rio Grande River, and from its ownership and operation of any other property, buildings, structures, activities, operations, or facilities.

Terms and Conditions of Bonds

Sec. 4. (a) The bonds may be issued to mature serially or otherwise within not to exceed 50 years from their date, and provisions may be made for the subsequent issuance of additional parity bonds, or subordinate lien bonds, under any terms or conditions that may be set forth in the ordinance authorizing the issuance of the bonds.

(b) The bonds, and any interest coupons appertaining thereto, are and shall constitute negotiable instruments within the meaning and for all purposes of the Texas Uniform Commercial Code,¹ provided that the bonds may be issued registrable as to principal alone or as to both principal and interest, and shall be executed, and may be made redeemable prior to maturity, and may be issued in such form, denominations, and manner, and under such terms, conditions, and details, and may be sold in such manner, at such price, and under such terms, and said bonds shall bear interest at such rates, all as shall be determined and provided in the ordinance authorizing the issuance of the bonds.

(c) If so provided in the bond ordinance, the proceeds from the sale of the bonds may be used for paying interest on the bonds during the period of the acquisition or construction of any facilities to be provided through the issuance of bonds, for paying expenses of operation and maintenance of any facilities, for creating a reserve fund for the payment of the principal of and interest on the bonds, and for creating any other funds, and such proceeds may be placed on time deposit or invested, until needed, all to the extent, and in the manner provided, in the bond ordinance.

¹ Business and Commerce Code, § 1.101 et seq.

Rentals, Rates, and Charges

Sec. 5. Each eligible city shall be authorized to fix and collect tolls, rentals, rates, and charges for the occupancy, use and availability of all or any of its toll bridge or bridges, and its property, buildings, structures, activities, operations, or other facilities, in such amounts and in such manner as may be determined by the governing body of the eligible city.

Pledges

Sec. 6. (a) Each eligible city may pledge all or any part of its revenues, income, or receipts from such tolls, rentals, rates, and charges, or other

resources to the payment of the bonds, including the payment of principal, interest, and any other amounts required or permitted in connection with the bonds. The pledged tolls, rentals, rates, and charges shall be fixed and collected in amounts that will be at least sufficient, together with any other pledged resources, to provide for all payments of principal, interest, and any other amounts required in connection with the bonds, and, to the extent required by the ordinance authorizing the issuance of the bonds, to provide for the payment of expenses in connection with the bonds, and for the payment of operation, maintenance, and other expenses in connection with the aforesaid toll bridge or bridges, property, buildings, structures, or other facilities.

(b) Said bonds may be additionally secured by mortgages or deeds of trust on any real property owned by the eligible city and by chattel mortgages or liens on any personal property appurtenant to such real property; and the governing body of the eligible city may authorize the execution of trust indentures, mortgages, deeds of trust, or other forms of encumbrances to evidence same.

(c) Also, each eligible city may pledge to the payment of the bonds all or any part of any grant, donation, revenues, or income received or to be received from the United States government or any other public or private source, whether pursuant to an agreement or otherwise.

Additional Powers

Sec. 7. It is hereby found, determined, and declared that the acquisition, purchase, construction, improvement, enlargement, and/or equipment by an eligible city of any property, buildings, structures, or other facilities for lease or rental to the United States of America, or any department or agency thereof, for use in performing federal governmental functions in the city, or in performing federal governmental functions at or near, and relating to, its toll bridge, even though its toll bridge and said federal facilities relating thereto are not located in the city is and constitutes a public purpose and a proper municipal function. Any such property, buildings, structures, or other facilities acquired, purchased, constructed, improved, enlarged, and/or equipped in whole or in part with proceeds from the sale of bonds issued pursuant to this Act may be leased or rented by an eligible city to the United States of America, or any department or agency thereof, upon such terms and conditions, and for such period, as such parties shall agree.

Bonds Not General Obligations of an Eligible City

Sec. 8. bonds issued pursuant to this Act by an eligible city are payable solely from the revenues, income, receipts, or other resources of the eligible city, as provided in this Act, and such bonds are not tax obligations of the eligible city.

Refunding Bonds

Sec. 9. Any bonds issued pursuant to this Act may be refunded or otherwise refinanced by the issuance of refunding bonds for such purpose, under such terms, conditions, and details as may be determined by ordinance of the governing body of the eligible city. All pertinent and appropriate provisions of this Act shall be applicable to such refunding bonds, and they shall be issued in the manner provided herein for other bonds authorized under this Act; provided that such refunding bonds may be sold and delivered in amounts necessary to pay the principal, interest, and redemption premium, if any, of bonds to be refunded, at maturity or on any redemption date. Also, such refunding bonds may be issued to be exchanged for the bonds being refunded thereby. In the latter case, the Comptroller of Public Accounts of the State of Texas shall register the refunding bonds and deliver the same to the holder or holders of the bonds being refunded thereby, in accordance with the provisions of the ordinance authorizing the refunding bonds; and any such exchange may be made in one delivery, or in several installment deliveries. Bonds issued at any time by an eligible city also may be refunded in the manner provided by any other applicable law.

Approval and Registration of Bonds

Sec. 10. All bonds issued pursuant to this Act and the appropriate proceedings authorizing their issuance, shall be submitted to the Attorney General of the State of Texas for examination. If he finds that such bonds have been authorized in accordance with law, he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas; and after such approval and registration such bonds shall be incontestable in any court, or other forum, for any reason, and shall be valid and binding obligations in accordance with their terms for all purposes.

Bonds are Authorized Investments and Security for Deposits

Sec. 11. All bonds issued pursuant to this Act are legal and authorized investments for all banks, trust companies, building and loan associations, savings and loan associations, insurance companies of all kinds and types, fiduciaries, and trustees, and for all interest and sinking funds and other public funds of the State of Texas and all agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic. Said bonds also shall be eligible and lawful security for all deposits of public funds of the State of Texas and all agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market

value of said bonds, when accompanied by any unmatured interest coupons appurtenant thereto.

Cumulative Effect of Act

Sec. 12. This Act shall be cumulative of all other law on the subject, but this Act shall be wholly sufficient authority within itself for the issuance of the bonds and the performance of the other acts and procedures authorized hereby, without reference to any other law or any restrictions or limitations contained therein, except as herein specifically provided; and when any bonds are being issued under this Act, then to the extent of any conflict or inconsistency between any provisions of this Act and any provision of any other law, the provisions of this Act shall prevail and control; provided, however, that any eligible city shall have the right to use the provisions of any other laws, not in conflict with the provisions hereof, to the extent convenient or necessary to carry out any power or authority, express or implied, granted by this Act.

Severability

Sec. 13. In case any one or more of the sections, provisions, clauses, or words of this Act, or the application thereof to any situation or circumstance, shall for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other sections, provisions, clauses, or words of this Act, or the application thereof to any other situation or circumstance, and it is intended that this Act shall be severable and shall be construed and applied as if any such invalid or unconstitutional section, provision, clause, or word had not been included herein.

[Acts 1971, 62nd Leg., p. 1881, ch. 557, eff. June 1, 1971.]

Art. 1015g-5. Eligible City Operating International Toll Bridge over Rio Grande; Acquisition, Construction, Operation, and Financing**Applicability of Act**

Sec. 1. This Act applies only to incorporated cities and towns whose corporate limits are at any point within 15 miles from the part of the Rio Grande that forms the border between Texas and the Republic of Mexico. In this Act, "eligible city" means a city to which this Act applies.

Acquisition of Toll Bridge, etc.; Contracts

Sec. 2. (a) Each eligible city is authorized for any public purpose to acquire, purchase, construct, improve, enlarge, equip, operate, and maintain one or more toll bridges over the part of the Rio Grande that forms the border between Texas and the Republic of Mexico.

(b) In this Act, "toll bridge" includes:

(1) the physical properties constituting all or part of a toll bridge;

(2) the permits, grants, franchises, rights, and privileges of every kind granted or extended by the United States, the Republic of Mexico, or any state or political subdivision of those nations for or in regard to the construction, maintenance, or operation of a toll bridge or for the collection of tolls or other charges for use of the toll bridge;

(3) the lands, rights-of-way, easements, leaseholds, and contractual or other interests of any kind in lands in either of those nations held or used for or in any manner incident to the construction, maintenance, or operation of a toll bridge or approaches to a toll bridge or for the use or occupancy of any buildings, structures, appurtenances, appliances, roads, streets, railroads, parks, grounds, or conveniences or facilities of any kind related or in any manner incident to a toll bridge;

(4) the buildings, structures, appurtenances, appliances, equipment, conveniences, and facilities of any kind held or used for or in any manner incident to the construction, maintenance, and operation of a toll bridge and the leases and contracts of any kind for the use or occupancy of those lands, buildings, structures, conveniences, appliances, and facilities; and

(5) the rights and properties of any kind incident to or used for the construction, maintenance, or operation of a toll bridge.

(c) An eligible city may make and enter into, carry out, observe, and perform any and all contracts, agreements, and undertakings required by the United States or the Republic of Mexico or any departments, officers, governmental agencies, or public authorities of either nation for the purpose of engaging in the activities authorized by this Act.

Revenue Bonds Authorized; Interim Financing

Sec. 3. (a) For the purpose of providing funds to acquire, purchase, construct, improve, enlarge, or equip a toll bridge or a part of a toll bridge or related buildings, structures, or other facilities for any public purpose, the governing body of an eligible city may issue revenue bonds from time to time in one or more issues or series to be payable from and secured by liens on and pledges of all or any part of any of the revenues, income, or receipts derived by the eligible city from its ownership and operation of any portion of a toll bridge or bridges over the Rio Grande and from its ownership and operation of any other property, buildings, structures, activities, operations, or facilities.

(b) Pending the issuance of revenue bonds pursuant to this Act, an eligible city may use money that is not required by law to be used for other purposes for expenditures in connection with a toll bridge or bridges or may issue notes for those expenditures. If an eligible city uses its money for this purpose, the money may be repaid out of proceeds of the revenue bonds issued under this Act. If notes of the city are issued for this purpose, the notes shall have the characteristics deemed appropriate by the

governing body of the city, may bear the rate or rates of interest, may be payable from sources available to pay, and may be secured in the same manner as revenue bonds issued under this Act or payable from the proceeds of refunding bonds issued under this Act or from both revenue bonds and refunding bonds.

Issuance of Bonds and Notes; Negotiability

Sec. 4. (a) The bonds issued pursuant to this Act may be issued to mature serially or otherwise not more than 50 years from the date of issue, and provision may be made for the subsequent issuance of additional parity bonds or subordinate lien bonds under any terms or conditions that may be set forth in the ordinance authorizing the issuance of the bonds.

(b) The bonds and notes and interest coupons appertaining to the bonds or notes are negotiable instruments within the meaning of and for the purposes provided by the Texas Uniform Commercial Code;¹ however, the bonds may be issued registrable as to principal alone or as to both principal and interest. The bonds and notes shall be executed; may be made redeemable prior to maturity; may be issued in the form, denominations, and manner and under the terms, conditions, and details; may be sold in the manner, at the price, and under the terms; and shall bear interest at the rates provided by the ordinance authorizing issuance of the bonds or notes.

(c) If provided in the bond ordinance, the proceeds from the sale of the bonds may be used for paying interest on the bonds during the period of the acquisition or construction of any facilities to be provided through the issuance of bonds, paying expenses of operation and maintenance of any facilities, creating a reserve fund for the payment of the principal of and interest on the bonds, and creating any other funds and may be placed on time deposit or invested, until needed, all to the extent and in the manner provided by the bond ordinance.

¹ Business and Commerce Code, § 1.101 et seq.

Tolls and Charges

Sec. 5. Each eligible city may fix and collect tolls, rentals, rates, and charges for the occupancy, use, and availability of all or any of its toll bridges in the amounts and in the manner as may be determined by the city's governing body.

Security for Bonds

Sec. 6. (a) An eligible city may pledge all or any part of its revenues, incomes, or receipts from tolls, rentals, rates, and charges, or other resources to the payment of bonds issued pursuant to this Act, including the payment of principal, interest, and any other amounts required or permitted in connection with the bonds. The pledged tolls, rentals, rates, and charges shall be fixed and collected in amounts that will be at least sufficient, together with any other pledged resources, to provide for all payments of principal, interest, and any other amounts re-

quired in connection with the bonds and to the extent required by the ordinance authorizing issuance of the bonds to provide for the payment of expenses in connection with the bonds and for the payment of operation, maintenance, and other expenses in connection with the toll bridge or bridges.

(b) The bonds may be additionally secured by mortgages or deeds of trust on any real property owned by the eligible city and by chattel mortgages or liens on any personal property appurtenant to the real property. The governing body of the eligible city may authorize the execution of trust indentures, mortgages, deeds of trust, or other forms of encumbrances to evidence the debt.

(c) An eligible city may pledge to the payment of the bonds all or any part of any grant, donation, revenue, or income received or to be received from the United States or any other public or private source whether pursuant to an agreement or otherwise.

Use of Property by Federal Government

Sec. 7. It is hereby found, determined, and declared that the acquisition, purchase, construction, improvement, enlargement, or equipping by an eligible city of any property, buildings, structures, or other facilities for lease to the United States government for use in performing federal governmental functions in the city or in performing federal governmental functions at or near and relating to its toll bridge, even though the toll bridge and the federal facilities relating to the toll bridge are not located in the city, is and constitutes a public purpose and a proper municipal function. Any property, buildings, structures, or other facilities acquired, purchased, constructed, improved, enlarged, or equipped in whole or in part with proceeds from the sale of bonds issued pursuant to this Act may be leased or rented by an eligible city to the United States under the terms and conditions and for the period agreed to by the parties.

Payment of Bonds and Notes; Taxability

Sec. 8. Bonds and notes issued pursuant to this Act are payable solely from the revenues, income, receipts, or other resources of the issuing city, as provided in this Act, and the bonds and notes are not tax obligations of the eligible city.

Refinancing

Sec. 9. (a) Bonds or notes issued pursuant to this Act may be refunded or otherwise refinanced by the issuance of refunding bonds for the purpose and under the terms, conditions, and details prescribed by ordinance of the governing body of the eligible city. All pertinent and appropriate provisions of this Act are applicable to refunding bonds, and they shall be issued in the manner provided for other bonds authorized under this Act. Refunding bonds may be sold and delivered in amounts sufficient to pay the principal, interest, and redemption

premium, if any, of bonds and notes to be refunded at maturity or on any redemption date.

(b) Refunding bonds may be issued to be exchanged for the bonds and notes being refunded. If refunding bonds are issued under this subsection, the comptroller of public accounts shall register the refunding bonds and deliver them to the holder or holders of the bonds or notes being refunded in accordance with the ordinance authorizing the refunding bonds. An exchange may be made in one delivery or in several installment deliveries.

(c) Bonds and notes issued at any time pursuant to this Act may be refunded in the manner provided by any other applicable law in addition to that provided by this section.

Approval and Registration

Sec. 10. All bonds and notes issued pursuant to this Act and the appropriate proceedings authorizing their issuance shall be submitted to the attorney general for examination. If he finds that the bonds and notes have been authorized in accordance with law, he shall approve them, and on approval the bonds and notes shall be registered by the comptroller of public accounts. After approval and registration, the bonds and notes are incontestable in any court or other forum for any reason and shall be valid and binding obligations in accordance with their terms for all purposes.

Bonds and Notes as Lawful Investments and Deposit Security

Sec. 11. (a) Bonds and notes issued pursuant to this Act are legal and authorized investments for all banks, trust companies, building and loan associations, savings and loan associations, insurance companies of all kinds and types, fiduciaries, and trustees, and for all interest and sinking funds and other public funds of the State of Texas and all agencies, subdivisions, and instrumentalities of the state, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic.

(b) The bonds and notes when accompanied by any unmatured interest coupons appurtenant to them are eligible and lawful security to the extent of their market value for any deposits of public funds of the state or any agency, subdivision, or instrumentality of the state, including a county, city, town, village, school district or other type of district, public agency, or body politic.

Act Cumulative and Wholly Sufficient

Sec. 12. This Act is cumulative of all other law on the subject, and this Act is wholly sufficient authority within itself for the issuance of the bonds and notes and the performance of the other acts and procedures authorized hereby without reference to any other law or any restrictions or limitations contained therein, except as herein specifically provided; and when any bonds or notes are being

issued under this Act, then to the extent of any conflict or inconsistency between any provisions of this Act and any provision of any other law, the provisions of this Act shall prevail and control; provided, however, that any eligible city shall have the right to use the provisions of any other laws not in conflict with the provisions hereof to the extent convenient or necessary to carry out any power or authority, express or implied, granted by this Act. [Acts 1979, 66th Leg., p. 759, ch. 332, §§ 1 to 12, eff. Aug. 27, 1979.]

Art. 1015h. Public Building; Powers of City Owning Natural Gas Distribution System

Application of Act; Powers of Eligible City

Sec. 1. This Act shall apply to all incorporated cities, including Home Rule Cities, of more than fifty thousand (50,000) population according to the last preceding Federal Census which own and operate a natural gas distribution system serving the inhabitants of all or part of such city. Any such city, for the purposes of this Act, shall be an "eligible" city.

Any eligible city shall have the power to construct, purchase, equip, improve, repair, remodel and enlarge coliseums, exposition and convention halls, city halls and other public buildings and the necessary sites therefor, and to issue revenue bonds for such purposes. Such cities may acquire one (1) building for any one (1) or more of the foregoing purposes or may acquire one (1) or more buildings for any one (1) or more of such purposes.

Revenue Bonds; Security; Pledge of Revenues of Gas System

Sec. 2. When authorized at an election as herein-after provided, the governing body of any eligible city shall be authorized to issue the revenue bonds of such city bearing interest at a rate not to exceed five per cent (5%) per annum and maturing within not more than thirty (30) years from their date or dates, and to secure the payment thereof by pledging and encumbering the net revenues of the revenue producing parts of such buildings and, at the option of the governing body, by a further pledge of the net revenues of the city's municipal gas distribution system, either any part or all. Such bonds shall be issued under the provisions of Articles 1111 to 1118, both inclusive of the Revised Civil Statutes of Texas, 1925, as amended, except where same are in conflict with the provisions of this Act. No such bonds shall be issued, however, until first authorized by a majority vote of the voters qualified to vote in such elections and voting at an election called for such purpose. Such election shall be called and held in the same manner provided for other bond elections for such city. The issuance of revenue bonds to provide funds with which to acquire one (1) or more buildings for one (1) or more of the foregoing purposes may be submitted as one (1) proposition at

such election; provided that all bonds included in one (1) proposition are secured by a pledge of the same revenues.

Ordinances; Books and Accounts

Sec. 3. The governing body of any such city shall be authorized to make such provisions in the ordinance or ordinances authorizing the issuance of such bonds as it shall deem proper and desirable in regard to the terms and conditions upon which such revenues, or any designated part thereof, shall be pledged, the method of securing the payment of such bonds, the use of the pledged revenues, the establishment of reserves for depreciation, replacements, betterments, additions and extensions, the duties and obligations of the city in regard to the use, maintenance and operation of the facilities whose net revenues are pledged to the payment of such bonds and as to the right of redemption, if any, of such bonds before their respective maturity dates. It shall be the duty of the city to establish and maintain separate books and accounts for each of the properties whose income shall have been pledged.

Additional Bonds

Sec. 4. The governing body of such cities shall be authorized to issue additional revenue bonds for such purposes secured by a pledge of all or any part of the net revenues which are pledged to the payment of previously issued bonds to the extent and in the manner expressly permitted by the ordinance or ordinances authorizing such previously authorized and outstanding revenue bonds. Such additional revenue bonds shall be issued only after being authorized at an election held as hereinabove provided for original issues. Any ordinance authorizing the issuance of bonds under this Act may provide for the use by the city of surplus revenues for other lawful purposes.

Refunding Bonds

Sec. 5. The governing body of any said city shall be authorized to refund all or any part of any bonds issued under the provisions of this Act by the issuance of refunding bonds without the necessity of an election; provided that the refunding bonds shall not bear interest at a higher rate than that borne by the bonds being refunded.

Act Cumulative; Conflict with Existing Laws

Sec. 6. This Act shall be cumulative of all other laws on the subject, but in the event any of its provisions are in conflict with any existing laws, the provisions hereof shall prevail and be effective in regard to the subject matter of this Act.

Partial Invalidity

Sec. 7. If any paragraph, sentence, clause, phrase or provision of this Act or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the remain-

ing provisions of this Act or the application thereof to any other person or circumstance and the provisions of this Act are declared to be severable.

[Acts 1949, 51st Leg., p. 735, ch. 397.]

Art. 1015i. Lease of City Owned Hospital; Cities of 65,000 or Less

The governing body of any incorporated city or town (including home rule cities) having a population of sixty-five thousand (65,000) inhabitants or less, according to the last preceding Federal Census, is hereby authorized to lease any city-owned hospital, or part thereof, to be operated by the lessee as a public hospital under such terms and conditions as may be agreed upon by such governing body and such lessee. Any such lease shall be authorized by ordinance or resolution adopted by such governing body, and the lease agreement shall be executed, on behalf of the city or town, by the mayor and the city secretary or clerk, and the seal of the city shall be impressed thereon. Such lease may cover any period of time not to exceed fifty (50) years.

[Acts 1953, 53rd Leg., p. 930, ch. 389, § 1.]

Art. 1015j. Appropriations for Advertising and Promoting Growth and Development of General Law Cities

Each city incorporated or operating under the general laws of this State may appropriate from the General Fund of the city an amount not exceeding Five Cents (5c) on the One Hundred Dollars (\$100) assessed valuation, for the purpose of advertising and promoting the growth and development of such city; providing that before the governing body of any city may appropriate any sums for such purpose, the qualified property taxpaying voters of the city shall, by a majority vote at an election, authorize the governing body of the city to thereafter appropriate not to exceed Five Cents (5c) on the One Hundred Dollars (\$100) assessed valuation.

[Acts 1955, 54th Leg., p. 949, ch. 370, § 1.]

Art. 1015j-1. Promotional Advertising for Growth and Development in Cities of Not More Than 500,000; Board of Development; Appropriations and Expenditures Authorized; Appointment of Manager

Sec. 1. The governing body of any incorporated city having a population of not more than 500,000 according to the last preceding Federal Census may appropriate from the general fund an amount not exceeding one percent of the general fund budget for that year, such appropriation to be for advertising such city and promoting its growth and development.

Sec. 2. Before expending any money appropriated under authority of this Act, the governing body shall create a Citizens' Advisory Committee known as a City Board of Development, or by any other

name, consisting of five members, to be appointed by the governing body for two-year terms. Members of the board shall receive no compensation, shall have advisory powers only, and shall not be deemed to be public officers or agents of the city, and their service on the board shall not invalidate city contracts in which they may have an interest.

Sec. 3. The board of development shall investigate the desirability of various methods of advertising and promoting the city and shall make appropriate recommendations to the governing body as to the best method of expending funds already available, and as to the amount which should be appropriated in the next budget. Recommendations of the board are not binding on the governing body, which shall have discretion as to the amount to be appropriated (within the limit of one percent of the general fund budget) and as to the methods of using it.

Sec. 3a. To assist it in carrying out the provisions of this Act, the governing body may appoint a person to manage the promotion, development, tourism, and convention activities of the city, or it may designate a city official to carry out that function. The person appointed or designated shall serve ex officio as the secretary of the board of development.

Sec. 4. This statute is cumulative of any powers which a city has or shall have under its charter, and shall not impair any such charter power.

[Acts 1971, 62nd Leg., p. 678, ch. 63, eff. April 20, 1971. Amended by Acts 1975, 64th Leg., p. 1988, ch. 661, § 1, eff. June 19, 1975.]

Art. 1015k. Regulation of Rendering Plants

For the purpose of protecting its residents from health hazards arising from unsanitary conditions which may exist in conjunction with certain industrial establishments, any city, town or village in this State shall have the power by the enactment of the necessary ordinances to regulate the equipment and mode of operation of rendering plants within the city limits or within one (1) mile from the city limits.

[Acts 1959, 56th Leg., p. 586, ch. 269, § 1.]

Art. 1015l. Parking on Private Property

Any incorporated city or town may by ordinance regulate the parking of motor vehicles on private property, and may enforce the ordinance in the same manner that it enforces ordinances regulating parking in public no-parking zones, including impoundment of offending vehicles.

[Acts 1967, 60th Leg., p. 562, ch. 249, § 1, eff. Aug. 28, 1967.]

Art. 1015m. Repealed by Acts 1977, 65th Leg., p. 2087, ch. 835, § 9, eff. Aug. 29, 1977

See, now, art. 6701g-2.

Art. 1015n. Dilapidated Structures; Authority of Certain Cities and Towns

(a) A city or town incorporated or operating under Chapters 1-10, Title 28, Revised Civil Statutes of Texas, 1925, as amended, may adopt an ordinance that requires the demolition or repair of a building that is dilapidated, substandard, unfit for human habitation, or a hazard to the health, safety, and welfare of the citizens.

(b) The ordinance must:

(1) establish minimum standards for continued use and occupancy that apply to all buildings regardless of date of construction;

(2) provide for proper notice to the owner; and

(3) provide for a public hearing.

(c) After a hearing, if the building is found to be in violation of the standards set out in the ordinance, the city may direct that the building be repaired or removed within a reasonable time.

(d) After the expiration of the allotted time, the city may remove the building at its own expense. If a city incurs removal expenses under this Act, it has a lien against the property to which the building was attached. The lien is extinguished if the property owner reimburses the city for the removal expenses. The lien may not be enforced by forced sale.

[Acts 1977, 65th Leg., p. 1402, ch. 566, § 1, eff. Aug. 29, 1977.]

Art. 1016. Streets and Alleys, etc.

Any city or town incorporated under the general laws of this State shall have the exclusive control and power over the streets, alleys, and public grounds and highways of the city or town, and to abate and remove encroachments or obstructions thereon; to open, alter, widen, extend, establish, regulate, grade, clean and otherwise improve said streets; to put drains or sewers therein, and prevent encumbering thereof in any manner, and to protect same from encroachment or injury; and to regulate and alter the grade of premises; to require the filling up and raising of same; and, upon submission of a petition signed by all of the owners of real property abutting a street or alley, the governing body of any such city or town shall also have the power, by ordinance, to vacate and abandon and close any such street or alley.

[Acts 1925, S.B. 84. Amended by Acts 1961, 57th Leg., p. 704, ch. 329, § 1; Acts 1979, 66th Leg., p. 477, ch. 218, § 1, eff. Aug. 27, 1979.]

Section 3 of the 1979 amendatory act provided:

"The amendment of Articles 1016 and 1019, Revised Civil Statutes of Texas, 1925, as amended, by this Act does not apply to a petition submitted to a municipal governing body under Article 1016 before the effective date of this Act. Such a petition and all action taken with respect to it are subject to those statutes as they existed when the petition was submitted. The former law is continued in effect for purposes of this section."

Art. 1017. Sale of Parks, Land for Buildings and Abandoned Streets, etc.; Disposition of Proceeds

The governing body of any incorporated city or town in this State, however incorporated, may sell and convey any land or interest in land owned, held or claimed as public square, park or site for city hall or other municipal building, and abandoned parts of streets and alleys, together with all improvements on any such property owned by any such city or town. The proceeds of any such sale shall be used only for the acquisition and improvement of property for the same uses as that so sold. Provided, however, that the title of any purchaser of such property for a valuable consideration shall not be impaired by reason of the failure of such governing body to so apply said funds. Such sales shall be made by an ordinance passed by such governing bodies which shall direct the execution of conveyance by the mayor or city manager of any such city or town.

[Acts 1925, S.B. 84. Amended by Acts 1947, 50th Leg., p. 151, ch. 88, § 1.]

Art. 1018. Use by Railway, etc.

The charter, or any amendment thereto, may authorize the governing body to close for the exclusive use temporarily or perpetually by any railroad company or other corporation having power of eminent domain, any part or parts, of any street or streets, alley or alleys, and to ratify and confirm any prior ordinances closing any street or streets, alley or alleys, or any part or parts thereof, for the use of any railroad company or any such other corporation.

[Acts 1925, S.B. 84.]

Art. 1019. Special Election

No public square or park shall be sold until the question of such sale has been submitted to a vote of the qualified voters of the city or town, and approved by a majority of the votes cast at such election.

[Acts 1925, S.B. 84. Amended by Acts 1979, 66th Leg., p. 477, ch. 218, § 2, eff. Aug. 27, 1979.]

Section 3 of the 1979 amendatory act provided:

"The amendment of Articles 1016 and 1019, Revised Civil Statutes of Texas, 1925, as amended, by this Act does not apply to a petition submitted to a municipal governing body under Article 1016 before the effective date of this Act. Such a petition and all action taken with respect to it are subject to those statutes as they existed when the petition was submitted. The former law is continued in effect for purposes of this section."

Art. 1020. Towns so Empowered

The provisions of the three preceding articles shall be enforced in towns or cities under five thousand population, or cities over five thousand population which have no special charter, and in towns or cities incorporated under this title, and in cities or towns incorporated under any special law. The power authorized by this article may be con-

ferred upon the governing body by vote of the qualified voters as provided in the preceding article.

[Acts 1925, S.B. 84.]

Art. 1021. Interest on Indebtedness

No indebtedness of any character whatever, hereafter incurred by said corporation, shall draw a higher rate of interest than six per cent per annum.

[Acts 1925, S.B. 84.]

Arts. 1022, 1023. Repealed by Acts 1977, 65th Leg., p. 1716, ch. 683, § 3, eff. Aug. 29, 1977

See, now, art. 1023a.

Art. 1023a. Auditing of Records and Accounts; Annual Statements

(a) Each incorporated city, town, and village in this state, hereinafter referred to as "city," including any city operating under a special charter, or home-rule city operating under a charter adopted or amended pursuant to Article XI, Section 5, of the Texas Constitution, or city operating under the general laws of this state, shall have its records and accounts audited and a financial statement based on such audit prepared annually. Any such city whose records and accounts are not audited annually by a person or officer prescribed by statute or charter provision, or by a person in the regular employ of such city, must engage at its own expense a Texas Certified Public Accountant or a public accountant holding a permit to practice from the Texas State Board of Public Accountancy to conduct the audit and to prepare the financial statement required herein.

(b) The annual financial statement of such city, together with the auditor's opinion thereon, shall be filed in the office of the city secretary or clerk of such city within 120 days of the close of the city's fiscal year and shall be a public record.

(c) A city that provides a continuing, organized program of service retirement, disability retirement, or death benefits for any of its officers or employees shall include in its annual financial statement a valuation of the financial assets and liabilities of the program as shown in the most recent actuarial valuation of the program. This subsection does not apply to a program for which the only funding agency is a life insurance company, a program providing only workers' compensation benefits, or a program administered by the city as a member of the Texas Municipal Retirement System.

[Acts 1977, 65th Leg., p. 1716, ch. 683, § 1, eff. Aug. 29, 1977. Amended by Acts 1979, 66th Leg., p. 2113, ch. 817, § 15, eff. Sept. 1, 1979.]

Section 4 of the 1977 Act provided as follows:

"If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

Art. 1024. Receiver Appointed

A city or town so situated as is herein set forth, which fails to effect a compromise of its debts, or pending the negotiation of a compromise, shall be permitted, on its application setting forth its financial condition and insolvency, to have the district court of the county in which said city or town is situated, take charge of the collection and appropriation of all taxes levied and assessed by said city or town, except so much thereof as is necessary to pay the current expenses of the city or town; and to that end, said court, or the judge thereof in vacation, shall appoint a receiver or make the assessor and collector of said city or town its receiver to collect and pay into a named depository all taxes levied by said city or town for the payment of its debts; and said courts shall decide all questions of priority between conflicting claimants of said funds, and shall provide for the ratable and equitable distribution of said funds among all creditors entitled thereto. But it shall not be lawful for any court to appoint a receiver of or concerning any city or town except upon the voluntary application of such city or town.

[Acts 1925, S.B. 84.]

Art. 1024a. Relief to Municipalities and Taxing Districts Under Federal Bankruptcy Laws

That all municipalities, political subdivisions and taxing districts in this State which have power to incur indebtedness, either through action of their own governing bodies or through action of the governing bodies of counties or cities in which such political subdivisions or taxing districts are included, are hereby authorized to proceed under all laws enacted by the Congress of the United States under the Federal Bankruptcy powers, which laws have for their object the relief of municipal indebtedness, including H.R. 5950 of the Seventy-Third Congress, entitled "An Act to amend an Act entitled 'An Act to establish a uniform system of bankruptcy throughout the United States,' approved July 1, 1898, and acts amendatory thereof and supplementary thereto," approved May 24, 1934,¹ and the officials and governing bodies of such municipalities, political subdivisions and taxing districts are authorized to adopt all proceedings and to do any and all acts necessary or convenient to fully avail such municipalities, political subdivisions and taxing districts of the provisions of such Acts of Congress.

[Acts 1935, 44th Leg., p. 293, ch. 107, § 1.]

¹ 11 U.S.C.A. §§ 301 to 303 (repealed).

Art. 1024b. Composition with Creditors Under Federal Bankruptcy Laws

All municipalities, political subdivisions, and taxing districts in this State as defined in Section 81, Chapter 657, Acts of the Seventy-fifth Congress of the United States, 50 Statutes at Large, Page 654, 11 U.S.C.A. Sec. 401,¹ which have power to incur

indebtedness, either through action of their own governing bodies or through action of the governing bodies of counties or cities in which such political subdivisions or taxing districts are included, are hereby authorized to proceed under all laws that have been heretofore enacted by the Congress of the United States under the Federal Bankruptcy powers to effect a plan for the composition of their indebtedness, and the officials and governing bodies of such municipalities, political subdivisions, and taxing districts are authorized to adopt all proceedings and to do any and all acts necessary to fully avail such municipalities, political subdivisions, and taxing districts of the provisions of such Acts of Congress, but this Act shall not apply to any bond or bonds while held by the permanent school fund of Texas.

[Acts 1939, 46th Leg., p. 70, § 1.]

¹ Repealed. See, now, 11 U.S.C.A. § 101.

Art. 1025. Official Paper

The city council shall, as soon as may be after the commencement of each municipal year, contract, as they may by ordinance or resolution determine, with a public newspaper of the city as the official paper thereof, and to continue as such until another is elected, and shall cause to be published therein all ordinances, notices and other matters required by this title or by the ordinance of the city to be published.

[Acts 1925, S.B. 84.]

CHAPTER FIVE. TAXATION

Art.

- 1026. Power to Levy.
- 1027. Ad Valorem Tax.
- 1027a to 1027k. Repealed.
- 1028. Ad Valorem Tax in Large Cities.
- 1028a. Repealed.
- 1029. Retirement of Indebtedness.
- 1030. Repealed.
- 1031. Occupation Tax.
- 1032. Power to Collect Tax.
- 1033. Power to Assess Tax.
- 1034. Collection of License Tax.
- 1035. License Revoked.
- 1036 to 1038. Repealed.
- 1039. Special Taxes.
- 1040. Indebtedness.
- 1041. Powers of Council.
- 1042 to 1044. Repealed.
- 1044a. City Councils and Trustees of Independent School Districts Authorized to Fix Compensation of Tax Assessors and Collectors in Counties of 43,030 to 43,040 Population.
- 1045 to 1066. Repealed.
- 1066a. Taxes Levied by Counties and Other Political Subdivisions Not Included in Determining Power of Home Rule City or Town to Levy Taxes.
- 1066b. Repealed.
- 1066c. Local Sales and Use Tax Act.
- 1066d. Repealed.
- 1066e. Tax Increment Financing Act of 1981.
- 1066f. Property Redevelopment and Tax Abatement Act.

Art. 1026. Power to Levy

The governing body of any city or town in this State having a population of five thousand or less shall have power by ordinance to levy, assess and collect such taxes as such governing body may determine, not to exceed for any one year one and one-half per cent of the taxable property of such city or town, for current expenses and for the purpose of construction or the purchase of public buildings, water works, sewers, and other permanent improvements, within the limits of such city or town, and for the construction and improvement of the roads, bridges and streets of such city or town within its limits.

[Acts 1925, S.B. 84.]

Art. 1027. Ad Valorem Tax

The governing body of any incorporated city or town having a population of not more than five thousand inhabitants, shall have power, by ordinance, to levy and collect an annual ad valorem tax of not exceeding one and one-half per cent on the one hundred dollars valuation of taxable property within such city or town for the erection, construction or purchase of public buildings, streets, sewers and other permanent improvements within the limits of such city or town. Within the meaning of this article shall be included building sites and buildings for public free schools and institutions of learning within those cities and towns which have or may assume the exclusive control and management of public free schools and institutions of learning within their limits.

[Acts 1925, S.B. 84.]

Arts. 1027a to 1027k. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(1), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these articles, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

Art. 1028. Ad Valorem Tax in Large Cities

The governing body of any city in this State having more than five thousand inhabitants, unless otherwise provided in its special charter granted by the Legislature or adopted by the people, shall have power by ordinance to levy, assess and collect such taxes as such governing body may determine, not to exceed for any one year two and one-half per cent of the taxable property of such city, for current expenses and for the purpose of construction or the purchase of public buildings, water works, sewers, and other permanent improvements, and for the construction and improvement of the roads, bridges and streets of such city, within its limits.

[Acts 1925, S.B. 84.]

Art. 1028a. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(1), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this article, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

Art. 1029. Retirement of Indebtedness

To meet the interest and sinking fund on all indebtedness legally incurred prior to the adoption of the constitutional amendment of September 25, 1883, regarding the power of cities and towns to levy and collect taxes, etc., the governing body of the following cities and towns shall have power by ordinance to levy, assess and collect an annual ad valorem tax sufficient therefor:

1. Of any city or town having a population of five thousand or less.
2. Of any city having more than five thousand inhabitants, unless otherwise provided in the special charter granted by the Legislature or adopted by the people.

[Acts 1925, S.B. 84.]

Art. 1030. Repealed by Acts 1981, 67th Leg., p. 3149, ch. 827, § 15, eff. Aug. 31, 1981

Art. 1031. Occupation Tax

The city council shall have the power to levy and collect taxes, commonly known as licenses, upon trades, professions, callings and other business carried on; and each person and firm engaging in the following trades, professions, callings and business, among others, shall be liable to pay such license tax; every person or firm keeping a ball alley, or nine or ten-pin alley; every person or firm selling goods, wares and merchandise at public auction; every merchandise or cotton broker or commission merchant; every person or firm pursuing the occupation of hawker or peddler of goods or any article whatever; but this enumeration shall not be held to deprive the city council of the right to levy and collect other license taxes, and from other persons and firms under the general authority herein granted.

[Acts 1925, S.B. 84.]

Art. 1032. Power to Collect Tax

Nothing herein shall prevent the city council from collecting the license, and each license tax provided for by this title. Each establishment shall be liable to said license tax; and any person or firm pursuing occupations, business, avocations or calling subject to said tax shall pay on each. No license shall extend to more than one establishment, or include more than one occupation, avocation, business or calling.

[Acts 1925, S.B. 84.]

Art. 1033. Power to Assess Tax

The city council shall have power to provide by ordinance for the assessing and collecting of said taxes, and to determine when taxes shall be paid by corporations, and when by the individual corporators. No tax shall be levied unless by consent of two-thirds of the aldermen elected.

[Acts 1925, S.B. 84.]

Art. 1034. Collection of License Tax

The license tax shall be collected by the assessor and collector, and shall be paid to that officer by each person and firm owing such license and before engaging in any trade, profession, business, calling, avocation or occupation subject to said tax. This article shall apply to all persons owning any license and failing to pay the same. The city council may collect said license tax by suit under such rules as they may provide by ordinance. Said taxes, commonly known as licenses, shall not be construed to be a tax on property within the meaning of the provisions of this title.

[Acts 1925, S.B. 84.]

Art. 1035. License Revoked

In any case where, by any provision of this title, or by an ordinance passed in pursuance thereof, a person is required to obtain a license for any calling, occupation, business or avocation, and has by the recorder been adjudged guilty of violating any city ordinance in relation thereto, the recorder, in addition to a fine, may institute proceedings to suspend or revoke the license so granted.

[Acts 1925, S.B. 84.]

Arts. 1036 to 1038. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(1), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these articles, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Tax Code.

Art. 1039. Special Taxes

Nothing in this chapter shall be construed to prevent the city council from imposing, levying and collecting special taxes and assessments for the improvement of the avenues, streets and alleys, as hereinafter provided.

[Acts 1925, S.B. 84.]

Art. 1040. Indebtedness

The city council may also levy, assess and collect taxes necessary to pay the interest and provide a sinking fund to satisfy any indebtedness heretofore legally made and undertaken. All such taxes shall be assessed and collected separately from those levied, assessed and collected for current expenses of municipal government, and shall, when levied, specify in the act of levying the purpose therefor. Such taxes may be paid in coupons, bonds or other

indebtedness for the payment of which such tax may have been levied.

[Acts 1925, S.B. 84.]

Art. 1041. Powers of Council

The city council may provide, by ordinance, for the prompt collection of all taxes, except ad valorem taxes, that are assessed, levied and imposed under this title, and is authorized to sell or cause to be sold real as well as personal property, and may make such rules and regulations, and pass all ordinances as they may deem necessary to the levying, laying, imposing, assessing and collecting of any tax herein provided.

[Acts 1925, S.B. 84. Amended by Acts 1979, 66th Leg., p. 2315, ch. 841, § 4(e), eff. Jan. 1, 1982.]

Arts. 1042 to 1044. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(1), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these articles, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Tax Code.

Art. 1044a. City Councils and Trustees of Independent School Districts Authorized to Fix Compensation of Tax Assessors and Collectors in Counties of 43,030 to 43,040 Population

Sec. 1. The City Councils of all cities and towns within this State may at their option increase the compensation of city tax assessors and collectors in any sum not to exceed Three Hundred Dollars (\$300) per annum in addition to the amount that is now allowed as compensation to tax assessors and collectors of said cities and towns.

Sec. 2. The trustees of any independent school district within said counties may at their option increase the compensation of tax assessors and collectors of taxes of said independent school districts in addition to the amount now paid not to exceed the sum of Three Hundred Dollars (\$300) per annum in all counties with a population of not less than forty-three thousand and thirty (43,030) and not more than forty-three thousand and forty (43,040), according to the last Federal Census.

[Acts 1937, 45th Leg., 2nd C.S., p. 1994, ch. 66.]

Arts. 1045 to 1066. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(1), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these articles, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Tax Code.

Art. 1066a. Taxes Levied by Counties and Other Political Subdivisions Not Included in Determining Power of Home Rule City or Town to Levy Taxes

Sec. 1. The taxes levied by any county, any political subdivision of a county, any number of adjoining counties, any political subdivision of the State, or any defined district under or by virtue of Article 3, Section 52 of the Constitution of the State of Texas, shall not be reckoned in determining the power of any city or town to levy city taxes, irrespective of whether such city or town is located wholly or partly within such county, number of adjoining counties, political subdivision, or defined district, or whether such political subdivision or defined district be included wholly or partly within such city.

Sec. 2. In case of conflict between this Act and any city charter or any special law constituting the charter of a city, the provisions of this Act shall prevail.

Sec. 3. Provided, however, that this Act shall not apply except as to cities and towns acting under a home rule charter and which has, prior to the effective date of this Act, attempted to amend its charter and which at the time of said Charter amendment election did not own any of the following utilities from which it could derive revenue: water system, sanitary sewer system, electric light system or natural gas distribution system.

Sec. 4. Provided, however, that the provisions of this Act shall not in any manner validate any obligations issued by any such city or town, the validity of which obligations is in litigation at the time this Act becomes effective.

[Acts 1939, 46th Leg., p. 94.]

Art. 1066b. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(1), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this article, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

For disposition of the subject matter of the repealed article, see Disposition Table preceding the Tax Code.

Art. 1066c. Local Sales and Use Tax Act

Title of Act; Definitions

Sec. 1. This Act is known and may be cited as the "Local Sales and Use Tax Act," and the following words shall have the following meanings unless a different meaning clearly appears from the context:

A. Comptroller. "Comptroller" shall mean the Comptroller of Public Accounts of the State of Texas.

B. City. "City" shall mean any incorporated city, town, or village in the State of Texas.

C. Limited Sales, Excise, and Use Tax Act. "Limited Sales, Excise, and Use Tax Act" means

Chapter 151, Tax Code, as amended before or after the effective date of this Act.

Authority to Adopt Tax; Imposition and Rate; Election and Ballots; Canvass of Returns; Results of Election; City Boundaries; Tax Schedule and Bracket System Formula for Joint Collection of Taxes; Standards

Sec. 2. A. Any city may, by a majority vote of the qualified voters of said city voting at an election held for that purpose, adopt a local sales and use tax for the benefit of such city in accordance with the provisions of this Act.

B. The sales tax portion of any local sales and use tax adopted under this Section is hereby imposed at the rate of one percent (1%) on the receipts from the sale at retail of all taxable items within any city adopting such tax which items are subject to taxation by the State of Texas under the provisions of the Limited Sales, Excise and Use Tax Act, as enacted, and as heretofore or hereafter amended, and at the rate of one percent (1%) on the receipts from the sale at retail within the city of gas and electricity for residential use as defined by the State Limited Sales, Excise and Use Tax Act.

C. The governing body of any city may, by a majority vote of its members qualified and serving, or shall, upon petition of qualified voters of said city equal in number to at least twenty percent (20%) of the total number of votes cast in the last preceding regular city election, provide by ordinance for the calling and holding of an election on such question.

D. If such election is initiated by petition of qualified voters, the governing body of the city shall have thirty (30) days after receipt of such petition to determine the sufficiency thereof and, if such petition is sufficient, shall within sixty (60) days after receipt of such petition pass the ordinance calling such election.

E. The ordinance calling such election shall provide for the submission of such question at an election to be held not less than thirty (30) days nor more than ninety (90) days after the passage of said ordinance. If the next regular city election is to be held during such period, the submission of such question shall be at such election; otherwise, a special election shall be called for the purpose.

F. Notice of said election shall be given by causing a substantial copy of the ordinance calling the election to be published on the same day of two successive weeks in a newspaper of general circulation published within said city, the date of the first publication to be at least twenty-one (21) days prior to the date set for such election. If there be no newspaper published within the city, such ordinance may be published in some newspaper having general circulation within the city. The provisions of this Section shall prevail over any city charter provision to the contrary.

G. The ballot at such election shall have printed on it the following:

"FOR adoption of a one percent (1%) local sales and use tax within the city."

"AGAINST adoption of a one percent (1%) local sales and use tax within the city."

The election shall be conducted in the manner provided by law for other municipal elections unless otherwise specified herein. If a majority of the votes cast at such an election be in favor of the adoption of a local sales and use tax, the same shall be effective in such city as follows: In order to allow time for the Comptroller's administrative duties under this Act, there shall elapse one whole calendar quarter after the Comptroller receives notice of adoption of such tax provided for in this Act, after which such local sales and use tax shall be effective in such city beginning on the first day of the calendar quarter next succeeding such elapsed quarter.

H. In any city in which a local sales and use tax has been imposed in the manner provided for herein, in the same manner and by the same procedure such city may by majority vote of the qualified voters of said city voting at an election held for that purpose abolish such tax. The ballot for any such election shall have printed on it the following:

"FOR abolition of the local sales and use tax within the city."

"AGAINST abolition of the local sales and use tax within the city."

If a majority of the votes cast at any such election be in favor of the abolition of such tax, such local sales and use tax shall be thereby abolished effective in such city as follows: There shall elapse one whole calendar quarter after the Comptroller receives the notice of abolition of such tax, after which such local sales and use tax shall be abolished in such city beginning on the first day of the calendar quarter next succeeding such elapsed quarter.

I. Within ten (10) days after any election held under the provisions of this Section at which a majority of the qualified voters voting at such election in any city shall vote in favor of the adoption or the abolition of a local sales and use tax within such city, the governing body of such city shall canvass the returns of such election and by ordinance or resolution entered in the minutes declare the results of such election. Thereafter, the City Secretary shall forward to the Comptroller by United States Registered Mail or Certified Mail a certified copy of the ordinance or resolution of the governing body canvassing the returns and declaring the result of such election. Such ordinance or resolution shall reflect the date of the election in such city, the proposition voted on, the total number of votes cast for and against the proposition, and the number of votes by which the proposition was approved, and shall be accompanied by a map of the city clearly showing the boundaries thereof. If a majority of votes be found to be against any proposition, so that the tax status of such city under this Act is not

changed, no notice of the results of the election shall be filed with the Comptroller.

J. If any city in which a local sales and use tax has been imposed in the manner provided for herein shall thereafter change or alter its boundaries, the City Secretary of such city shall forward to the Comptroller by United States Registered Mail or Certified Mail a certified copy of the ordinance adding or detaching territory from such city. Such ordinance shall reflect the effective date thereof, and shall be accompanied by a map of the city clearly showing the territory added thereto or detached therefrom. Upon receipt of such ordinance and map, the tax imposed by this Act shall be effective in such added territory or abolished in such detached territory on the first day of the next succeeding quarter; provided that if the Comptroller shall notify the City Secretary in writing within ten (10) days after receipt of such ordinance and map that he requires more time, the Comptroller shall be entitled to the elapsed calendar quarter referred to in Subsection G of this Section before such tax shall be imposed in such added territory or abolished in such detached territory.

K. (1) In each city in which a local sales and use tax has been imposed in the manner provided by this Act, every retailer shall add the tax imposed by the Limited Sales, Excise and Use Tax Act of the State of Texas and the tax imposed by this Act to his sale price, and when added, the combined tax shall constitute a part of the price, shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price. When the sale price in such city shall involve a fraction of a dollar, the two combined taxes shall be added to the sale price upon the schedule and bracket system formula set forth in Paragraphs (2) and (3) of this subsection.

(2) When such Limited Sales, Excise and Use Tax imposed by the State of Texas shall be at the rate of four percent (4%) on the receipts from the sale at retail of all taxable items within this State which is subject to such tax, and the Local Sales and Use Tax imposed in any city under authority of this Act shall be at the rate of one percent (1%) on the receipts from the sale of all taxable items within such city which is subject to such tax, the total gross rate of such combined taxes in such city shall be at the rate of five percent (5%) on combined taxes in such city on the receipts from the sale of all tangible personal property within such city which is subject to such taxes. When the sale price shall involve a fraction of a dollar, the taxes shall be added to the sale price upon the following schedule:

Amount of Sale	Tax
\$.01 to \$.09	No Tax
.10 to .29	\$.01
.30 to .49	.02
.50 to .69	.03

Amount of Sale	Tax
.70 to .89	.04
.90 to 1.09	.05

Provided, that for successive brackets for this schedule in this paragraph, the tax shall be computed by multiplying five percent (5%) times the amount of the sale. Any fraction of one cent (\$.01) which is less than one half of one cent (\$.005) of tax shall not be collected. Any fraction of one cent (\$.01) of tax equal to one half of one cent (\$.005) or more shall be collected as a whole cent (\$.01) of tax.

Provided, however, that any retailer who can establish to the satisfaction of the Comptroller that fifty percent (50%) or more of his receipts from the sale of tangible personal property and taxable services arise from individual transactions where the total sales price is nine cents (\$.09) or less may exclude the receipts from such sales when reporting and paying the tax imposed under this Act and the Limited Sales, Excise and Use Tax imposed by the State of Texas. No retailer shall avail himself of this provision without prior written approval of the Comptroller. The Comptroller shall grant such approval when he is satisfied that the retailer qualifies on the basis set forth in this Section and when the retailer has submitted satisfactory evidence that he can and will maintain records adequate to substantiate the exclusion herein authorized. Any attempt on the part of any retailer to exercise this provision without prior written approval of the Comptroller shall be deemed to be a failure and refusal to pay the taxes imposed by this Act and the Limited Sales, Excise and Use Tax Act and the retailer shall be subject to assessment for both taxes, penalties and interest as provided for in this Act and the Limited Sales, Excise and Use Tax Act.

(3) In the event the Legislature shall either increase or decrease the rate of such State Limited Sales, Excise and Use Tax, the combined rate of the State Limited Sales, Excise and Use Tax and the Local Sales and Use Tax shall be the sum of the two rates, in which event the schedule for collection of such combined taxes shall be calculated by multiplying the combined tax rate times the amount of the sale. Any fraction of one cent (\$.01) which is less than one half of one cent (\$.005) of tax shall not be collected. Any fraction of one cent (\$.01) of tax equal to one half of one cent (\$.005) or more shall be collected by the retailer as a whole cent (\$.01) of tax. The Comptroller may publish a schedule based on the above formula for use in those cities which have imposed a Local Sales and Use Tax under the authority of this Act, and which cities have a need for such schedule under the provisions of this paragraph.

L. In each city in which a local sales and use tax has been imposed in the manner provided by this Act, every retailer selling gas or electricity for residential use shall add the tax imposed by this Act to his sales price and when added the tax shall constitute a part of the price, shall be a debt of the purchaser to the retailer until paid, and shall be

recoverable at law in the same manner as the purchase price. The amount of the tax on the sale at retail of gas and electricity for residential use shall be calculated by multiplying the amount of the tax by the sales price. Any fraction of one cent (\$.01) which is less than one-half of one cent (\$.005) shall not be collected. Any fraction of one cent (\$.01) of tax equal to one-half of one cent (\$.005) or more shall be collected by the retailer as a whole cent (\$.01) of tax. The Comptroller may publish a schedule based on the above formula for cities imposing a tax on the sale at retail of gas and electricity for residential use.

Frequency of Elections

Sec. 3. No election upon a proposition to adopt a local sales and use tax in any city or to abolish such tax in such city shall be held within one (1) year from the date of the last preceding election in such city on any of such propositions.

Excise Tax; Combined Rate of Excise Tax; Imposition, Rate and Collection of Tax

Sec. 4. A. Except as provided in Subsection D of this Section, in every city where the local sales and use tax has been adopted pursuant to the provisions of this Act, there is hereby imposed an excise tax on the storage, use, or other consumption within such city of tangible personal property purchased, leased, or rented from any retailer on or after the effective date for collection of the sales tax portion of the local sales and use tax for storage, use or other consumption in such city at the rate of one percent (1%) of the sales price of the property or, in the case of leases or rentals, of said lease or rental price. Except as provided in Subsection E of this Section, the local use tax is not owed to and may not be collected by, for, or in behalf of a city if no excise tax on the storage, use, or other consumption of an item of tangible personal property is owed to or collected by the State under the Limited Sales, Excise and Use Tax Act or if the tangible personal property is first stored, used, or consumed within a city or area that has not adopted the local sales or use tax.

B. Except as provided in Subsection D of this Section, in each city where the local sales and use tax has been imposed as provided in Section 2 of this Act, the excise tax imposed under the State Limited Sales, Excise and Use Tax Act on the storage, use, or other consumption of tangible personal property and the excise tax imposed by this Section of this Act shall be added together to form a combined rate of excise tax which is equal to the sum of the two taxes. The tax imposed by this Section of this Act shall be collected by the Comptroller on behalf of and for the benefit of such city. The bracket system formula prescribed in Subsection K of Section 2 of this Act shall be applicable to the collection of the excise tax imposed under this Section.

C. The provisions of the Limited Sales, Excise, and Use Tax Act relating to the administration and collection of the storage and use tax portion of the state tax is applicable to the collection of the tax imposed by this Section, provided that in Subchapter D of Chapter 151, Tax Code,¹ the name of the city where the local sales and use tax has been adopted shall be substituted for that of the State where the words "this State" are used to designate the taxing authority or to delimit the tax imposed.

D. In every city where the local sales and use tax has been adopted under this Act, there is imposed an excise tax on the storage, use or other consumption within the city of gas and electricity for residential use purchased, leased or rented from any retailer on or after the effective date for collection of the sales tax portion of the local sales and use tax for storage, use or other consumption within the city at the rate of one percent (1%) of the sales price of the gas and electricity for residential use, or in the case of leases or rentals, of the lease or rental price. In every city where the local sales and use tax has been adopted under this Act, the excise tax imposed by this Section shall be calculated as provided in Subsection L, Section 2 of this Act and shall be collected by the Comptroller on behalf of and for the benefit of the city in the same manner as if the use, storage or other consumption of gas and electricity for residential use were not exempt under the Limited Sales, Excise and Use Tax Act.

E. If a sale of tangible personal property is consummated within the State but not within a city that has adopted the taxes imposed by this Act and the tangible personal property is shipped directly into or brought by the purchaser or lessee directly into a city that has adopted the taxes imposed by this Act, the tangible personal property is subject to the local use tax imposed by the city under Subsection A of this Section. The use is considered consummated at the location where the item is first stored, used, or otherwise consumed after the intrastate transit has ceased.

F. If the tangible personal property is shipped from outside this State to a customer within this State, the tangible personal property is subject to the use tax imposed by Subsection A of this Section and not the sales tax imposed by Subsection B, Section 2 of this Act. The use is consummated at the first point in this State where the property is stored, used, or otherwise consumed after interstate transit has ceased. Tangible personal property delivered to a point in this State is presumed to be for storage, use, or other consumption at that point until the contrary is established.

¹ Tax Code, § 151.101 et seq.

Residential Gas and Electricity; Exemption and Reimposition of Tax

Sec. 4A. Effective October 1, 1979, there are exempted from the taxes imposed by this Act the receipts from the sale, production, distribution,

lease or rental of, and the use, storage, or other consumption within the city of gas and electricity for residential use within a city adopting the taxes imposed by this Act unless prior to May 1, 1979, the governing body of the city, by a majority vote of the membership of the governing body, votes to continue the taxes authorized by this Act on the sale, production, distribution, lease or rental of, and the use, storage, or other consumption of gas and electricity for residential use. At any time before or after October 1, 1979, the governing body of a city that has adopted the tax authorized by this Act may, by a majority vote of the membership of the governing body, exempt from the taxes imposed by this Act the receipts from the sale, production, distribution, lease or rental of, and the use, storage, or other consumption within the city of gas and electricity for residential use. The governing body of a city that has adopted the tax authorized by this Act and provided for the exemption authorized or required by this section may, by a majority vote of the governing body, reimpose the taxes on the sale, production, distribution, lease or rental of, and the use, storage, or other consumption in the city of gas and electricity for residential use. If a majority of the governing body votes for the exemption authorized by this section or for the reimposition of the tax under this section, the results of the vote must be entered in the minutes of the city. Thereafter the city secretary shall forward to the comptroller by United States Registered or Certified Mail a copy of the ordinance. On actual receipt by the comptroller of the notification, there shall elapse one whole calendar quarter prior to the exemption or reimposition becoming effective. The exemption or reimposition shall take effect beginning on the first day of the calendar quarter next succeeding the elapsed quarter. If the governing body of a city, by a majority vote of the governing body, votes to exempt from the taxes authorized by this Act the receipts from the sale, production, distribution, lease, or rental of, and the use, storage, or other consumption of gas and electricity for residential use and forwards to the comptroller by United States Registered or Certified Mail postmarked on or before September 10, 1978, a certified copy of the ordinance, the exemption is effective on October 1, 1978, except that the exemption does not apply to sales of gas and electricity for residential use made during a retailer's regular monthly billing period for a consumer if the regular monthly billing period for the consumer begins before October 1, 1978, but shall apply to each regular monthly billing period beginning on or after October 1, 1978.

Comptroller; Administration, Collection, Enforcement and Operation of Tax; Reports

Sec. 5. (a) On and after the effective date of any tax imposed under the provisions of this Act, the Comptroller shall perform all functions incident to the administration, collection, enforcement, and operation of the tax, and the Comptroller shall collect, in addition to the Limited Sales, Excise and

Use Tax for the State of Texas, an additional tax under the authority of this Act of one percent (1%) on the receipts from the sale at retail or on the sale price or lease or rental price on the storage, use, or other consumption of all taxable items within such city which property is subject to the State Limited Sales, Excise and Use Tax Act, and an additional tax of one percent (1%) on the receipts on the sale at retail or on the sale price or lease or rental price on the storage, use, or other consumption of gas and electricity for residential use within the city as provided in this Act unless exempted as provided in Section 4A of this Act. The tax imposed hereunder and the tax imposed under the Limited Sales, Excise and Use Tax Act shall be collected together, if both are imposed, and reported upon such forms and under such administrative rules and regulations as may be prescribed by the Comptroller not inconsistent with the provisions of this Act. On and after the effective date of any proposition to abolish such local sales and use tax in any city, the Comptroller shall comply therewith as provided in this Act.

(b) The Comptroller shall make quarterly reports to a city that has adopted this Act and is imposing the tax if the city requests the reports. The report must contain the name, address and account number of each person, firm, or corporation doing business in the city and which has remitted a payment of the tax during the quarter covered by the report.

(c) The Comptroller shall make an additional quarterly report to a city that has adopted this Act and is imposing the tax if the city requests the additional report. The additional report must include the name, address, and account number of, if any, and the amount of the tax due by each person, firm, or corporation doing business in the city and which has failed to pay the tax imposed by the city or imposed under the Limited Sales, Excise and Use Tax Act. The report by the Comptroller shall also state whether there has been a partial payment of tax by the delinquent taxpayer, whether the taxpayer is delinquent in payment of sales and use taxes to the State, and what steps, if any, have been taken by the Comptroller in order to collect the delinquent taxes.

(d) If a city determines that any person, firm, or corporation doing business in the city is not included in a report from the Comptroller, the city shall report the name and address of the person, firm, or corporation to the Comptroller. On receiving a report from a city the Comptroller shall send, before the expiration of a ninety (90) day period following the day the Comptroller received a report from the city, an explanation to the city as to why the person, firm, or corporation is not obligated for the tax imposed by the city, a statement that the person, firm, or corporation is obligated to pay the tax and that the tax is delinquent, or a certification that the person, firm, or corporation is obligated to pay the tax and that the full amount due under the tax has been credited to the account of the city.

Provisions Governing Collection of Tax

Sec. 6. The following provisions shall govern the collection by the Comptroller of the tax imposed by this Act:

A. All applicable provisions contained in Subtitles A and B and Chapter 151 of Title 2, Tax Code,¹ shall apply to the collection of the tax imposed by this Act, except as modified in this Act.

B. (1) For the purposes of the local sales and use tax, "place of business of the retailer" means an established outlet, office, or location operated by the retailer, his agent, or employee for the purpose of receiving orders for taxable items. The term "place of business of the retailer" includes any location at which three or more orders are received by the retailer in a calendar year. A warehouse, storage yard, or manufacturing plant may not be considered a "place of business of the retailer" unless three or more orders are received by the retailer in a calendar year at such warehouse, storage yard, or manufacturing plant. Each "place of business of the retailer" must have a permit issued by the Comptroller in accordance with Article 20-021, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as amended.² For the purpose of determining the proper local sales tax imposed by this Act, a retail sale, lease, or rental is consummated as provided in Paragraphs (a), (b), (c), and (d) of this subdivision, regardless of where transfer of title or possession or segregation in contemplation of transfer of title or possession of the taxable item occurs unless the tangible personal property sold, leased, or rented is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination.

(a) If a retailer has only one place of business within this State, all retail sales, leases, and rentals of the retailer are consummated at that place of business, except as provided in Subdivision (d) of this Subsection.

(b) If a retailer has more than one place of business in this State, the retailer's place of business where the purchaser or lessee takes possession of and removes an item of tangible personal property is the place of business where the sale, lease, or rental of that item is consummated. If, however, the retailer ships or delivers the tangible personal property to a point designated by the purchaser or lessee, then the retailer's place of business from which the tangible personal property is shipped or delivered to the purchaser or lessee is the place of business where the sale, lease, or rental is consummated.

(c) If neither possession of tangible personal property is taken at nor shipment or delivery of the tangible personal property is made from the retailer's place of business within this State, the sale, lease, or rental is consummated at the retailer's place of business within the State where the order is

received or if the order is not received at a place of business of the retailer, at the place of business from which the retailer's salesman who took the order operates.

(d) When transfer of possession of tangible personal property occurs at or shipment or delivery originates from a location within the State other than a place of business of the retailer, the sale, lease, or rental is consummated at the location within this State to which the tangible personal property is shipped or delivered or at which possession is taken by the customer when:

(i) the retailer is an itinerant vendor and has no place of business, or

(ii) the retailer's place of business where the purchase order is initially received or from which the retailer's salesman who took the order operates is outside the State, or

(iii) the purchaser places the order directly with the retailer's supplier and the property is shipped or delivered directly to the purchaser by the supplier.

(e) The sale of natural gas or electricity is consummated at the point of delivery to the consumer.

(2) For the purpose of the excise tax imposed by this Act on any retailer holding tangible personal property purchased on a resale certificate and which property becomes subject to the excise tax by reason of use or other consumption of the property, the use or other consumption of the property is consummated at the place where the property is stored or kept at the time of or just prior to its use or consumption, unless the tangible personal property is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination.

(3) For the purpose of determining the proper local use tax imposed by this Act, a holder of a direct payment permit issued by the Comptroller under the Limited Sales, Excise, and Use Tax Act who becomes liable for local use tax by reason of storage, use, or other consumption of taxable items purchased in this State under a direct payment exemption certificate, shall allocate the tax to the city in which the taxable item was first removed from the permit holder's storage, or if not stored, the place at which the items are first used or consumed by the permit holder after transportation. As used in this paragraph, storage, use, or other consumption may not include a temporary delay or interruption necessary and incident to the transportation or further fabrication, processing, or assembling of taxable items within this State for delivery to the permit holder. A charge for processing, fabrication, or further assembly in a city that has adopted the local use tax shall be subject to the local use tax. If a taxable item is first stored, used, or consumed within a city that has not adopted the tax imposed by this Act or outside of a city, no local use tax is due.

C. (1) All exemptions granted to agencies of government, organizations, persons, and to the sale, storage, use, and other consumption of certain articles and items taxable under the provisions of Subchapter H, Limited Sales, Excise, and Use Tax Act,³ are hereby made applicable to the imposition and collection of the tax imposed by this Act, except as specifically provided in Section 151.317(b) of that Act.

(2) The receipts from the sale, use or rental of and the storage, use or consumption in this State, of taxable items are exempt from the tax imposed by this Act, if:

(a) the items are used for the performance of a written contract entered into prior to the date this Act takes effect in any city which may affect the contract, if the contract is not subject to change or modification by reason of the tax; or

(b) the items are used pursuant to an obligation of a bid or bids submitted prior to the date this Act takes effect in any city which may affect the contract, if the bid or bids may not be withdrawn, modified, or changed by reason of the tax imposed by this Act; and

(c) if notice of a contract or bid on which an exemption is to be claimed is given by the taxpayer to the Comptroller within sixty (60) days from the date this Act takes effect in any city which may affect the bid or contract.

The exemption provided by this Subsection shall have no effect after three (3) years from the date this Act takes effect in any city.

D. The same sales tax permit, exemption certificate, and resale certificate required by the Limited Sales, Excise, and Use Tax Act for the administration and collection of the State Limited Sales, Excise, and Use Tax shall satisfy the requirements of this Act, and no additional permit or exemption certificate or resale certificate shall be required; except that the Comptroller may prescribe a form of exemption certificate for an exemption from the tax imposed by this Act as a result of a prior contract under Subsection C of this Section.

E. All discounts allowed the retailer under the provisions of the Limited Sales, Excise and Use Tax Act for the collection of and for prepayment of taxes under that Act are hereby allowed and made applicable to any taxes collected under the provisions of this Act.

F. The penalties provided in the Limited Sales, Excise, and Use Tax Act for violations of that Act are hereby made applicable to violations of this Act.

¹ Tax Code, §§ 101.001 et seq., 111.001 et seq., and 151.001 et seq.

² Repealed; see, now, Tax Code.

³ Tax Code, § 151.301 et seq.

Deposit of Revenues; Suspense Accounts; Surety Bonds

Sec. 7. A. Any local sales and use tax collected by the Comptroller under this Act on behalf of any city shall be deposited with the State Treasurer in trust and shall be kept in a separate suspense account for each such city.

B. The Comptroller, and any of his deputies, assistants, and employees, who shall have any duties or responsibilities in connection with the collection, deposit, transfer, transmittal, disbursement, safekeeping, accounting, or recording of funds which come into the hands of the Comptroller under the provisions of this Act shall enter into a surety bond or bonds payable to any and all cities in whose behalf such funds have been collected under this Act in the amount of \$100,000; provided that the Comptroller may enter into a blanket bond or bonds covering himself and all such deputies, assistants, and employees. The cost of the premium or premiums for such surety bond or bonds shall be paid by the Comptroller from out of the share of such collections retained by the Comptroller for the benefit of the State. At any time when any premium or premiums on such bond or bonds are due and payable, the Comptroller shall pay the cost of same out of the State's share of such collection in his hands, and deposit the balance of the State's share as provided in Section 8 of this Act.

Transmission of Revenues; Deductions; Retention of Revenues; Refunds; Closing of Accounts

Sec. 8. (a) Each city's share of all local sales and use tax collected under this Act by the Comptroller shall be transmitted to the Treasurer or the officer performing the functions of such office of such city by the Comptroller payable to the city periodically as promptly as feasible. Transmittals required under this Act shall be made at least twice in each State fiscal year. The funds so transmitted may be used by the city for any purpose for which the general funds of the city may be used. Before transmitting such funds, the Comptroller shall deduct two percent (2%) of the sum collected from each such city during such period as a charge by the State of Texas for its services specified in this Act, and the amounts so deducted, subject to the provisions of Section 7B of this Act, shall be deposited by the Comptroller in the State Treasury to the credit of the General Revenue Fund of the State. The Comptroller is authorized to retain in the suspense account of any city a portion of the city's share of the tax collected under this Act. Such balance so retained in the suspense account shall not exceed five percent (5%) of the amount remitted to the city. The Comptroller is authorized to make refunds from the suspense account of any city for overpayments made to such accounts, and to redeem dishonored checks and drafts deposited to the credit of the suspense accounts of such cities. When any city shall adopt the Local Sales and Use Tax, and shall

thereafter abolish such tax, the Comptroller may retain in the suspense account of such city for a period of one year five percent (5%) of the final remittance to each such city at the time of termination of collection of such tax in such city to cover possible refunds for overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of such tax in such city, the Comptroller shall remit the balance in such account to the city and close the account.

(b) A city may establish a program by which it refunds to a qualified business, as defined by the Texas Enterprise Zone Act,¹ whose place of business is located in a local enterprise zone the amount of the Local Sales and Use Tax paid by the qualified business and remitted to the city by the Comptroller. The refund must be conditioned on the qualified business having purchased or leased equipment or machinery for use in the local enterprise zone or having purchased materials for use in remodeling, rehabilitation, or constructing a structure in the local enterprise zone.

¹ Article 5190.7.

Pledge of Anticipated Revenue

Sec. 9. Money collected under this Act is for the use and benefit of the cities of the state; but no city may pledge anticipated revenue from this source to secure the payment of bonds or other indebtedness.

Existing Powers of Taxation

Sec. 10. Nothing in this Act shall be construed to abolish or limit existing powers of taxation of any city.

Comptroller; Rules and Regulations

Sec. 11. The comptroller may promulgate reasonable rules and regulations, not inconsistent with the provisions of this Act, to implement the enforcement, administration, and collection of the taxes authorized herein.

Delinquent Taxes; Collection Suits; Notice and Limitations; Parties; Seizure and Sale of Property

Sec. 12. A. In any city where the Local Sales and Use Tax has been imposed, if any person is delinquent in the payment of the amount required to be paid by him under this Act or in the event a determination has been made against him for taxes and penalty under this Act, the limitation for bringing suit for the collection of such delinquent tax and penalty shall be the same as that provided in the Limited Sales, Excise, and Use Tax Act. Where any person is delinquent in payment of taxes under this Act, the Comptroller shall notify the Tax Collector of the city to which delinquent taxes are due under this Act by United States Registered Mail or Certified Mail and shall send a copy of the notice to the Attorney General. The city, acting through its attorney, may join in any suit brought by the Attor-

ney General as a party plaintiff to seek a judgment for the delinquent taxes and penalty due such city. The notice sent by the Comptroller to the tax collector of the city showing the delinquency of a taxpayer for the local sales and use tax constitutes a certification of the amount owed and is prima facie evidence of the determination of the tax and of the delinquency of the amounts of local sales and use tax set forth in the notice.

B. Where property is seized by the Comptroller under the provisions of any law authorizing seizure of the property of a taxpayer who is delinquent in payment of the tax imposed by the State Limited Sales, Excise and Use Tax Act, and where such taxpayer is also delinquent in payment of any tax imposed by this Act, the Comptroller shall sell sufficient property to pay the delinquent taxes and penalty due any city under this Act in addition to that required to pay any amount due the State under the Limited Sales, Excise and Use Tax Act. The proceeds from such sale shall first be applied to all sums due the State, and the remainder, if any, shall be applied to all sums due such city.

C. (1) A city that has adopted the tax authorized by this Act may bring suit for the collection of sales, excise, or use taxes imposed by this Act which have been certified as provided in Subsection A of this Section and are owed to the city under this Act if at least 60 days before the filing of the suit, written notice by certified mail of the tax delinquency and of the intention to file suit is given to the taxpayer, the Comptroller, and the Attorney General and if neither the Comptroller nor the Attorney General disapproves the suit by written notice to the city.

(2) The Comptroller or Attorney General may disapprove the institution of tax suit by a city if:

(i) negotiations between the State and the taxpayer are being conducted for the purpose of the collection of delinquent taxes owed to the State and the city seeking to bring suit;

(ii) the taxpayer owes substantial taxes to the State and there is a reasonable possibility that the taxpayer may be unable to pay the total amount owed in full;

(iii) the State will bring suit against the taxpayer for the collection of all sales, excise, and use taxes due under the Limited Sales, Excise, and Use Tax Act and this Act; or

(iv) the suit involves a critical legal question relating to the interpretation of State law or a provision of the Texas or United States Constitution in which the State has an overriding interest.

(3) A notice of disapproval to a city must give the reason for the determination of the Comptroller or Attorney General. A disapproval is final and not subject to review. A city, after one (1) year from the date of the disapproval, may proceed again as provided in paragraph (1) of Subsection C of this Section, even though the liability of the taxpayer

includes taxes for which the city has previously given notice and the Comptroller or Attorney General has previously disapproved the suit.

(4) In any suit under this Subsection for the collection of city tax, a judgment for or against the taxpayer does not affect any claim against the taxpayer by another city or the State unless the State is a party to the action.

(5) A copy of the final judgment in favor of a city in a case in which the State is not a party shall be abstracted by the city and a copy of the judgment together with a copy of the abstract shall be sent to the Comptroller. The city shall collect the taxes awarded to it under the judgment as provided by Section 151.608(e), Limited Sales, Excise, and Use Tax Act, and is responsible for the renewal of the judgment before the expiration of the 10-year period. If a collection is made by a city on a judgment, notice of the amount collected shall be sent by certified mail to the Comptroller. The Comptroller may prescribe a form for the notice to be used by cities.

Election Contests; Notice

Sec. 13. A. If the validity of any election held under authority of this Act or the result of such election based on the returns thereof shall be contested, such election contest shall be filed and tried as provided in the Election Code of the State of Texas; provided that the contestant shall notify the Comptroller by United States Registered Mail or Certified Mail within ten (10) days after filing such contest by mailing a copy of such Notice of Contest to the Comptroller showing the style of the contest, the date filed, the case number, and the Court in which the same is pending; and provided further that no such contest shall be heard unless the Comptroller is timely notified as provided herein.

B. Upon receipt of a Notice of Contest, the date upon which such tax shall become effective in any city, or abolished in any city, as a result of such election shall be suspended. When a final judgment shall be entered in such election contest, the City Secretary shall notify the Comptroller by United States Registered Mail or Certified Mail, and shall enclose a certified copy of such final judgment. If the judgment sustains the validity of such election or the result of such election so that the tax status under this Act of such city is changed, the Comptroller shall place in effect such tax, or abolish the same, as the case may be, in such city, substituting the notice of final judgment and the date on which it is received for the notice of the result of such election elsewhere provided for in this Act.

Conflicting Laws

Sec. 14. All laws and parts of laws inconsistent or in conflict with the provisions of this Act are

hereby repealed to the extent of such inconsistency or conflict only.

[Acts 1967, 60th Leg., p. 62, ch. 36, eff. Aug. 28, 1967. Amended by Acts 1968, 60th Leg., 1st C.S., p. 7, ch. 2, § 8, eff. Oct. 1, 1968; Acts 1969, 61st Leg., p. 158, ch. 57, § 1, eff. April 3, 1969; Acts 1969, 61st Leg., 2nd C.S., p. 5, ch. 1, art. 1, §§ 39 to 44, eff. Oct. 1, 1969; Acts 1971, 62nd Leg., p. 1195, ch. 292, art. 1, § 5, eff. July 1, 1971; Acts 1973, 63rd Leg., p. 1757, ch. 639, § 1, eff. Jan. 1, 1974; Acts 1975, 64th Leg., p. 44, ch. 23, § 1, eff. March 20, 1975; Acts 1978, 65th Leg., 2nd C.S. p. 5, ch. 2, art. 2, §§ 3 to 8, eff. Oct. 1, 1978; Acts 1979, 66th Leg., p. 98, ch. 59, § 6, eff. Aug. 27, 1979; Acts 1979, 66th Leg., p. 1400, ch. 624, art. 1, §§ 1 to 3, eff. June 13, 1979; Acts 1979, 66th Leg., p. 1404, ch. 624, art. 2, § 1, eff. Sept. 1, 1981; Acts 1981, 67th Leg., p. 1769, ch. 389, §§ 6 to 13, eff. Jan. 1, 1982; Acts 1983, 68th Leg., p. 4792, ch. 841, § 7, eff. Sept. 1, 1983.]

Section 6 of art. 1 of Acts 1979, 66th Leg., p. 1404, ch. 624, subsequently repealed by Acts 1981, 67th Leg., p. 3197, ch. 838, § 1, eff. Aug. 31, 1981, provided:

"Paragraph (1), Subsection B, Section 6, Local Sales and Use Tax Act, as amended (Article 1066c, Vernon's Texas Civil Statutes), as amended by this article, expires August 31, 1981."

Acts 1981, 67th Leg., p. 3197, ch. 838, § 1, repealed the amendment of § 6, subsec. B, par. (1) of this article by Acts 1979, 66th Leg., p. 1404, ch. 624, art. 2, § 1.

Section 1 of Acts 1981, 67th Leg., p. 1490, ch. 389, enacted Title 2 of the Tax Code.

Art. 1066d. Repealed by Acts 1981, 67th Leg., 1st C.S., p. 52, ch. 4, § 5

Under § 4 of the 1981 repealing act, the repeal of this article was effective upon adoption of the constitutional amendment proposed by Acts 1981, 67th Leg., 1st C.S., S.J.R. No. 8, which was approved by the voters at an election held November 3, 1981.

Section 2(b) of the 1981 repealing act provides:

"A tax incremental district approved by a city or town pursuant to Chapter 695, Acts of the 66th Legislature, Regular Session, 1979 (Article 1066d, Vernon's Texas Civil Statutes), may be designated by ordinance adopted by the governing body of the city or town as a reinvestment zone under this Act. No other act is necessary for the newly designated zone to exercise powers or perform duties as provided by this Act."

Section 5 of the 1981 repealing act provides, in part: "The repeal does not affect the continuation of tax incremental districts designated as reinvestment zones as provided by SECTION 2 of this Act."

The repealed article, relating to rehabilitation and development of blighted areas, tax incremental districts, and bonds and notes was derived from Acts 1979, 66th Leg., p. 1661, ch. 695, §§ 1 to 12.

See, now, art. 1066e.

Art. 1066e. Tax Increment Financing Act of 1981

Short Title

Sec. 1. This Act may be cited as the Texas Tax Increment Financing Act of 1981.

Definitions

Sec. 2. In this Act:

(1) "Captured appraised value" means the amount by which the current appraised value of taxable real property located in the boundaries of a reinvestment zone exceeds its tax increment base. Where multiple assessed valuations are being used by different taxing units within a reinvestment zone, the assessed valuation for each such taxing

unit shall be used to determine the captured appraised value for the purpose of determining the tax increment for each taxing entity.

(2) "Federally assisted new community" means a federally assisted area that has received or will receive assistance in the form of loan guarantees under Title X of the National Housing Act¹ and a portion of that federally assisted area has received grants under Section 107(a)(1) of the Housing and Community Development Act of 1974, as amended.²

(3) "Project costs" means expenditures made or estimated to be made or monetary obligations incurred or estimated to be incurred by the city or town that are listed in a project plan as costs of public works or public improvements in a reinvestment zone, plus other costs incidental to the expenditures or obligations. Project costs include:

(A) capital costs, including the actual costs of the acquisition and construction of public works or public improvements, new buildings, structures, and fixtures; the actual costs of the acquisition, demolition, alteration, remodeling, repair, or reconstruction of existing buildings, structures, and fixtures; and the actual costs of the acquisition of land and equipment and the clearing and grading of land;

(B) financing costs, including all interest paid to holders of evidences of indebtedness or other obligations issued to pay for project costs and any premium paid over the principal amount of the obligations because of the redemption of the obligations prior to maturity;

(C) real property assembly costs;

(D) professional service costs, including those costs incurred for architectural, planning, engineering, and legal advice and services;

(E) imputed administrative costs, including reasonable charges for the time spent by employees of the city or town in connection with the implementation of a project plan;

(F) relocation costs;

(G) organizational costs, including the costs of conducting environmental impact studies or other studies, the costs of publicizing the creation of a reinvestment zone, and the cost of implementing the project plan for the reinvestment zone;

(H) interest prior to and during construction and for one year after completion of construction whether or not capitalized;

(I) the cost of operating the reinvestment zone and project facilities;

(J) the amount of any contributions made by the city or town from general revenue for the implementation of the project plan; and

(K) payments made at the discretion of the governing body of the city or town that the city or town finds necessary or convenient to the creation of a reinvestment zone or to the implementation of the project plans for the reinvestment zone.

(4) "Project plan" means the plan for the development or redevelopment of a reinvestment zone approved as provided by this Act, including all amendments to the plan approved as provided by this Act.

(5) "Reinvestment zone financing plan" means a detailed description of the project costs, including administrative expenses; the estimated amount of bonded indebtedness to be incurred; the expected sources of revenue to finance or pay project costs, including the percentage of tax increment to be derived from the property taxes of each taxing unit that levies real property taxes in the zone; the current total appraised value of taxable real property in the zone; the estimated captured appraised value of the zone during each year of its existence; and the duration of the zone.

(6) "Taxing unit" refers to a taxing unit as defined by Subdivision (12), Section 1.04, Property Tax Code.

(7) "Tax increment" means the amount of property taxes levied for a year on the captured appraised value.

(8) "Tax increment base" means the total appraised value of all taxable real property in a reinvestment zone for the year in which the zone was designated a reinvestment zone as provided by this Act. Where multiple assessed valuations are being used by different taxing units within a reinvestment zone, the assessed valuation for each such taxing unit shall be used to determine the tax increment base.

(9) "Tax increment fund" means a fund into which all tax increments not retained by a taxing unit as provided by the reinvestment zone financing plan are paid, and all revenues from the sale of tax increment finance bonds or notes, revenues from the sale of any property acquired as part of a tax increment financing plan, or other revenues to be used in the reinvestment zone are deposited, and from which money is disbursed to pay project costs for the zone or to satisfy claims of holders of tax increment bonds or notes issued for the zone.

¹ 12 U.S.C.A. § 1749aa et seq.

² 42 U.S.C.A. § 5307(a)(1).

Criteria for a Reinvestment Zone

Sec. 3. (a) An incorporated city or town may promote development or redevelopment of a contiguous geographic area within its jurisdiction through tax increment financing under this Act if the governing body of the city or town determines that development or redevelopment would not occur solely through private investment in the reasonably foreseeable future. The incorporated city or town must adopt an ordinance in order to designate an area a reinvestment zone for tax increment financing.

Text of (b) as amended by Acts 1983, 68th Leg., p. 3213, ch. 554, § 1

(b) To be designated as a reinvestment zone an area must:

(1) substantially impair or arrest the sound growth of a city or town, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use by reason of the presence of a substantial number of substandard, slum, deteriorated, or deteriorating structures; predominance of defective or inadequate sidewalk or street layout; faulty lot layout in relation to size, adequacy, accessibility, or usefulness; unsanitary or unsafe conditions; deterioration of site or other improvements; tax or special assessment delinquency exceeding the fair value of the land; defective or unusual conditions of title; the existence of conditions that endanger life or property by fire or other cause; or any combination of these factors or conditions;

(2) be predominately open and, because of obsolete platting or deterioration of structures or site improvements, substantially impair or arrest the sound growth of the city or town; or

(3) be in a federally assisted new community located within a city or town or in an area immediately adjacent to the federally assisted new community.

Text of (b) as amended by Acts 1983, 68th Leg., p. 4790, ch. 841, § 5

(b) To be designated as a reinvestment zone an area must:

(1) substantially impair or arrest the sound growth of a city or town, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use by reason of the presence of a substantial number of substandard, slum, deteriorated, or deteriorating structures; predominance of defective or inadequate sidewalk or street layout; faulty lot layout in relation to size, adequacy, accessibility, or usefulness; unsanitary or unsafe conditions; deterioration of site or other improvements; tax or special assessment delinquency exceeding the fair value of the land; defective or unusual conditions of title; the existence of conditions that endanger life or property by fire or other cause; or any combination of these factors or conditions;

(2) be predominately open and, because of obsolete platting or deterioration of structures or site improvements, substantially impair or arrest the sound growth of the city or town;

(3) be in a federally assisted new community located within a city or town or in an area immediately adjacent to the federally assisted new community;

(4) be located wholly within an area which meets the requirements for federal assistance under Sec-

tion 119 of the Housing and Community Development Act of 1974, as amended;¹ or

(5) be designated a local or state-federal enterprise zone under the Texas Enterprise Zone Act.²

¹ 42 U.S.C.A. § 5318.

² Article 5190.7.

Hearings; Procedure

Sec. 4. (a) Not later than the 60th day before the date of the public hearing required by Subsection (e) of this section the governing body of the city or town must notify in writing the governing body of each taxing unit that levies real property taxes in the proposed reinvestment zone that it intends to establish the zone. The notice shall contain a description of the proposed boundaries of the zone, the tentative plans for the development or redevelopment of the zone, and an estimate of the general impact of the proposed zone on property values and tax revenues. The notice may be given later than the 60th day before the date of the public hearing if the governing body of each county and school district that levies real property taxes in the proposed zone agrees to waive the requirement.

(b) A taxing unit may request additional information from the governing body of the city or town. The governing body of the city or town shall provide the information requested to the extent practicable. In addition to the notice required by Subsection (a) of this section, the governing body of the city or town shall make a formal presentation to the governing body of each county or school district that levies real property taxes in the proposed reinvestment zone. The presentation shall include a description of the proposed boundaries of the zone, the tentative plans for the development or redevelopment of the zone, and an estimate of the general impact of the proposed zone on property values and tax revenues. The governing body of the city or town shall notify each taxing unit that levies real property taxes in the proposed reinvestment zone of each presentation to be made to a county or school district under this subsection. Members of the governing body of each taxing unit that levies real property taxes in the proposed zone may attend a presentation under this subsection. If agreed to by the county or school districts involved, the governing body of the city or town may make a single presentation to more than one county or school district governing body.

(c) Not later than the 15th day after the date on which the notice required by Subsection (a) of this section is given, each taxing unit that levies real property taxes in the proposed reinvestment zone shall designate a representative to meet with the governing body of the city or town to discuss the project plan and the reinvestment zone financing plan and shall notify the governing body of the city or town of its designation. At any time after the 15th day after the notice required by Subsection (a) of this section has been given to every taxing unit, the governing body of the city or town may call a

meeting of the representatives of the taxing units. The governing body of the city or town may call as many meetings as it considers necessary. Each representative shall be notified of each meeting in advance. At the meetings the governing body of the city or town and the representatives of the other taxing units may discuss the boundaries of the zone, development within the zone, the tax increment that each taxing unit will contribute to the tax increment fund, the retention by a taxing unit of a portion of its tax increment as permitted by Section 10 of this Act, the exclusion of particular parcels of property from the zone, the board of directors of the zone, and tax collection for the zone. On the motion of the governing body of the city or town calling the meeting, any other matter relevant to the proposed reinvestment zone may be discussed.

(d) Before adopting an ordinance providing for a reinvestment zone under this Act, the governing body of the city or town shall prepare the preliminary reinvestment zone financing plan. A copy of the plan shall be sent to the governing body of each taxing unit that levies real property taxes in the proposed zone as soon as the plan is completed.

(e) Prior to adoption of an ordinance providing for a reinvestment zone for tax increment financing a city or town must hold a public hearing on the adoption of the zone and its benefits to the city or town and to property in the zone. At the hearing interested parties may speak for or against the creation, the boundaries of the reinvestment zone, and the concept of tax increment financing. Notice of the hearing must be published in a newspaper having general circulation in the city or town not later than seven days before the date of the hearing.

(f) A city or town must provide a reasonable opportunity for an owner of property to protest the inclusion of his property in the zone.

(g) The ordinance must:

(1) describe the boundaries of the reinvestment zone with sufficient definiteness to identify with ordinary and reasonable certainty the territory included in the zone;

(2) create a board of directors for the zone and specify the number of members of the board as provided by Section 6 of this Act;

(3) provide that the zone takes effect on January 1 of the year following the year in which the zone is approved by adoption of the ordinance and provide a date for termination of the zone;

(4) assign a name to the district for identification purposes. The first district created shall be known as "Reinvestment Zone Number One, City or Town of []" with each subsequently created zone assigned the next consecutive number;

(5) establish a "Tax Increment Fund," for the zone; and

(6) contain findings that:

(A) improvements in the zone will enhance significantly the value of all the taxable real property in the zone, although the ordinance need not identify the specific parcels enhanced in value, and will be of general benefit to the city or town;

(B) the area meets the requirements set out in Section 3 of this Act.

Restrictions

Sec. 5. (a) A reinvestment zone may not be created if more than 10 percent of the property in the zone, excluding that which is publicly owned, is used for residential purposes, or if the total appraised value of taxable real property in the zone according to the most recent appraisal rolls of the city or town and the total appraised value of taxable real property in existing zones according to the most recent appraisal rolls of the city or town exceeds 15 percent of the current total appraised value of taxable real property in the city or town and in the industrial districts created by the city or town.

(b) The boundaries of a zone may be reduced or enlarged by resolution or ordinance of the city or town; provided, however, that such boundaries may not be changed to include within the zone property more than 10 percent of which, excluding property dedicated to public use, is used for residential purposes, or to include more than 15 percent of the current total appraised value of taxable real property in the city or town and in the industrial districts created by the city or town.

(c) For purposes of this section property is used for residential purposes if it is occupied by a house which has less than five living units.

(d) A reinvestment zone may not be created nor may its boundaries be changed if the creation or change will result in more than 15 percent of the total appraised value of real property taxable by a county or school district according to the most recent appraisal roll of the county or school district being located within one or more reinvestment zones.

Board of Directors

Sec. 6. (a) The number of members of the board of directors may not be fewer than five nor more than 15, unless more than 15 members are required to satisfy the provisions of Subsection (b) of this section.

(b) Each taxing unit that levies real property taxes in the reinvestment zone may appoint one member of the board of directors of the zone. A unit may waive its right to appoint a director. The governing body of the city or town may appoint not more than 10 additional directors to the board. However, if there are fewer than five directors appointed by taxing units other than the city or town, the governing body of the city or town may appoint more than 10 additional directors as long as

the total membership of the board does not exceed 15.

(c) Members of the board of directors are appointed for terms of two years unless longer terms are provided pursuant to Article XI, Section 11, Texas Constitution. Terms of members may be staggered. A vacancy on the board is filled for the unexpired term by appointment of the governing body of the taxing unit that appointed the director who served in the vacant seat.

(d) To be eligible for appointment by the governing body of the city or town to the board of directors of a zone, an individual must:

- (1) be a qualified voter of the city or town; or
- (2) be at least 18 years old and own real property in the zone, without regard to whether he or she resides in the city or town.

(e) Each year the governing body of the city or town shall appoint one member of the board of directors to serve as chairman of the board for a term of one year that begins on January 1 of the following year. The board of directors may elect a vice-chairman to preside in the absence of the chairman or when there is a vacancy in the position of chairman. The board may elect other officers as it sees fit.

Recommendations and Powers

Sec. 7. The board of directors shall make recommendations to the governing body of the city or town concerning administration of this Act in the zone. In addition to the powers delegated to the board of directors under other provisions of this Act, the governing body of the city or town by ordinance may delegate to the board any powers and duties with regard to the implementation of the project plan for the zone that the governing body considers advisable.

Plans

Sec. 8. (a) The board of directors of a reinvestment zone must prepare and adopt a project plan and a reinvestment zone financing plan for the zone and must submit the plans to the governing body of the city or town. These plans must be as consistent as possible with the preliminary plans developed for the zone prior to the creation of the board. The reinvestment zone financing plan must include a statement listing the kind, number, and location of all proposed public works or public improvements in the zone, an economic feasibility study, a detailed list of estimated project costs, and a description of the methods of financing all estimated project costs and the time when related costs or monetary obligations are to be incurred. The project plan must include a map showing existing uses and conditions of real property in the zone and a map showing proposed improvements to and use of real property in the zone. Proposed changes of zoning ordinances, the master plan, building codes, and city ordinances must also be included in the plan along

with a list of estimated nonproject costs and a statement of a method of relocating persons to be displaced as a result of implementation of the plan.

(b) The governing body of the city or town must approve a project plan or reinvestment zone financing plan after its adoption by the board. The approval must be by ordinance that finds that the plan is feasible and conforms to the master plan, if any, of the city or town.

(c) The board of directors of the zone at any time may adopt an amendment to the project plan consistent with the requirements and limitations of this Act. The amendment takes effect on approval by the governing body of the city or town. Approval must be by ordinance. If an amendment reduces or increases the geographic area of the zone, increases the amount of bonded indebtedness to be incurred, increases or decreases the percentage of a tax increment to be contributed by a taxing entity, increases the total estimated project costs, or designates additional property within the zone to be acquired by the city, the approval must be by ordinance adopted after a public hearing that satisfies the procedural requirements of Subsections (e) and (f) of Section 4 of this Act.

Powers of Cities or Towns

Sec. 9. A city or town may exercise any power necessary and convenient to carry out this Act, including the power to:

- (1) create reinvestment zones and to describe the boundaries of the zones;
- (2) cause project plans to be prepared, to approve and implement the plans, and otherwise achieve the purposes of the plan;
- (3) acquire real property by purchase, condemnation, or other means to implement project plans and sell such property upon such terms and conditions as it may deem advisable;
- (4) issue tax increment bonds or notes;
- (5) deposit tax increments into the tax increment fund;
- (6) enter into agreements, including agreements with bondholders, determined by the governing body of the city or town to be necessary or convenient to implement project plans and achieve their purposes. The agreements may include conditions, restrictions, or covenants that either run with the land or by other means regulate or restrict the use of land; and
- (7) consistent with a project plan for a reinvestment zone adopted by the governing body of the city or town, acquire blighted, deteriorated, deteriorating, undeveloped, inappropriately developed real property, or other property in a blighted area or in a federally assisted new community in the zone for the preservation or restoration of historic sites, beautification or conservation, or the provision of public works or public facilities or other public

purposes; or acquire, construct, reconstruct, or install public works, facilities, and sites or other public improvements, including utilities, streets, street lights, water and sewer facilities, pedestrian malls and walkways, parks, flood and drainage facilities, educational facilities, and parking facilities.

Collection and Deposit of Tax Increments

Sec. 10. (a) Each taxing unit that taxes real property in a reinvestment zone shall provide for the collection of its taxes in the zone as for any other property taxed by the unit. The unit shall pay into the tax increment fund for the zone an amount equal to the tax increment produced by the unit, less the sum of:

(1) any property taxes produced from the tax increments which are, by contract executed prior to the designation of the area as a reinvestment zone, required to be paid over by the taxing unit to another political subdivision; and

(2) a portion, not to exceed 15 percent, of the tax increment produced by the unit as provided by the reinvestment zone financing plan.

(b) The taxing unit shall make the payment provided by Subsection (a) of this section not later than the 90th day after the delinquency date for the unit's property taxes. A delinquent payment incurs a penalty of five percent of the amount delinquent and accrues interest at an annual rate of 10 percent.

(c) A taxing unit is not required to pay a tax increment into the zone's tax increment fund beyond three years from the date the zone was created, or, if the zone was created before the effective date of this Act, beyond September 1, 1986, unless the following conditions exist or have been met within three years from the date the zone was created, or prior to September 1, 1986, in those zones created before the effective date of this Act:

(1) bonds have been issued for the zone under Section 11 of this Act;

(2) the town or city has acquired property within the zone pursuant to the project plan; or

(3) construction of improvements pursuant to the project plan has commenced in the zone.

Tax Increment Bonds or Notes

Sec. 11. (a) A city or town may issue tax increment bonds or notes, the proceeds of which may be used to pay project costs for a reinvestment zone on behalf of which the bonds or notes were issued or to satisfy claims of holders of the bonds or notes. The city or town may issue refunding bonds or notes for the payment or retirement of tax increment bonds or notes previously issued by it. Tax increment bonds shall be made payable, as to both principal and interest, solely from the tax increment fund established by the city or town for the reinvestment zone. A city or town may provide in its contract with the owners or holders of the tax increment bonds that it will pay into the tax increment fund all

or any part of the revenue or money produced or received as a result of the operation or sale of a facility acquired, improved, or constructed pursuant to a project plan, to be used to pay principal and interest on the tax increment bonds and, if a city or town so agrees, the owners or holders of the tax increment bonds may have a lien or mortgage on any facility acquired, improved, or constructed with the proceeds of the tax increment bonds. Tax increment bonds issued pursuant to this Act shall be issued by ordinance of the city or town without any additional approval other than the approval of the Attorney General of the State of Texas.

(b) Tax increment bonds or notes, together with interest on and income from the bonds or notes, shall be exempt from all taxes. The bonds or notes shall be authorized by ordinance of the governing body of the city or town and may be issued in one or more series. They shall bear a date or dates, be payable upon demand or mature at a time or times, bear interest at a rate or rates, be in a denomination or denominations, be in a form (either coupon or registered), carry conversion or registration privileges, have a rank or priority, be executed in a manner, be payable in a medium of payment at a place or places, and be subject to terms of redemption (with or without premium), be secured in a manner, and have other characteristics as may be provided by the ordinance approving the bonds or notes or by the trust indenture or mortgage issued in connection with the bonds or notes. Any provision of any law to the contrary notwithstanding, any bonds or notes issued pursuant to this Act shall be fully negotiable. In a suit, an action, or other proceeding involving the validity or enforceability of a bond or note issued under this Act or the security for a bond or note issued under this Act, a bond or note reciting in substance that it had been issued by the city or town for a reinvestment zone shall be conclusively deemed to have been issued for that purpose, and the development or redevelopment of the zone shall be conclusively deemed to have been planned, located, and carried out as provided by this Act.

(c) All banks, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking or investment business; all insurance companies, insurance associations, and other persons carrying on an insurance business; and all executors, administrators, curators, trustees, and other fiduciaries may legally invest any sinking funds, money, or other funds belonging to them or within their control in tax increment bonds or notes issued by a city or town pursuant to this Act. The bonds or notes shall be authorized security for all public deposits. Any persons, political subdivisions, and officers, public or private, are authorized to use any funds owned or controlled by them for the purchase of any tax increment bonds or notes. This Act does not relieve

any person of the duty to exercise reasonable care in selecting securities.

(d) Tax increment bonds or notes shall be payable only out of the tax increment fund. The governing body of the city or town may irrevocably pledge all or a part of the fund for payment of the bonds or notes. The part of the fund pledged in payment may thereafter be used only for the payment of the bonds or notes or interest on the bonds or notes until the bonds or notes have been fully paid. A holder of the bonds or notes or of coupons issued on the bonds shall have a lien against the fund for payment of the bonds or notes and interest thereon and may either at law or in equity protect and enforce such lien.

(e) Tax increment bonds or notes issued under this Act shall not be general obligations of the city or town, nor in any event shall they give rise to a charge against the general credit or taxing powers of the city or town or be payable other than as provided by this Act. Any tax increment bonds or notes issued under this Act shall so state these restrictions on their face.

(f) Tax increment bonds or notes issued under this Act shall not be included in any computation of the debt of the issuing city or town.

(g) Tax increment bonds or notes may not be issued in an amount exceeding the total costs of implementing the project plan for the zone for which they were issued. The bonds or notes shall mature within 20 years of their date of issue.

Annual Reports

Sec. 12. (a) On or before July 1 of each year, the governing body of the city or town shall submit to the chief executive officer of every taxing unit that levies property taxes on taxable real property in the district a report on the status of the zone. The report shall include the following information:

(1) the amount and source of revenue in the tax increment fund established for the reinvestment zone;

(2) the amount and purpose of expenditures from the fund;

(3) the amount of principal and interest due on any outstanding bonded indebtedness;

(4) the tax increment base and the current captured appraised value retained by the zone; and

(5) the captured appraised value shared by the city or town and other taxing units, the total in tax increments received, and any additional information necessary to demonstrate compliance with the tax increment financing plan adopted by the governing body of the city or town.

(b) A copy of this report shall be forwarded to the attorney general.

Termination of a Reinvestment Zone

Sec. 13. A reinvestment zone shall terminate at the time designated in the ordinance creating the zone or at an earlier time designated by a subsequent ordinance, but in any event the zone shall terminate at such time as all project costs and tax increment bonds, and the interest thereon, have been paid in full. However, the tax increment pledged to the payment of bonds and interest on the bonds may be discharged and the reinvestment zone may be terminated if the city or town deposits or causes to be deposited with a trustee or other escrow agent as may be authorized by law funds that, together with the interest earned on the investment of the funds in direct obligations of the United States of America, will be sufficient to pay the principal of, premium, if any, and interest on all bonds issued on behalf of the reinvestment zone at maturity or at the date fixed for the redemption of the bonds, and to pay any other amounts as may become due including compensation due or to become due to the trustee or escrow agent.

Tax Increment Fund

Sec. 14. (a) Money shall be disbursed from the tax increment fund for a reinvestment zone only to satisfy the claims of holders of tax increment bonds or notes issued for the reinvestment zone or to pay project costs for the zone.

(b) Subject to an agreement with the holders of tax increment bonds or notes, money in a tax increment fund may be temporarily invested in the same manner as other funds of the city or town.

(c) After all project costs and all tax increment bonds or notes issued for a reinvestment zone have been paid, and subject to any agreement with bondholders, if there is any money in the fund, it shall be paid over to the city or town and other taxing units levying taxes on property within the zone in amounts that reflect the respective share of total tax increments resulting from taxable real property in a reinvestment zone that were deposited in the fund during the fund's existence.

[Acts 1981, 67th Leg., 1st C.S., p. 45, ch. 4, § 1. Amended by Acts 1983, 68th Leg., p. 3213, ch. 554, § 1, eff. Aug. 29, 1983; Acts 1983, 68th Leg., p. 4790, ch. 841, § 5, eff. Sept. 1, 1983.]

Sections 2 to 4 of the 1981 Act provide:

"Sec. 2. (a) A reinvestment zone designated pursuant to this Act may not incur tax increments before January 1, 1982.

"(b) A tax incremental district approved by a city or town pursuant to Chapter 695, Acts of the 66th Legislature, Regular Session, 1979 (Article 1066d, Vernon's Texas Civil Statutes), may be designated by ordinance adopted by the governing body of the city or town as a reinvestment zone under this Act. No other act is necessary for the newly designated zone to exercise powers or perform duties as provided by this Act.

"Sec. 3. This Act expires December 31, 1991. A reinvestment zone established before that date may continue in existence beyond that date as provided by the ordinance creating the zone.

"Sec. 4. This Act takes effect only if the constitutional amendment proposed by S.J.R. No. 8, 67th Legislature, 1st Called Session, 1981, is adopted."

The constitutional amendment proposed by Acts 1981, 67th Leg., 1st C.S., S.J.R. No. 8, was approved by the voters at an election held November 3, 1981.

Section 2 of Acts 1983, 68th Leg., p. 3227, ch. 554, provides:

"(a) A reinvestment zone created or operated under the Texas Tax Increment Financing Act of 1981 (Article 1066e, Revised Statutes) as it existed before the effective date of this Act (or a reinvestment zone upon which there had been a hearing after a city had made expenditures with respect to its creation) may operate as it existed (or as it was proposed to have existed) prior to the effective date of this Act; provided that, before January 1, 1984, the board of directors of the zone and the plans for the zone are reconstituted to conform to Sections 6 and 8 of the Texas Tax Increment Financing Act of 1981 (Article 1066e, Revised Statutes) as amended by this Act. Nothing herein contained is intended to or shall be construed to authorize the impairment of any contract entered into prior to the effective date of this Act.

"(b) Tax collection for a reinvestment zone for taxes imposed in 1983 and before is governed by Section 10, Texas Tax Increment Financing Act of 1981 (Article 1066e, Revised Statutes), as it existed when the taxes were imposed. Tax collection and the deposit of tax increments into the tax increment fund for 1984 and subsequent tax years are governed by Section 10 of that Act as amended by this Act."

Art. 1066f. Property Redevelopment and Tax Abatement Act

Short Title

Sec. 1. This Act may be cited as the Property Redevelopment and Tax Abatement Act.

Agreements for Property Tax Abatement for Property in Need of Improvements

Sec. 2. (a) The governing body of an incorporated city or town shall agree in writing with the owner of taxable real property located in an area designated as a reinvestment zone under Section 3 of this Act, but not located within an improvement project financed by tax increment bonds, to exempt from taxation all or part of the value of the property for any period not in excess of 15 years, subject to the rights of holders of outstanding bonds of the city or town, on the condition that the owner of the property make specified improvements or repairs to the property in conformity with the comprehensive plan, if any, of the city or town. Written agreements with property owners located within a reinvestment zone shall contain identical terms regarding the share of value of the property that is to be exempt from the taxation under the agreement and the duration of the exemption.

(b) An agreement under Subsection (a) of this section must include provisions for:

(1) listing the kind, number, and location of all proposed improvements of the property;

(2) access to and inspection of property by municipal employees to ensure that the improvements or repairs are made according to the specifications and conditions of the agreements;

(3) limiting the uses of the property consistent with the general purpose of encouraging development or redevelopment of the zone during the period that property tax exemptions are in effect; and

(4) recapturing property tax revenue lost as a result of the agreement if the owner of the property fails to make the improvements or repairs as provided by the agreement.

(c) An agreement under Subsection (a) or (d) of this section may include, at the option of the city or town, provisions for:

(1) improvements or repairs by the city to streets, sidewalks, and utility services or facilities associated with the property, except that the agreement may not provide for lower charges or rates than are made for other services or properties of a similar character;

(2) an economic feasibility study, including a detailed list of estimated improvement costs, a description of the methods of financing all estimated costs, and the time when related costs or monetary obligations are to be incurred;

(3) a map showing existing uses and conditions of real property in the reinvestment zone;

(4) a map showing proposed improvements and uses in the reinvestment zone; and

(5) proposed changes of zoning ordinances, the master plan, the map, building codes, and city ordinances.

(d) If an area is designated a reinvestment zone, every taxing unit that includes inside its boundaries property that is contained inside the boundaries of the reinvestment zone may execute a written agreement with the owner of any property on which the property taxes are abated due to an agreement under Subsection (a) of this section. Such an agreement must contain terms identical to those contained in the agreement with the city or town regarding the share of the property that is to be exempt from taxation under the agreement, the duration of the exemption, and the provisions included in the agreement pursuant to Subsections (b) and (c) of this section. If a taxing unit fails to execute such an agreement, the taxing unit is limited to taxing any property that is the subject of an agreement under Subsection (a) of this section at the same value at which the property was taxed in the year preceding the execution of the agreement with the city or town, for a period of time equal to twice the duration of the agreement with the city or town.

Designation of Reinvestment Zones

Sec. 3. (a) To be designated as a reinvestment zone, an area must:

(1) substantially impair or arrest the sound growth of a city or town, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use by reason of the presence of a substantial number of substandard, slum, deteriorated, or deteriorating structures; predominance of defective or inadequate sidewalk or street layout;

faulty lot layout in relation to size, accessibility, or usefulness; unsanitary or unsafe conditions; deterioration of site or other improvements; tax or special assessment delinquency exceeding the fair value of the land; defective or unusual conditions of title; the existence of conditions that endanger life or property by fire or other cause; or any combination of these factors or conditions;

(2) be predominantly open and, because of obsolete platting or deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the city or town;

(3) be in a federally assisted new community located within a home-rule city or in an area immediately adjacent to the federally assisted new community;

(4) be located wholly within an area which meets the requirements for federal assistance under Section 119 of the Housing and Community Development Act of 1974;¹ or

(5) be designated a local or state-federal enterprise zone under the Texas Enterprise Zone Act.²

(b) For the purposes of Subdivision (3) of Subsection (a) of this section, a federally assisted new community is a federally assisted area that received or will receive assistance in the form of loan guarantees under Title X of the National Housing Act³ and a portion of the federally assisted area has received grants under Section 107(a)(1) of the Housing and Community Development Act of 1974.⁴

(c) The governing body of an incorporated city or town may designate, by boundaries, as a reinvestment zone any area within the taxing jurisdiction of the city or town that the governing body finds to satisfy the requirements of Subsection (a) of this section, subject to the limitations set forth by Section 4 of this Act. The governing body of an incorporated city or town shall designate a reinvestment zone eligible for residential property tax abatement, or commercial-industrial tax abatement, or tax incentive financing as provided for in S. B. No. 16, 67th Legislature, 1st Called Session, 1981.⁵

¹ 42 U.S.C.A. § 5318.

² Article 5190.7

³ 12 U.S.C.A. § 1749aa et seq.

⁴ 42 U.S.C.A. § 5307(a)(1).

⁵ Article 1066e.

Limitations on the Designation of an Area

Sec. 4. (a) An area of a reinvestment zone for residential tax abatement or commercial-industrial tax abatement may be included in overlapping or coincidental residential and commercial-industrial zones. In that event, the zone in which the property should be considered for the purpose of execution of an agreement under this Act shall be determined by the comprehensive zoning ordinance, if any, of the city or town.

(b) Designation of a zone for residential or commercial-industrial tax abatement expires five years

after the date of the designation and may be renewed for periods not to exceed five years. The expiration of the designation does not affect existing agreements under this Act.

(c) Property in a reinvestment zone that is owned or leased by a member of the governing body of the city or town or by a member of a zoning or planning board or commission of the city or town is excluded from property tax abatement or tax increment financing.

(d) In a city or town having a comprehensive zoning ordinance, an improvement, development, or redevelopment taking place pursuant to an agreement under Section 2 of this Act must conform to that comprehensive zoning ordinance.

Hearings, Procedure

Sec. 5. (a) The designation of a reinvestment zone under this Act must be made by an ordinance of the city or town that describes the boundaries of the reinvestment zone and the eligibility of the zone for residential or commercial-industrial tax abatement or for tax increment financing.

(b) An ordinance designating an area as a reinvestment zone may not be adopted until the governing body of the city or town has held a public hearing on the designation and has found that the improvements sought are feasible and practical and would be a benefit to the land to be included in the zone and to the municipality after an agreement entered into in accordance with Section 2 of this Act has expired. At the hearing, interested persons are entitled to speak and present evidence for or against the designation. Notice of the hearing must be published in a newspaper having general circulation in the city or town not later than seven days before the date of the hearing.

(c) To be effective, an agreement made under Section 2 of this Act must be approved by the affirmative vote of a majority of the members of the governing body of the city, town, or taxing unit at a regularly scheduled meeting of the governing body. On approval by the governing body, the agreement may be executed as are other contracts made by the city, town, or taxing unit.

Modification or Termination of Agreement

Sec. 6. (a) An agreement made under Section 2 of this Act may be modified by the parties to the agreement to include other provisions that could have been included in the original agreement or to delete provisions that were not necessary to the original agreement at any time during the period of the agreement by the same procedure by which the original agreement was approved and executed. The original agreement may not be amended to extend beyond 15 years from the date of the original agreement.

(b) An agreement made under Section 2 of the Act may be terminated by the mutual consent of the

parties in the same manner that the agreement was approved and executed.

[Acts 1981, 67th Leg., 1st C.S., p. 53, ch. 5, §§ 1 to 6. Amended by Acts 1983, 68th Leg., p. 4791, ch. 841, § 6, eff. Sept. 1, 1983.]

CHAPTER SIX. FIRE PREVENTION

Art.

- 1067. Frame Building Regulations.
- 1068. Fire Regulations.
- 1069. Fire Department.
- 1070. May Destroy Buildings.
- 1070.1. Liability of Volunteer Firemen for Property Damage.
- 1070a. Uniform Fire Hose Couplings and Hydrant Outlets.
- 1070b. Cities Bordering Mexico; Mutual Fire Protection Agreements.

Art. 1067. Frame Building Regulations

The city council may prohibit the erection, building, placing, moving or repairing of wooden buildings within such limits of the city as it may designate and prescribe, in order to guard against the calamities of fire; and may within said limits prohibit the moving or putting up of any wooden building from without said limits, and may also prohibit the removal of any wooden building from one place to another within said limits, and may direct that all buildings within the limits so designated as aforesaid, shall be made or constructed of fire-proof materials, and may prohibit the rebuilding or repairing of wooden buildings within the fire limits when the same shall have been damaged to the extent of fifty per cent of the value thereof, and may prescribe the manner of ascertaining such damage; and may declare any dilapidated building to be a nuisance and direct the same to be repaired, removed or abated in such manner as they shall direct; to declare all wooden buildings in the fire limits which they deem dangerous to contiguous buildings, or in causing or promoting fires, to be nuisances, and require and cause the same to be removed in such manner as they shall prescribe.

[Acts 1925, S.B. 84.]

Art. 1068. Fire Regulations

The city council shall have power:

1. To prevent and prohibit the dangerous condition of chimneys, flues, fireplaces, stove pipes, ovens or other apparatus used in or about any building or manufactory, and to cause the same to be removed or placed in a secure and safe condition.
2. To prevent the deposit of ashes where they would be liable to produce fire, or in any wooden box or barrel, or within any wooden building, and to appoint officers to enter into any building or inclosure to examine and discover whether the same are in a dangerous state, and to cause such as may be dangerous to be put in a safe condition.

3. To require the inhabitants to keep and provide as many fire buckets and ladders, or other means to reach the roof as they shall prescribe, and to regulate the use thereof in times of fire.

4. To compel the owners or occupants of houses or other buildings to have scuttles in the roofs and stairs or ladders leading to the same.

5. To regulate or prevent the carrying on of manufactories and works dangerous in promoting or causing fires; to prohibit or regulate the building and erection of cotton presses and sheds.

6. To regulate or prevent and prohibit the use of fireworks and firearms.

7. To direct, control or prohibit the keeping and management of houses or any buildings for the storing of gun powder and other combustible, explosive or dangerous materials within the city; to regulate the keeping and conveying of the same.

8. To regulate and prescribe the manner and to order the building of parapet and party walls.

9. To authorize the mayor, officers of fire companies or any officer of said city to keep away from the vicinity of any fire all idle, disorderly or suspicious persons, and arrest and imprison the same, and compel all officers of the city and all other persons to aid in the extinguishment of fires and in the preservation of property exposed to danger thereat, and in preventing theft.

10. And generally to establish such regulations for the prevention and extinguishment of fires as the city council may deem expedient.

[Acts 1925, S.B. 84.]

Art. 1069. Fire Department

The city council may procure fire engines and other apparatus for the extinguishment of fires, and have control thereof, and provide engine houses for preserving the same; and shall have power to organize fire, hook and ladder, hose and ax companies and fire brigades. The companies so organized, the chief engineer and such assistant engineers as may be provided for, shall constitute the fire department. Each company may elect its own members and officers. The engineers shall be chosen as said department may determine, subject to the approval of the city council, who shall define the duties of said officers and pass such ordinances as they may deem proper for the welfare of said department. All officers so elected and approved shall be commissioned by the mayor. Said companies may adopt their own constitution and by-laws, not inconsistent with this title or the city ordinances. Said department shall take the care and management of the engines and other implements and apparatus provided and used for fighting fire, and their powers and duties shall be prescribed and defined by the city council.

[Acts 1925, S.B. 84.]

Art. 1070. May Destroy Buildings

When any building in the city is on fire, it shall be lawful for the chief or acting chief engineer, with the concurrence of the mayor, to direct such building, or any other building which they may deem hazardous and likely to take fire and communicate to other buildings, to be torn down or blown up or destroyed, and no action shall be maintained against any person or against the city therefor. Any person interested in any such building so destroyed or injured may, within six months, and not thereafter, apply in writing to the city council to assess and pay the damage he has sustained, and, if the city council and the claimant cannot agree on the terms of adjustment, then the application of such claimant shall be referred to three commissioners, one to be appointed by the claimant, one by the city council and the third by both. Said commissioners shall be qualified voters and owners of real estate in the city. They shall be sworn faithfully to execute their duty according to the best of their ability, shall have power to subpoena and swear witnesses and shall give all parties a fair and impartial hearing, and give notice of the time and place of meeting. They shall take into account the probabilities of the building being destroyed by fire if it had not been so destroyed, and the loss of insurance upon said property, if any, caused by destroying the same, and may report that no damage should equitably be allowed to such claimant. Whenever a report shall be made and finally confirmed for the appraising of said damages, a compliance with the terms thereof by the city council shall be deemed a full satisfaction of said damages.

[Acts 1925, S.B. 84.]

Art. 1070.1. Liability of Volunteer Firemen for Property Damage

No volunteer fireman or volunteer fire department in this state shall be liable to any person for any damage done to his property resulting from the volunteer fireman's or volunteer fire department's reasonable and necessary action in fighting or extinguishing any fire on the property.

[Acts 1971, 62nd Leg., p. 1910, ch. 573, eff. June 1, 1971.]

Art. 1070a. Uniform Fire Hose Couplings and Hydrant Outlets

Sec. 1. That after this Act takes effect all fire department hose couplings and fire hydrant hose outlets now in service or which may hereafter be installed in this State, except those which are commonly known as the large steamer or pumper outlets shall be provided with an uniform thread conforming to the following specifications, to-wit:

Inside diameter of male thread 2.5 inches.

Outside diameter of finished male thread 3.0625 inches.

Diameter at root of finished male thread 2.8715 inches.

Pitch diameter of male thread 2.9670 inches.

Clearance between male and female thread .03 inches.

Total length of threaded male end one inch.

Flat at top and valley of thread .01 inch.

Pitch or number of threads per inch 7.5.

Pattern—60 degree V thread. Female end cut $\frac{1}{8}$ inch shorter than male end for endwise clearance. Outer ends of male and female threads terminated by the "Higbee Cut," to avoid crossing and mutilation of otherwise finely drawn out thread. Outer end of male thread left blank $\frac{1}{4}$ inch.

Sec. 2. The State Fire Insurance Commission of Texas shall have full supervision over the work necessary to be done in carrying out the provisions of this Act, and that department shall employ competent mechanics and provide all necessary equipment, tools and appliances and proceed with said work, and complete it at the earliest date circumstances will permit.

Sec. 3. The State Fire Insurance Commission shall notify all property owners having equipment for fire protection purposes which it may be necessary for a fire department to use in putting out fire, of the changes necessary to meet the requirements of this Act, and shall render such assistance as may be available in converting their equipment to conform to said requirements.

Sec. 4. The sum of \$5,000 or such part thereof as may be necessary, is hereby appropriated out of any money in the State Treasury not otherwise appropriated for the fiscal year ending August 31, 1928, and \$5,000 or such part thereof as may be necessary, is hereby appropriated out of any money in the State Treasury not otherwise appropriated for the fiscal year ending August 31, 1929, to be used for the purchase of equipment, tools and appliances, and for salaries and traveling expenses and all other necessary expenses of mechanics, in carrying out the provisions of this Act.

[Acts 1927, 40th Leg., p. 380, ch. 257.]

Art. 1070b. Cities Bordering Mexico; Mutual Fire Protection Agreements

Sec. 1. Any Texas city bordering on the Republic of Mexico may enter into a mutual fire protection agreement with its corresponding border city in the Republic of Mexico.

Sec. 2. Any Texas fireman responding to a call for fire fighting assistance from the corresponding border city in the Republic of Mexico under the terms of an agreement authorized by Section 1 of this Act shall be deemed to be performing his "official duty" as that term is understood in Article III, Section 51-d, of the Texas Constitution.

[Acts 1973, 63rd Leg., p. 1081, ch. 415, eff. June 14, 1973.]

CHAPTER SEVEN. SANITARY DEPARTMENT

Art.

- 1071. Health Officers.
- 1072. Regulation of Disease, etc.
- 1073. Public Conveyances.
- 1074. Shall Report Disease.
- 1075. Physician, Powers.
- 1076. Sewerage, etc.
- 1077. Plumbing Inspector.
- 1078 to 1081. Repealed.

Art. 1071. Health Officers

The city council shall appoint a health officer, and as many health inspectors as they may deem necessary, and shall prescribe, by ordinance, the powers and duties and compensation of the same.

[Acts 1925, S.B. 84.]

Art. 1072. Regulation of Disease, etc.

The city council may take such measures as they may deem effectual to prevent the entrance of any pestilence, contagious or infectious diseases into the city; to stop, detain and examine for that purpose any person coming from any place infected, or believed to be infected, with such disease; to establish, maintain and regulate pesthouses or hospitals at some place within or not exceeding five miles beyond the city limits; to cause any person who shall be suspected of being infected with any such disease to be sent to such pesthouse or hospital; to remove from the city or destroy any furniture, wearing apparel, or property of any kind which shall be suspected of being tainted or infected with pestilence, or which shall be likely to pass into such a state as to generate or propagate diseases; to abate all nuisances of every description which are or may become injurious to the public health, in any manner that they deem expedient; and from time to time to do all acts, which they deem expedient; to preserve health and suppress disease in the city.

[Acts 1925, S.B. 84.]

Art. 1073. Public Conveyances

The owner, driver, conductor or person in charge of any stage, railroad car or public conveyance which shall enter the city, knowingly having on board any person sick of a malignant fever, or pestilential, contagious or infectious disease, unless such person become¹ sick on the way and could not be left, shall, within three hours after the arrival of such sick person, report in writing the facts, with the name of such person and the house where he was put down in the city, to the health officer.

[Acts 1925, S.B. 84.]

¹ Probably should read "became."

Art. 1074. Shall Report Disease

Every keeper of a hotel, boarding or lodging house in the city, in which any inmate thereof shall be sick with any infectious or pestilential disease, shall upon such fact coming to this knowledge,

forthwith report the same to the health officer. Every physician in the city shall report, under his hand, to the officer above named, the name, residence and disease of every patient whom he shall have sick of any infectious or pestilential disease, within six hours after he shall have visited such patient.

[Acts 1925, S.B. 84.]

Art. 1075. Physician, Powers

The health officer may be authorized by the council, when the public interest requires, to exercise for the time being such of the powers and perform such of the duties of the chief of police as the city council may direct, and is authorized to enter all houses and other places, private or public, at all times, in the discharge of such duties, having first asked permission of the owners or occupants. The city council shall have power to punish, by fine, any neglect or refusal to observe the orders and regulations of the health officer.

[Acts 1925, S.B. 84.]

Art. 1076. Sewerage, etc.

Every city in this State, however organized, having underground sewers or cesspools, shall pass ordinances regulating the tapping of said sewers and cesspools, regulating house draining and plumbing.

[Acts 1925, S.B. 84.]

Art. 1077. Plumbing Inspector

In any such city where there is no city inspector of plumbing provided for by special charter, the governing body shall elect such inspector of plumbing, who shall hold office for such time as fixed by such board. Such inspector of plumbing may be the city engineer, if the board sees fit to elect him.

[Acts 1925, S.B. 84.]

Arts. 1078 to 1081. Repealed by Acts 1947, 50th Leg., p. 192, ch. 115, § 16

CHAPTER EIGHT. STREETS AND ALLEYS

Art.

- 1082. Powers of Council.
- 1083. Estimates of Cost.
- 1084. Execution on Property.
- 1085. Suit.
- 1085a. Freeways.
- 1085b. Private Purposes, Use of Streets and Sidewalks for.

Art. 1082. Powers of Council

The city council shall be invested with full power and authority to grade, gravel, repair, pave or otherwise improve any avenue, street or alley, or any portion thereof, within the limits of said city, whenever, by a vote of two-thirds of the aldermen present, they may deem such improvement for the public interest; provided, the city council pay one-third and the owner of the property two-thirds

thereof, except at the intersection of streets, from lot to lot across the streets either way shall be paid for by the city alone. Said costs shall be assessed on the property fronting on said street so improved, to be collected in equal annual payments, not less than five in number. All moneys collected from these assessments shall be appropriated exclusively to the payment of the bonds issued for the payment of the cost of said improvement.

[Acts 1925, S.B. 84.]

Art. 1083. Estimates of Cost

Whenever the city council shall determine to make any such improvement, they shall cause an estimate to be made of the probable cost thereof by the city engineer, or by some other officer of the city, or by a committee of three aldermen; and such engineer or other officer or committee shall also report a full list of all lots or fractional lots, giving number and size of the same, and the number of the block in which situated, and the names of the owners thereof, if known, and such other information as may be required by the city council; and if there be a lot or fractional lot the owner of which is not known, the same shall be entered on said list as unknown. The officer or committee aforesaid shall enter on said list, opposite each lot or fractional lot lying and being on each side of the street, avenue or alley so to be improved as aforesaid, one-third of the estimated expense for such work or improvement on such avenue, street or alley fronting, adjoining or opposite such lot or fractional lot; and, on the acceptance and approval of said report and list by the city council, said amount shall be imposed, levied and assessed as taxes, and shall be a lien upon the property until the payment of the same.

[Acts 1925, S.B. 84.]

Art. 1084. Execution on Property

After such action on the part of the city council, such officer or committee shall give such notice as may be required by ordinance, of said tax being due and within what time payable, and shall begin to collect the same. After the expiration of the period for payment of said tax, said officer or committee shall levy on so much of any property on said list on which said tax has not been paid as will be sufficient to pay the same, and the same notice of sale as is required in sales for other tax shall be given. If said tax is not paid before the day of sale, said officer or committee shall sell property in the name and under the circumstances, and to the extent and subject to the same conditions which may be provided by ordinance for the sale of real estate in the city charged with the payment of taxes imposed by said corporation. Said officer or committee shall execute a deed to the purchaser at any such sale; and all other provisions of this title in reference to a deed drawn by the assessor and collector shall apply to the deed herein provided for.

[Acts 1925, S.B. 84.]

Art. 1085. Suit

In addition to the authority granted to the city council to collect said assessment of taxes, they shall have the additional remedy of instituting suit in the corporate name for the recovery against any owner of the property for the amount due for any such work so made as aforesaid. They shall provide by resolution or ordinance under the provision of this title, for carrying out and executing the powers in this chapter conferred, and may adopt necessary resolutions, ordinances and regulations.

[Acts 1925, S.B. 84.]

Art. 1085a. Freeways

Sec. 1. The State Highway Commission or the governing body of any incorporated city or town, within their respective jurisdictions may do any and all things necessary to lay out, acquire, construct, maintain and operate any section or portion of any State highway or city street as a freeway, and to make any highway or street within their respective jurisdictions a freeway, except that no existing State highway or city street shall be converted into a freeway except with the consent of the owners of abutting lands, or by the purchase or condemnation of their right of access thereto, providing, however, nothing herein shall be construed as requiring the consent of the owners of abutting lands where a State highway, or city street is constructed, established or located for the first time as a new way for the use of vehicular and pedestrian traffic.

Sec. 2. For the purposes of this Act, the State Highway Commission, County Commissioners Courts and the governing bodies of incorporated cities and towns, may acquire the necessary property and property rights by gift, devise, purchase, or condemnation, in the same manner as such governmental agencies are now or hereafter may be authorized by law to acquire such property for State highways and city streets.

Sec. 2a. The governmental agency which holds the title and property rights to land on which a freeway is located may lease for parking purposes the portions of land situated beneath the elevated sections of the freeway.

Sec. 3. "Freeway" means a State highway or city street in respect to which the right or easement of access to or from their abutting lands has been acquired in whole or in part from the owners thereof by the State Highway Commission or the governing body of an incorporated city or town as hereinabove provided.

Sec. 4. The State Highway Commission or the governing body of a city or town is authorized to close any highway or street within their respective jurisdictions at or near the point of its intersection with any freeway or to make provisions for carrying any highway or street over or under or to a connection with the freeway and may do any and all things on such highway or street as may be necessary therefor.

Sec. 5. If any section, subsection, sentence, clause or phrase of this Act is for any reason held unconstitutional, the unconstitutionality thereof shall not affect the validity of the remaining portion of this Act. The Legislature hereby declares that it would have passed the Act and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that one or more of the sections, subsections, sentences, clauses or phrases be declared unconstitutional. All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

[Acts 1943, 48th Leg., p. 27, ch. 24. Amended by Acts 1943, 48th Leg., p. 470, ch. 314, § 1; Acts 1945, 49th Leg., p. 420, ch. 266, § 1; Acts 1949, 51st Leg., p. 779, ch. 419, § 1; Acts 1951, 52nd Leg., p. 144, ch. 86, § 1; Acts 1965, 59th Leg., p. 780, ch. 370, § 1.]

Art. 1085b. Private Purposes, Use of Streets and Sidewalks for

Incorporated cities and towns in the State of Texas shall have the power and authority to grant the use of a portion of the streets and sidewalks of such cities and towns for private purposes, for such consideration and upon such terms as they may prescribe; provided such use shall not interfere with the public use of such streets and sidewalks, or create any hazardous or dangerous condition thereon.

[Acts 1947, 50th Leg., p. 715, ch. 353, § 1.]

CHAPTER NINE. STREET IMPROVEMENTS

- Art.
1086. Powers of City.
1087. Order for Improvements.
1088. Costs.
1089. Assessments, Railway.
1090. Assessment and Certificates.
1090a. Validating Assessment Ordinances and Liens in Certain Cities.
1091. Exempt Property.
1092. Enforcement of Lien.
1093. Notice of Hearing.
1094. Hearing.
1095. Reassessment.
1096. Owner May Sue.
1097. Special Reassessment.
1098. Notice, etc.
1099. Special Lien.
1100. Time Limit.
1101. Amount of Assessment.
1102. Enforcible When.
1103. Effect of Law.
1104. Adoption of Provisions.
1105. Provisions Cumulative.
1105a. Establishing Building Lines on Streets.
1105b. Street Improvements and Assessments in Cities Having More Than 1000 Inhabitants.
1105b-1. Validation of Special Assessments for Street Improvements.
1105b-2. Validation of Special Assessments and Reassessments for Street Improvements.
1105b-3. Validation of Assessments and Reassessments for Street, Sewer and Water Improvements.

Art.

- 1105b-4. Validation of Assessments and Reassessments for Street, Sewer and Water Improvements.
1105b-5. Validation of Certain Governmental Acts and Proceedings Regarding Paving Contracts.
1105c. Cities of More Than 100,000; Elimination of Grade-Level Street Crossings by Railroad Lines.

Art. 1086. Powers of City

Towns, cities and villages, incorporated under either general or special law, which shall accept the benefits of this chapter as herein provided, shall have power to improve any highway within their limits, by filling, grading, raising, paving or repaving the same in a permanent manner, or by the construction or reconstruction of sidewalks, curbs and gutters, or by widening, narrowing or straightening the same, and to construct necessary appurtenances thereto, including sewers and drains, and cities having a population of less than fifteen thousand (15,000) inhabitants according to the last preceding or any future Federal census and which have levied the maximum rate of tax permitted by law, shall have the power to construct and install sanitary sewers and all of the provisions and authority of this chapter pertaining to highway improvement shall likewise apply to the construction and installation of sanitary sewers. "City" when used herein (except when otherwise provided above) shall include all incorporated towns, cities and villages, and the term "highway" shall include any street, avenue, alley, highway, or public place or square, or portion thereof, dedicated to public use. Provided that before any proposal to construct sanitary sewers hereunder shall be put into effect the Governing Body of any city shall be presented by a petition signed by two-thirds (2/3) of the abutting property owners to be affected requesting the Governing Body of the city to make such improvements.

[Acts 1925, S.B. 84. Amended by Acts 1945, 49th Leg., p. 317, ch. 232, § 1.]

Art. 1087. Order for Improvements

The Governing Body of any city shall have power to order the improvement of any highway therein, or part thereof, and in cities having a population of less than fifteen thousand (15,000) inhabitants according to the last preceding or any future Federal census and which have levied the maximum rate of tax permitted by law, to order the construction and installation of sanitary sewers, and to select the materials and methods of such improvement, and to contract for the construction of such improvements in the name of the city, and to provide for the payment of the cost of such improvements out of any available funds of the city.

[Acts 1925, S.B. 84. Amended by Acts 1945, 49th Leg., p. 317, ch. 232, § 2.]

Art. 1088. Costs

The cost of making such improvements may be wholly paid by the city, or partly by the city and

partly by the owners of the property abutting thereon. In no event shall more than three-fourths of the cost of any improvement, except sidewalks and curbs, be assessed against such property owners or their property. The whole cost of construction of sidewalks and curbs in front of any property may be assessed against the owner thereof or his property.

[Acts 1925, S.B. 84.]

Art. 1089. Assessments, Railway

Subject to the terms hereof, the governing body of any city shall have the power to assess against the owner of any railroad or street railroad occupying any highway ordered to be improved, the whole cost of the improvement between or under the rails or tracks of said railroad or street railroad and two feet on the outside thereof, and shall have power, by ordinance, to levy a special tax upon said railroad, or street railroad, and its roadbed, ties, rails, fixtures, rights and franchise, which tax shall constitute a lien thereon superior to any other lien or claim, except State, county and municipal taxes, and which may be enforced, either by sale of said property in the manner provided by law in the collection of ad valorem taxes by the city, or by suit against the owner. The ordinance levying said tax shall prescribe when same shall become due and delinquent, and the method of enforcing the same.

[Acts 1925, S.B. 84.]

Art. 1090. Assessment and Certificates

Subject to the terms hereof, the governing body shall have power by ordinance to assess the whole cost of constructing sidewalks or curbs, and not to exceed three-fourths of the cost of any other improvement, against the owners of property abutting on such improvement and against their abutting property benefited thereby, and to provide for the time and terms of payment of such assessments and the rate of interest payable upon deferred payments thereon, which rate shall not exceed eight per cent per annum, and to fix a lien upon the property and declare such assessments to be a personal liability of the owners of such abutting property; and such governing body shall have the power to cause to be issued in the name of the city, assignable certificates declaring the liability of such owners and their property for the payment of such assessments and to fix the terms and conditions for such certificate. If any such certificate shall recite that the proceedings with reference to making such improvements have been regularly had in compliance with law, and that all prerequisites to the fixing of the assessment lien against the property described in said certificate and fixing the personal liability of the owner have been performed, such certificate shall be prima facie evidence of the facts so recited. The ordinance making such assessments shall provide for the collection thereof, with costs and reasonable attorney's fees, if incurred. Such assessments shall be secured by, and constitute a lien on said proper-

ty, which shall be the first enforceable claim against the property against which it is assessed, superior to all other liens and claims, except State, county and municipal taxes.

[Acts 1925, S.B. 84.]

Art. 1090a. Validating Assessment Ordinances and Liens in Certain Cities

Sec. 1. This Act shall affect all cities in the State of Texas having a population of more than one hundred thousand (100,000) according to the last preceding United States Census.

Sec. 2. In every instance where a city, coming under the provisions of this Act, has attempted to fix a lien upon property by assessment ordinance for the improvement and paving of streets, highways and boulevards, where the State, County and Federal Governments have contributed to the cost of such improvement, requiring the impounding of funds by such city for the purpose of guaranteeing its portion of the cost of such paving and improvements, all actions, resolutions, order, ordinances and proceedings taken, made or passed in reference thereto, or pursuant thereto, are hereby confirmed, ratified and validated, and the lien attempted to be fixed by said assessment ordinance is a valid and subsisting lien against the property assessed irrespective of any irregularities or defects in the proceeding and in like manner as if said assessment had been authorized in the first instance.

[Acts 1931, 42nd Leg., p. 802, ch. 327.]

Art. 1091. Exempt Property

Nothing herein shall be construed to empower any city to fix a lien by assessment against any property exempt by law from sale under execution; but the owner of such exempt property shall nevertheless be personally liable for the cost of improvements constructed in front of his property, which may be assessed against him. The fact that any improvement is omitted in front of exempt property shall not invalidate the lien of assessments made against other property on the highway improved, not so exempt.

[Acts 1925, S.B. 84.]

Art. 1092. Enforcement of Lien

The lien created against any property, or the personal liability of the owner thereof, may be enforced by suit or by sale of the property assessed in the same manner as may be provided by law for the sale of property for ad valorem city taxes. The recital in any deed made pursuant to such sale, that all legal prerequisites to said assessment and sale have been complied with, shall be prima facie evidence of the facts so recited and shall in all courts be accepted without further proof.

[Acts 1925, S.B. 84.]

Art. 1093. Notice of Hearing

No assessments of any part of the cost of such improvement shall be made against any property abutting thereon or its owner, until a full and fair hearing shall first have been given to the owners of such property, preceded by a reasonable notice thereof given to said owners, their agents, or attorneys. Such notice shall be by advertisement inserted at least three times in some newspaper published in the city, town or village where such tax is sought to be levied, if there be such a paper there; if not, then in the nearest to said city, town or village, or general circulation in the county in which said city is located; and, in addition, if the owner of such abutting property is a railway or street railway, written notice of the assessment and hearing thereon shall be served by either delivering in person to the local agent or by depositing the same in the city post office, postage paid, and properly addressed to the offices of the railway or street railway at the address as it appears on the last approved city tax roll; and such written notice, if required, shall be mailed or delivered, and the first publication shall be made, at least ten (10) days before the date of the hearing. The governing body may provide for additional notice cumulative of that notice specified above.

[Acts 1925, S.B. 84. Amended by Acts 1963, 58th Leg., p. 346, ch. 130, § 1.]

Art. 1094. Hearing

Said hearing shall be before the governing body of such cities, at which such owners shall have the right to contest the said assessment and personal liability, and the regularity of the proceedings with reference to the improvement, and the benefit of said improvement to their property, and any other matter relating thereto. No assessment shall be made against any owner of abutting property or his property in any event in excess of the actual benefit to such owner in the enhanced value of his property, by means of such improvement, as ascertained at such hearing. The governing body of any city making improvements under the terms hereof shall, by ordinance, adopt rules and regulations providing for such hearings to property owners, and for giving reasonable notice thereof.

[Acts 1925, S.B. 84. Amended by Acts 1963, 58th Leg., p. 346, ch. 130, § 1.]

Art. 1095. Reassessment

The governing body of any city shall be empowered to correct any mistake or irregularity in any proceedings with reference to such improvement, or the assessment of the cost thereof against abutting property and its owners, and in case of any error or invalidity, to reassess against any abutting property and its owner the cost or part of the cost of improvements, subject to the terms hereof, not in excess of the benefits in enhanced value of such property from such improvement, and to make reasonable rules and regulations for a notice to and

hearing of property owners before such reassessment.

[Acts 1925, S.B. 84. Amended by Acts 1963, 58th Leg., p. 346, ch. 130, § 1.]

Art. 1096. Owner May Sue

Any property owner, against whom or whose property any assessment or reassessment has been made, shall have the right within twenty days thereafter, to bring suit to set aside or correct the same, or any proceeding with reference thereto, on account of any error or invalidity therein. But thereafter such owner, his heirs, assigns or successors, shall be barred from any such action, or any defense of invalidity in such proceedings or assessments or reassessments in any action in which the same may be brought in question.

[Acts 1925, S.B. 84. Amended by Acts 1963, 58th Leg., p. 346, ch. 130, § 1.]

Art. 1097. Special Reassessment

In any case in which the public funds of a city or town may have been or may hereafter be expended, or its vouchers or certificates issued to any contractor, or any contract made therewith, for the special improvement, raising or lowering the grade of, opening, straightening, widening, paving, constructing or grading of any street, avenue, alley, sidewalk, gutter or public way, or any part thereof, and if for any reason, no part of the cost of such improvement has been borne by the abutting property or paid by the owner or owners thereof, either because an attempted assessment and enforcement thereof for the same was erroneous or void, or was so declared in any judicial proceeding, the governing body shall have the power to proceed at any time to specially assess or reassess, such abutting property with such amount of the cost of such improvement as it deems proper, but in no event shall the amount exceed the special benefits such property receives therefrom by enhanced value thereto, the amount of such special benefits to be determined on a basis of the condition of such improvement as it exists at the time of such assessment or reassessment.

[Acts 1925, S.B. 84.]

Art. 1098. Notice, etc.

No such assessment or reassessment shall be made without at least ten (10) days written notice and an opportunity to be heard on such question of special benefits given to the owner or owners of such abutting property. Such notice may be served either personally or by publication in some newspaper of general circulation, published in said city or town; and, when any such abutting property is owned by a railway or street railway, notice shall be made both by such publication and by delivery of written notice, either in person to its local agent, or by depositing said written notice in the city post office, postage paid, and properly addressed to the offices of the railway or street railway at the address as it appears on the last approved city tax roll,

and the governing body of any such city or town shall have power, not inconsistent herewith, to provide for all procedure, rules, and regulations necessary or proper for such notice and hearing and to levy, assess, and collect such assessment or reassessment.

[Acts 1925, S.B. 84. Amended by Acts 1963, 58th Leg., p. 348, ch. 132, § 1.]

Art. 1099. Special Lien

Such assessment, or reassessment shall constitute a lien upon such abutting property and a personal charge against the owner or owners thereof, which amount shall not be construed as becoming due, or having become due, before such assessment or reassessment is properly made in accordance with the provisions of this law.

[Acts 1925, S.B. 84.]

Art. 1100. Time Limit

Such assessment or reassessment as hereinbefore provided shall be begun within three years after the completion of improvements contiguous to the property against which assessment or reassessment is made, and not thereafter. In cases of reassessments where the question of validity of the original assessment may be, or may have been, in litigation, the period of time during which it was in litigation shall not be considered in computing said period of limitation.

[Acts 1925, S.B. 84.]

Art. 1101. Amount of Assessment

Any such assessment or reassessment made by the governing body of any city or town with less than five thousand inhabitants may equal the entire cost of sidewalk, curb and gutter, and the cost of any street improvement, exclusive of street intersections, and such governing body of such town in making such assessment or reassessment, shall follow the procedure prescribed in articles 1082 and 1083 in so far as applicable, but no such assessment or reassessment shall be made in excess of the special benefits in enhanced value conferred thereby on the property abutting such improvement, or until the owner or owners of such property shall have had notice, as provided above, and opportunity to contest such issue before such governing body under such rules and regulations as it may, by ordinance, prescribe.

[Acts 1925, S.B. 84.]

Art. 1102. Enforcible When

Such assessment, or reassessment, shall be due and payable in equal annual installments not less than five in number; provided that the owner of such property shall have the right to appeal from the decision of the governing board to any court of competent jurisdiction within twenty days after such reassessment shall have been made, and upon failure to do so in said period, such assessment shall

be final and conclusive upon such owner and property.

[Acts 1925, S.B. 84.]

Art. 1103. Effect of Law

The provisions of the six preceding articles relating to special assessments or reassessments are cumulative of all powers heretofore granted to any city or town either by general or special law; and all charter provisions of all cities and towns in this State heretofore adopted relative to the subject covered by this law are hereby validated.

[Acts 1925, S.B. 84.]

Art. 1104. Adoption of Provisions

The benefits of the provisions of this article and Articles 1086 to 1096, both inclusive, and Article 1105 shall apply to any city, and the terms thereof extend to the same, when the governing body thereof shall submit the question of the adoption or rejection hereof to a vote of the resident property taxpayers, who are qualified voters of said city, at a special election called for the purpose by said city. Said election shall be held as nearly as possible in compliance with the law with reference to regular city elections in said city, but said governing body is hereby empowered, and it shall be their duty on the written petition of one hundred qualified voters of said city, by resolution, to order said election, and prescribe the time and manner of holding the same. Said body shall canvass and determine the results of such election. If a majority of the voters voting upon the question of the adoption of said article, at such election, shall vote to adopt the same, the result of the election shall be entered by said governing body upon their minutes, and thereupon all the terms of said articles shall be applicable to and govern such city adopting the same. A certified copy of said minutes shall be prima facie evidence of the result of such election and the regularity thereof. When the provisions of said articles have been adopted by any city, the governing body thereof shall have full power to pass all ordinances or resolutions necessary or proper to give full force and effect thereto and to every part thereof.

[Acts 1925, S.B. 84.]

Art. 1105. Provisions Cumulative

The provisions of Articles 1086 to 1096, both inclusive, and Article 1104 and of resolutions or ordinances passed pursuant thereto shall be cumulative of and in addition to existing laws pertaining to the making of such improvements. In any case in which a conflict may exist or arise between the provisions of said articles and the provisions of any law granting a special charter to any city in this State, the provisions of such special charter shall control.

[Acts 1925, S.B. 84.]

Art. 1105a. Establishing Building Lines on Streets**"Street" Defined**

Sec. 1. The word "street" as used in this Act, means any public highway, boulevard, parkway, square or street, or any part or side of any of the same.

Building Lines Authorized

Sec. 2. It shall hereafter be lawful for any city, town, or village to establish building lines on any public street or highway, or part thereof in such city, town, or village.

Ordinance or Resolution; Effect

Sec. 3. The Legislative Body of any such city desiring to establish a building line may do so by adopting a resolution or ordinance describing the street, highway or part thereof to be affected, and the location of the building line or lines, and except as herein otherwise provided, by following the same procedure as that authorized by law in such city for the acquiring of land for the opening of streets. After the establishment of any such line, no building or other structures shall be erected, reconstructed or substantially repaired, and no new buildings or other structure, or part thereof, shall be erected or reerected within said lines so established.

Condemnation Proceedings

Sec. 4. The procedure for instituting and conducting the condemnation proceedings to condemn the easements and interests necessary to be taken and acquired to establish a building line under the authority of this Act, and to assess and collect benefits against property owners and their property abutting on or the vicinity of said building line arising out of the establishment of said building line, shall be the same as that authorized by law in such city in connection with the opening of streets. In the condemnation of any tract where the ownership of or interests in said tract is in controversy or is unknown, the award may be made in bulk as to such tract, and paid into court for the use of the parties owning or interested therein, whoever they may be, as their interests may appear. The award and findings of the Special Commissioners when filed with the Judge of the County Court, or other court having jurisdiction over the condemnation proceedings, shall be final, and shall be made the judgment of said court. Compensation shall be due and payable upon rendition of the judgment by the court adopting the award.

Time for Conformance; Removal of Structures Within Line

Sec. 5. Whenever and wherever a building line shall be established under authority of this Act, all structures extending within such building lines shall be required to conform to the new line within a period of not more than twenty-five (25) years from

the time of establishing said lines; such time to be provided in the ordinance providing for the establishment of such line. At any time, however, before or after the expiration of the time so fixed, the proper municipal authorities shall have the power to proceed in the manner then provided by law relating to condemnation proceedings by such cities to remove all structures and to condemn any property then within such line, and to assess benefits against property owners and their property benefited thereby, provided, however, that all owners of property so affected shall receive due notice and hearing in the manner then provided by law in the determination of the additional damages then sustained by the removal of such structures or the taking of land then within the building line and in the determination of benefits to be assessed against property owners affected and their property affected.

Act as Cumulative

Sec. 6. This Act shall be in addition to and cumulative of any powers now or hereafter conferred by law on such cities.

[Acts 1927, 40th Leg., p. 415, ch. 276. Amended by Acts 1967, 60th Leg., p. 1094, ch. 483, § 1, eff. June 12, 1967.]

Art. 1105b. Street Improvements and Assessments in Cities Having More Than 1000 Inhabitants**Power to Make Improvements; Boundary Streets**

Sec. 1. (a) That cities, towns and villages incorporated under either general or special law, including those operating under special charter, or amendments of charter adopted pursuant to the Home Rule provisions of the Constitution, shall have power to cause to be improved, any highway, within their limits by filling, grading, raising, paving, repaving, and repairing in a permanent manner, and by constructing, reconstructing, repairing and realigning curbs, gutters and sidewalks, and by widening, narrowing and straightening, and by constructing appurtenances and incidentals to any of such improvements, including drains and culverts, which power shall include that of causing to be made any one or more of the kinds or classes of improvements herein named or any combination thereof, or of parts thereof.

(b) Whenever a part of the boundary of any such city is upon or along any street or highway, which at that point lies wholly within, partly within and partly without or wholly outside of its limits, such city may improve such portion of such street and assess a part of the cost thereof against the abutting property lying on both sides of such street by the proceedings set forth in this Act, provided that if such street lies wholly or partly within the limits of any other such city the governing body thereof shall consent to the improvement and if assessments are levied against any property lying within the limits of any other city than the one (1) initiating the improvement, the governing body of such other

city shall consent to such assessments as herein-after provided. If assessments are finally levied as particularly provided by Section 9 of this Act against any abutting property lying within the limits of any other city than the one (1) initiating the improvements, such assessments shall not be valid unless the governing body of such other city shall by ordinance or resolution ratify and approve the assessments so levied, and any one owning or claiming any such abutting property, in addition to the right of appeal given by said Section of this Act, shall have the further right of appeal from any such assessment for fifteen (15) days after the passage of the ordinance or resolution by which the governing body of such other city so ratifies and approves such assessments; provided further that if the governing body of such other city does not ratify and approve such assessments within thirty (30) days after the date of the ordinance or resolution levying the same then the city which initiated the project may in the discretion of its governing body repeal and annul all of the proceedings relating thereto, including the contract, if any, for the work; and provided further that failure on the part of the governing body of such other city to so ratify and approve such assessments shall not affect the validity of the assessments which have been levied against any property lying within the limits of the city initiating the improvement.

(c) Whenever a part of the boundary between any two (2) such cities is upon and along any street or highway or is along the edge of any street or highway and the governing bodies of both cities determine the necessity for any such improvement of such portion of said street or highway, then such two (2) cities may contract upon such terms as their respective governing bodies may approve to the effect that one (1) or the other of them shall by the proceedings provided for in this Act, improve such portion of said street and that the other of such two (2) cities shall pay a part of the cost thereof, such payment to be made at such time or times and subject to such conditions as they may so agree upon; and the use by either of such cities of its funds for such purpose shall be lawful whether the street to be improved lies wholly within, partly within and partly without, or wholly outside of its limits.

Cities Over 285,000; Improvements on Highway or Road Outside Limits

Sec. 1a. Any city mentioned in Section 1 and having a population in excess of two hundred and eighty-five thousand (285,000) inhabitants according to the last preceding or any future Federal Census may make the improvements named in Section 1 hereof on any highway or road without the limits of such city if such improvements do not extend more than one hundred and fifty (150) feet from the limits of such city.

Definitions

Sec. 2. That the term "city" whenever used herein shall include all incorporated cities, town and villages; that the term "governing body" whenever used herein, includes the governing or legislative bodies of all incorporated town, cities and villages, whether known as councils, commissions, boards of commissioners, common councils, boards of aldermen, city councils, or by whatever name such bodies may be known or designated under general or special laws or charters. That whenever the term "highway" is used herein it shall include any street, avenue, alley, highway, boulevard, drive, public place, square, or any portion or portions thereof, including any portion that may have or may be left wholly or partly unimproved in connection with other street improvements heretofore or hereafter made. The term "improve" or "improvements" when used herein shall include the kinds and classes of improvements, with incidents and appurtenances thereto, and any portions or combinations thereof, or of parts thereof, hereinabove mentioned, liberally construed. That whenever the term "cost" or "costs of improvements" or similar terms are used herein, same shall include expenses of engineering and other expenses incident to construction of improvements, in addition to the other costs of the improvements.

Powers of Governing Body

Sec. 3. That the governing body of any city shall have power to determine the necessity for, and to order, the improvement of any highway, highways, or parts thereof within such city, and to contract for the construction of such improvements in the name of the city, and to provide for the payment of the cost of such improvements by the city, or partly by the city and partly by assessments as hereinafter provided.

Cost of Improvement; Estimate for Assessment in Part on Abutting Property

Sec. 4. That the cost of such improvements may be wholly paid by the city, or partly by the city and partly by property abutting upon the highway or portion thereof ordered to be improved, and the owners of such property, but if any part of the cost is to be paid by such abutting property and the owners, then before any such improvements are actually constructed, and before any hearing herein provided for is held, the governing body shall prepare, or cause to be prepared, an estimate of the cost of such improvements, and in no event shall more than all the cost of constructing, reconstructing, repairing and realigning curbs, gutters and sidewalks, and nine-tenths of the remaining cost of such improvements as shown on such estimate be assessed against such abutting property and owners thereof.

**Special Tax on Street Railways for Improvement
of Area Occupied**

Sec. 5. If improvements be ordered constructed in any part of the area between and under rails, tracks, double tracks, turn outs and switches, and two feet on each side thereof, of any railway, street railway, or interurban, using, occupying, or crossing any such highway, portion or portions thereof, ordered improved, then the governing body shall have power to assess the whole cost of the improvements in such area against such railway, street railway, or interurban, and shall have power, by ordinance, to levy a special tax upon such railway, street railway, or interurban, and its road-bed, ties, rails, fixtures, rights and franchises, which tax shall constitute a lien thereon superior to any other lien or claim except State, County, and City ad valorem taxes, and which may be enforced either by sale of said property in the manner provided by law for the collection of ad valorem taxes by the city, or by suit in any court having jurisdiction. The ordinance levying such tax shall prescribe the time, terms and conditions of payment thereof, and the rate of interest, not to exceed 8% per annum, and same, if not paid when due, shall be collectible, together with interest, expenses of collection and reasonable attorney's fees, if incurred. The Governing Body shall have power to cause to be issued assignable certificates in evidence of any such assessments as herein after provided.

Assessments on Abutting Property; Certificates

Sec. 6. Subject to the terms hereof, the governing body of any city shall have power by ordinance to assess all the cost of constructing, reconstructing, repairing, and realigning, curbs, gutters, and sidewalks, and not exceeding nine-tenths of the estimated cost of such improvements, exclusive of curbs, gutters, and sidewalks, against property abutting upon the highway or portion thereof ordered to be improved, and against the owners of such property, and to provide the time, terms, and conditions of payment and defaults of such assessments, and to prescribe the rate of interest thereon not to exceed eight (8) per cent per annum. Any assessment against abutting property shall be a first and prior lien thereon from the date improvements are ordered, and shall be a personal liability and charge against the true owners of such property at said date, whether named or not. The governing body shall have power to cause to be issued in the name of the city assignable certificates in evidence of assessments levied declaring the lien upon the property and the liability of the true owner or owners thereof whether correctly named or not and to fix the terms and conditions of such certificates.

If any such certificate shall recite substantially that the proceedings with reference to making the improvements therein referred to have been regularly had in compliance with the law and that all prerequisites to the fixing of the assessment lien against the property described in said certificate

and the personal liability of the owner or owners thereof have been performed, same shall be prima facie evidence of all the matters recited in said certificate, and no further proof thereof shall be required. In any suit upon any assessment or reassessment in evidence of which a certificate may be issued under the terms of this Act it shall be sufficient to allege the substance of the recitals in such certificate and that such recitals are in fact true, and further allegations with reference to the proceedings relating to such assessment or reassessment shall not be necessary.

Such assessments shall be collectable with interest, expense of collections, and reasonable attorney's fee, if incurred, and shall be first and prior lien on the property assessed, superior to all other liens and claims except State, county, school district, and city ad valorem taxes, and shall be a personal liability and charge against said owners of the property assessed.

**Assessment Apportioned Under Front Foot
Plan Unless Inequitable**

Sec. 7. The part of the cost of improvements on each portion of highway ordered improved which may be assessed against abutting property and owners thereof shall be apportioned among the parcels of abutting property and owners thereof, in accordance with the Front Foot Plan or Rule provided that if the application of this rule would, in the opinion of the Governing Body, in particular cases, result in injustice or inequality, it shall be the duty of said Body to apportion and assess said costs in such proportion as it may deem just and equitable, having in view the special benefits in enhanced value to be received by such parcels of property and owners thereof, the equities of such owners; and the adjustment of such apportionment so as to produce a substantial equality of benefits received and burdens imposed.

**No Lien on Property Exempt; Personal Liability of
Owner; Enforcing Lien**

Sec. 8. Nothing herein shall empower any city, or its governing body, to fix a lien against any interest in property exempt, at the time the improvements are ordered, from the lien of special assessment for street improvements, but the owner or owners of such property shall nevertheless be personally liable for any assessment in connection with such property: The fact that any improvement, though ordered, is omitted in front of property, any interest in which is so exempt, shall not invalidate the lien or liability of assessments made against other property.

The lien created against any property and the personal liability of the owner or owners thereof may be enforced by suit in any court having jurisdiction, or by sale of the property assessed in the same manner as may be provided by law or charter in force in the particular city for sale of property for ad valorem city taxes.

Notice and Hearing; Contents of Notice

Sec. 9. No assessment herein provided for shall be made against any abutting property or its owners, nor against any railway, street railway or interurban, or owner, until after notice and opportunity for hearing as herein provided, and no assessment shall be made against any abutting property or owners thereof in excess of the special benefits of such property, and its owners in the enhanced value thereof by means of such improvements as determined at such hearing. Such notice shall be by advertisement inserted at least three (3) times in some newspaper published in the city where such special assessment tax is to be imposed, if there be such a paper; if not, then the nearest to such city of general circulation in the county in which such city is located; the first publication of such notice of hearing to be made at least twenty-one (21) days before the date of the hearing; and, additional written notice of the hearing shall be given by depositing in the United States mail, at least fourteen (14) days before the date of the hearing; written notice of such hearing, postage prepaid, in an envelope addressed to the owners of the respective properties abutting such highway, highways or portion or portions thereof to be improved, as the names of such owners are shown on the then current rendered tax rolls of such city and at the addresses so shown, or if the names of such respective owners do not appear on such rendered tax rolls, then addressed to such owners as their names are shown on the current unrendered rolls of the city at the addresses shown thereon; and, where a special tax is proposed to be levied against any railway or street railway using, occupying or crossing any highway, portion or portions thereof to be improved, such additional notice shall be given by depositing in the United States mail, at least fourteen (14) days before the date of the hearing, a written notice of such hearing, postage prepaid, in an envelope addressed to the said railway or street railway as shown on the then current rendered tax rolls of such city, at the address so shown, or, if the name of such respective railways do not appear on such rendered rolls of the city, then addressed to such railways or street railways as the names are shown on the current unrendered rolls of the city, at the addresses shown thereon. If any such notice shall describe in general terms the nature of the improvements for which assessments are proposed to be levied and to which such notice relates, shall state the highway, highways, portion or portions thereof to be improved, shall state the estimated amount or amounts per front foot proposed to be assessed against the owner or owners of abutting property and such property on each highway or portion with reference to which hearing mentioned in the notice is to be held, and shall state the estimated total cost of the improvements on each such highway, portion or portions thereof, and, if the improvements are to be constructed in any part of the area between and under rails and tracks, double tracks, turnouts, and switches, and two (2)

feet on each side thereof of any railway, street railway or interurban, shall also state the amount proposed to be assessed therefor, and shall state the time and place at which such hearing shall be held, then such notice shall be sufficient, valid and binding upon all owning or claiming such abutting property, or any interest therein, and upon all owning or claiming such railway, street railway, or interurban, or any interest therein. The notice to be mailed may consist of a copy of the published notice. In those cases in which an owner of property abutting a highway or portion thereof which is to be improved is listed as "unknown" on the then current city tax roll, or the name of an owner is shown on the city tax roll but no address for such owner is shown, no notice need be mailed. In those cases where the owner is shown to be an estate, the mailed notice may be addressed to such estate. Such hearing shall be by and before the governing body of such city and all owning any such abutting property, or any interest therein, and all owning any such railway, street railway or interurban, or any interest therein, shall have the right, at such hearing, to be heard on any matter as to which hearing is a constitutional prerequisite to the validity of any assessment authorized by this Act, and to contest the amounts of the proposed assessments, the lien and liability thereof, the special benefits to the abutting property and owners thereof by means of the improvements for which assessments are to be levied, the accuracy, sufficiency, regularity and validity of the proceedings and contract in connection with such improvements and proposed assessments, and the governing body shall have power to correct any errors, inaccuracies, irregularities, and invalidities, and to supply any deficiencies, and to determine the amounts of assessments and all other matters necessary, and by ordinance to close such hearing and levy such assessments before, during or after the construction of such improvements, but no part of any assessment shall be made to mature prior to acceptance by the city of the improvements for which assessment is levied.

Anyone owning or claiming any property assessed, or any interest therein, or any railway, street railway, or interurban assessed, or any interest therein, who shall desire to contest any such assessment on account of the amount thereof, or any inaccuracy, irregularity, invalidity, or insufficiency of the proceedings or contract with reference thereto, or with reference to such improvements, or on account of any matter or thing not in the discretion of the governing body, shall have the right to appeal therefrom and from such hearing by instituting suit for that purpose in any court having jurisdiction, within fifteen (15) days from the time such assessment is levied, and anyone who shall fail to institute such suit within such time shall be held to have waived every matter which might have been taken advantage of at such hearing, and shall be barred and estopped from in any manner contesting or questioning such assessment, the amount, accuracy, validity, regularity, and sufficiency thereof,

and of the proceedings and contract with reference thereto and with reference to such improvement for or on account of any matter whatsoever. And the only defense to any such assessment in any suit to enforce the same shall be that the notice of hearing was not mailed as required or was not published or did not contain the substance of one or more of the requisites therefor herein prescribed, or that the assessments exceed the amount of the estimate, and no words or acts of any officer or employee of the city, or member of any governing body shown in its written proceedings and records shall in any way affect the force and effect of the provisions of this Act.

Changes in Proceedings; Procedure

Sec. 10. The governing body of the city shall have power to provide for changes in plans, methods or contracts for improvements, or other proceedings relating thereto, but any change substantially affecting the nature or quality of any improvements shall only be made when it is determined by two-thirds vote of the governing body that it is not practical to proceed with the improvement as theretofore provided for, and if any such substantial change be made after any hearing has been ordered or held then unless the improvement be abandoned altogether a new estimate of cost shall be made and a new hearing ordered, and held, and new notices given, all with like effect and in like manner as herein provided for original notices and hearings. Changes in or abandonment of improvements must be with the consent of such person, firm or corporation as may have contracted with the city for the construction thereof, if any such contract has been entered into, and in case of abandonment of any particular improvement an ordinance shall be passed which shall have the effect of cancelling any assessments theretofore levied therefor, and all other proceedings relating thereto.

Assessments Against Parcels Owned Jointly

Sec. 11. Assessments against several parcels of property may be made in one assessment when owned by the same person, firm, corporation or estate, and property owned jointly by one or more persons, firms or corporations, may be assessed jointly.

Powers of Governing Body

Sec. 12. Said governing body shall have power to carry out all the terms and provisions of this Act and to exercise all the powers thereof, either by resolution, motion, order or ordinance, except where ordinance is specifically prescribed, and such governing body shall have power to adopt, either by resolution or ordinance, any and all rules or regulations appropriate to the exercise of such powers, the method and manner of ordering and holding such hearings, and the giving of notices thereof.

Correction of Assessments; Reassessment Certificates

Sec. 13. In case any assessment shall for any reason whatsoever be held or determined to be invalid or unenforceable, then the governing body of such city is empowered to supply any deficiency in proceedings with reference thereto and correct any mistake or irregularity in connection therewith, and at any time to make and levy reassessments after notice and hearing as nearly as possible in the manner herein provided for original assessments, and subject to the provisions hereof with reference to special benefits. Recitals in certificates issued in evidence of reassessments shall have the same force as provided for recitals in certificates relating to original assessments.

Appeal

Sec. 14. Anyone owning or claiming any property or interest in any property against which such reassessment is levied shall have the same right of appeal as herein provided in connection with original assessments, and in the event of failure to appeal within fifteen (15) days from the date of such reassessment, the provisions hereinabove made with reference to waiver, bar, estoppel, and defense shall apply to such reassessment.

[Acts 1927, 40th Leg., 1st C.S., p. 489, ch. 106. Amended by Acts 1937, 45th Leg., p. 904, ch. 439, § 1; Acts 1939, 46th Leg., p. 104, § 1; Acts 1951, 52nd Leg., p. 454, ch. 281, § 1; Acts 1963, 58th Leg., p. 140, ch. 83, § 1; Acts 1967, 60th Leg., p. 365, ch. 176, § 1, eff. May 12, 1967.]

Section 15 of Acts 1927, 40th Leg., 1st C.S., p. 489, ch. 106, provided that the act should not repeal articles 1086-1096, 1104, 1105, and should not repeal any charter or law, but should exist as alternative provisions and that any city which might adopt or amend its charter under the Home Rule provision might provide therein for any of the provisions thereof as part of or as alternative to any charter provision, and provided further that the act should not apply to cities not having more than one thousand inhabitants, and section 16 provided that if any section or part was held invalid, such holding should not affect the remainder.

Acts 1967, 60th Leg., p. 364, ch. 176 amended section 9 of this article; sections 2 and 3 of the amendatory act provided:

"Sec. 2. Nothing in this Act shall be construed as invalidating any assessment for street improvements heretofore levied by any city pursuant to the provisions of Chapter 106, Acts of the Fortieth Legislature, First Called Session, 1927, as amended [this article]."

"Sec. 3. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision."

Art. 1105b-1. Validating Special Assessments for Street Improvements

Sec. 1. That where any city acting through its governing body has heretofore levied assessments for street improvements against property abutting upon the highway or portion thereof ordered to be improved and against the owners of such property, and where such city has purported to act under the authority of Chapter 106, page 489 et seq., Acts of the Fortieth Legislature, First Called Session, 1927, as amended, as said Act read on the date said

assessments were levied (which Act as amended appears as Article 1105b in Vernon's Texas Civil Statutes), and where not more than all of the cost of constructing, reconstructing, repairing and realigning curbs, gutters and sidewalks and not more than nine-tenths ($\frac{9}{10}$) of the remaining cost of such improvements as shown on the estimate of costs prepared or caused to be prepared by the governing body of said city, where assessed against the property abutting upon the highway or portion thereof ordered to be improved and against the owners thereof, and where the portion of the cost of the improvements which was assessed against abutting property and the owners thereof was in fact apportioned among the parcels of abutting property and the owners thereof in accordance with the front foot plan or rule, or, where the city, in addition to giving the published notice provided for by Section 9 of Chapter 106 of the Acts of the Fortieth Legislature, First Called Session, 1927, as amended, as it then read, mailed or caused to be mailed by United States mail, postage prepaid, a reasonable time prior to the date of the hearing, notices containing the information required to be contained in the published notice, addressed to the owners of the respective properties abutting the highway, highways or portions thereof to be improved as such names of such owners were shown on the then current tax rolls of such city at the addresses so shown, all such assessments and all proceedings levying same are hereby legalized, approved and validated as of the respective times and dates of such assessments and proceedings and according to their terms and shall have the force and effect provided by the provisions of said Chapter 106 of the Acts of the Fortieth Legislature, First Called Session, 1927, as amended, except that nothing herein shall be construed as validating or legalizing any lien against any interest in property exempt at the time the improvements were ordered from the lien of special assessments for street improvements.

Sec. 2. All assignable certificates of special assessment issued in evidence of such assessments hereby validated are hereby legalized, approved and validated according to their terms. Any city which has heretofore levied assessments validated hereby but has not yet issued assignable certificates of special assessment to evidence such assessments may issue same and such certificate shall be valid and legal.

[Acts 1967, 60th Leg., p. 367, ch. 177, eff. May 12, 1967.]

Art. 1105b-2. Validation of Special Assessments and Reassessments for Street Improvements

Sec. 1. All assessments and reassessments for street or highway improvements heretofore levied or purported to be levied by any and all cities in the state against properties abutting their streets or highways and against the owners of such properties, and all proceedings of the governing bodies of such cities levying or purporting to levy such as-

sessments or reassessments are in all respects validated and shall have the force and effect provided by the provisions of Chapter 106 of the Fortieth Legislature, First Called Session, 1927, as amended,¹ except that nothing herein shall be construed to validate or to legalize any assessment lien levied or attempted to be levied against any property or interest in property exempt at the time the improvements were ordered from the lien of special assessment for street improvements.

Sec. 2. All assignable certificates of special assessment issued in evidence of such assessments or reassessments are hereby validated according to their terms. Any city which has not yet issued assignable certificates of special assessment to evidence such assessments may issue same and such certificates shall be valid and legal.

Sec. 3. This Act is not intended to validate, nor does it apply to any assessments or reassessments for street improvements or utility improvements (regardless whether said assessment or reassessment be in the form of zoning regulations, plat regulations, utility regulations, or direct money assessments), nor to any ordinances or resolutions of the governing bodies of such cities authorizing the issuance of any such certificates of special assessment, which are the subject matter of any litigation pending on the effective date of this Act, in any court of competent jurisdiction in this state in which the validity thereof is being challenged, if such litigation is ultimately determined against the validity of same.

[Acts 1969, 61st Leg., p. 1588, ch. 483, eff. June 10, 1969.]

¹ Article 1105b.

Art. 1105b-3. Validation of Assessments and Reassessments for Street, Sewer and Water Improvements

Sec. 1. That where any city acting through its governing body has heretofore levied assessments or reassessments for street improvements against property abutting upon a highway or portion thereof ordered to be improved and against the owners of such property, and such city has acted or purported to act under the authority of Chapter 106, pages 489 et seq., Acts of the 40th Legislature, First Called Session, 1927, as amended (which Act as amended appears as Article 1105b in Vernon's Texas Civil Statutes), all such assessments and reassessments heretofore levied or purporting to be levied against properties abutting such streets and highways and against the owners of such properties, and all proceedings of the governing bodies of such cities levying or purporting to levy such assessments or reassessments are in all respects hereby legalized, approved and validated as of the respective times and dates of such assessments and reassessments and proceedings and according to their terms and shall have the force and effect provided by the provisions of said Chapter 106, pages 489 et seq., of the Acts of the 40th Legislature, First Called Session, 1927, as amended, and

the liens thereof shall be effective from and after the times thereon so provided, except that nothing herein shall be construed as validating or legalizing any lien against any interest in property exempt, at the time the improvements were ordered from the lien of special assessment or reassessment for local improvements under the Constitution of the State of Texas.

Sec. 2. That where any city acting through its governing body has heretofore levied assessments or reassessments for improvements to a sanitary sewer system within its limits, or improvements to a water system within its limits, either or both, against benefitted properties and the owners thereof, and the city has acted or purported to act under the authority of the provisions of Chapter 192, pages 512 et seq., Acts of the 58th Legislature, Regular Session, 1963, as amended (which Act as amended appears as Article 1110c in Vernon's Texas Civil Statutes), all such assessments and reassessments and all proceedings levying same are hereby legalized, approved and validated as of the respective times and dates of such assessments and reassessments and proceedings and according to their terms and shall have the force and effect provided by the provisions of Chapter 192, pages 512 et seq., Acts of the 58th Legislature, Regular Session, 1963, as amended, and the lien thereof shall be effective from and after the times therein provided, except that nothing herein shall be construed as validating or legalizing any lien against any interest in property exempt from the lien of special assessment or reassessment for local improvements under the Constitution of the State of Texas.

Sec. 3. That where any city acting through its governing body has heretofore levied assessments or reassessments for street improvements against property abutting upon the highway or portions thereof ordered to be improved and against the owners of such property, and where such city has acted or purported to act under the authority of Chapter 106, pages 489 et seq., Acts of the 40th Legislature, First Called Session, 1927, as amended, and has levied or purported to levy said assessments or reassessments for such street improvements in conjunction with a levy of assessments or reassessments against benefitted properties and the owners thereof for improvements to a sanitary sewer system within its limits, or for improvements to a water system within its limits, either or both, pursuant to the provisions of Chapter 192, pages 512 et seq., Acts of the 58th Legislature, Regular Session, 1963, as amended (which Act as amended appears as Article 1110c in Vernon's Texas Civil Statutes) by one joint proceeding, as provided by Section 18 of the provisions of Chapter 192, pages 512 et seq., Acts of the 58th Legislature, Regular Session, 1963, as amended, all such assessments and reassessments and all proceedings levying same are hereby legalized, approved and validated as of the respective times and dates of such assessments and reassessments and proceedings and according to their

terms and shall have the force and effect provided by the provisions of Chapter 106, pages 489 et seq., Acts of the 40th Legislature, First Called Session, 1927, as amended, and by the provisions of Chapter 192, pages 512 et seq., Acts of the 58th Legislature, Regular Session, 1963, as amended, and the liens thereof shall be effective from and after the respective times so provided by said respective statutes, except that nothing herein shall be construed as validating or legalizing any lien against any interest in property exempt at the time the lien takes effect from the lien of special assessments or reassessments for local improvements under the Constitution of the State of Texas.

Sec. 4. That all assignable certificates of special assessment issued in evidence of any of such street, water or sanitary sewer assessment or any combination thereof, assessments or reassessments are hereby validated according to their terms. Any city which has not yet issued assignable certificates of special assessment to evidence any of such assessments may issue same and such certificates shall be valid and legal according to their terms.

Sec. 5. This Act is not intended to validate, nor does it apply to any assessments or reassessments for street improvements, nor to any certificates of special assessment or reassessment, nor to any ordinances or resolutions of the governing bodies of such cities authorizing the issuance of any such certificates of special assessment, which are the subject matter of any litigation pending on the effective date of this Act, in any court of competent jurisdiction in this state in which the validity thereof is being challenged, if such litigation is ultimately determined against the validity of same.

[Acts 1973, 63rd Leg., p. 131, ch. 66, eff. Aug. 27, 1973.]

Art. 1105b-4. Validation of Assessments and Reassessments for Street, Sewer and Water Improvements

Sec. 1. In this Act, "highway" has the meaning given it in Section 2, Chapter 106, Acts of the 40th Legislature, 1st Called Session, 1927, as amended (Article 1105b, Vernon's Texas Civil Statutes).

Sec. 2. This Act applies to:

(1) the levy of assessments or reassessments against property abutting a highway or portion of one and against the owners of the property for improvements to the highway or portion of it, where the city acted or purported to act under the authority of Chapter 106, Acts of the 40th Legislature, 1st Called Session, 1927, as amended (Article 1105b, Vernon's Texas Civil Statutes);

(2) the levy of assessments or reassessments against benefitted property and the owners of the property for improvements to a sanitary sewer system or water system or both within the limits of the city levying the assessments or reassessments, where the city acted or purported to act under the authority of Chapter 192, Acts of the 58th Legisla-

ture, 1963, as amended (Article 1110c, Vernon's Texas Civil Statutes); and

(3) the levy or purported levy of assessments or reassessments as described in Subdivision (1) of this section in conjunction with the levy of assessments or reassessments as described in Subdivision (2) of this section, in a joint proceeding where the city has acted or purported to act under the authority of Section 18, Chapter 192, Acts of the 58th Legislature, 1963 (Article 1110c, Vernon's Texas Civil Statutes).

Sec. 3. Where a city acting through its governing body before the effective date of this Act levied or purported to levy an assessment or reassessment against property and the owners of property as described in Section 2 of this Act, all proceedings of the city relating to the levy or purported levy are validated, ratified, and confirmed as of the time they took place and in accordance with their terms, and the proceedings shall have the full force and effect as is provided under the law under which the city acted or purported to act. The liens created or purported to be created by the levies or purported levies are also validated, ratified, and confirmed, and they shall be effective from and after the respective times provided by the assessment proceedings, except a lien purported to be created against property that at the time was exempt under the Texas Constitution from a lien of special assessment or reassessment for local improvements is not validated, ratified, or confirmed by this Act.

Sec. 4. All assignable certificates of special assessment relating to a proceeding validated by this Act are also validated.

Sec. 5. This Act does not apply to a matter that on the effective date of this Act is involved in litigation in a court of competent jurisdiction instituted for the purpose of attacking the validity of the matter if the litigation is ultimately determined against the validity of the matter.

[Acts 1975, 64th Leg., p. 1306, ch. 490, §§ 1 to 5, eff. Sept. 1, 1975.]

Art. 1105b-5. Validation of Certain Governmental Acts and Proceedings Regarding Paving Contracts.

Sec. 1. In any case where an incorporated city or town has contracted on behalf of itself and an independent school district and the county in which the city or town is located for the seal coating of roads or parking areas of the governmental entities by a private contractor, all governmental acts and proceedings and all transactions relating to the contract are validated, notwithstanding the failure of any one or more of the governmental entities to comply with all legal requirements concerning the awarding of the contract.

Sec. 2. This Act does not apply to:

(1) any act, transaction, or proceeding that occurred before September 1, 1975;

(2) any matter that on the effective date of this Act has been declared invalid by a final judgment of a court of competent jurisdiction; or

(3) any matter involved in litigation on the effective date of this Act if the litigation ultimately results in the matter being held invalid by a final judgment of a court of competent jurisdiction.

[Acts 1977, 65th Leg., p. 1820, ch. 729, §§ 1, 2, eff. Aug. 29, 1977.]

Art. 1105c. Cities of More Than 100,000; Elimination of Grade-Level Street Crossings by Railroad Lines

Application of Act; Power of Cities; Purposes

Sec. 1. This Act shall apply to every incorporated city or town (including Home Rule Cities) having a population of more than one hundred thousand (100,000) inhabitants according to the Federal Census last preceding the taking of any action by such city or town under the provisions of this Act. Every such city or town (referred to hereinafter as "city") is hereby empowered and authorized to purchase, build, construct, acquire, improve, enlarge, extend, maintain, repair, and replace any and all properties, improvements and facilities which the governing body thereof deems to be necessary for the elimination of grade-level crossings by railroad lines of the streets of such city and for the relocation of railroad lines within said city, so that the hazards to life and property will be decreased, public safety and convenience will be promoted, traffic conditions will be improved, and the orderly development of the city will be encouraged. Without in any way limiting the generalization of the foregoing, it is expressly provided that "properties, improvements and facilities" mentioned above shall include lands, properties, rights-of-way, elevated structures, grade separations, underpasses, overpasses, passenger stations or depots and other buildings, interchange yards, railroad tracks, removal and relocation of railway tracks, removal and relocation of utility lines or pipes or other improvements, removal or demolition of buildings or improvements, damages to other properties in connection with any of the foregoing, street improvements in connection with any of the foregoing, and any other properties, buildings, improvements, or facilities which the governing body deems to be necessary to accomplish the desired purposes. The "properties, improvements and facilities" mentioned in this Section 1 are hereinafter referred to as "the Facilities," or "Facilities."

Contracts; Leases; Conveyances and Other Agreements

Sec. 2. The governing body of the city shall have power and authority to make and enter all contracts, leases, conveyances, contracts of sale, lease-purchase contracts, and any other agreements with respect to the Facilities which said governing body shall deem necessary or convenient to carry

out the purposes and powers granted in and by this Act, upon such terms and conditions and for such length or period of time as may be prescribed therein. Any such contract, lease, conveyance, contract of sale, lease-purchase contract, or other agreement may be entered into with any person, real or artificial, any corporation, municipal or public or private (including railroad or railway companies), any governmental agency or bureau (including the United States Government and the State of Texas and political subdivisions of said State), and the governing body may make contracts, leases, conveyances, contracts of sale, lease-purchase contracts, or other agreements with any such persons, corporations, or entities in connection with or incidental to the acquisition, financing, construction, or operation of any of the Facilities. Any and all contracts, leases, conveyances, contracts of sale, lease-purchase contracts, or other agreements herein authorized, to be effective, shall be authorized by ordinance or resolution of the governing board of the city, shall be executed by its mayor (or presiding officer) and attested by its city clerk (or city secretary). Any such contract, lease, conveyance, contract of sale, lease-purchase contract, or other agreement shall be binding upon the city and the governing body thereof, the powers and provisions set forth herein being complete within themselves, without reference to any other statute or statutes.

Tax Bonds or Revenue Bonds

Sec. 3. For the purpose of providing funds for any of the Facilities provided in Section 1 hereof, the governing body of the city shall have the power and authority to issue, from time to time, tax bonds or revenue bonds of said city, either or both; provided, however, that no tax bonds (except refunding bonds) shall be issued unless and until they have been authorized at an election at which a majority of the duly qualified resident electors of said city who own taxable property within said city and who have duly rendered the same for taxation, voting at said election, have voted in favor thereof, said election to be called and held under the provisions of and in accordance with Chapter 1 of Title 22, Revised Civil Statutes of Texas, 1925,¹ as the same is now or may hereafter be amended.

¹ Article 701 et seq.

Pledge of Revenues

Sec. 4. Revenue bonds may be issued, secured solely by a pledge of and payable from the net revenues derived from the operation of or use made of all or any designated part or parts of the Facilities then in existence or to be improved, constructed, or otherwise acquired, with the duty of the city to charge and collect fees, tolls, and other charges, so long as any of the revenue bonds or interest thereon are outstanding and unpaid, sufficient to pay all maintenance and operation expenses of the Facilities (the net revenues of which are pledged to the payment of the bonds), the interest on such bonds as it accrues, the principal of such bonds as it

matures, and to make any and all other payments as may be prescribed in the bond ordinance and other proceedings authorizing and relating to the issuance of such bonds. "Net revenues" as used herein shall mean the gross revenues derived from the operation or use made of the Facilities (the net revenues of which are pledged to the payment of the bonds) less the reasonable expenses of maintaining and operating said Facilities, and said maintenance and operation expenses shall include, among other things, necessary repair, upkeep, and insurance of said Facilities. At the option of the governing body of the city, the proposition or propositions for the issuance of revenue bonds may be submitted at an election called and held as in the case of tax bonds, or such revenue bonds may be issued without the necessity of an election.

Ordinances; Interest and Sinking Funds; Reserve Funds

Sec. 5. In the ordinance adopted by the governing body authorizing the issuance of any revenue bonds and in the proceedings relating thereto, the governing body may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund, reserve fund or funds, and any other funds provided for therein, and may provide where such funds shall be deposited, and may make such additional covenants with respect to the bonds and the pledged revenues and the operation, maintenance, and upkeep of the Facilities (the net revenues of which are pledged), including provision for the leasing of all or any part or parts of said Facilities and the use or pledge of moneys derived from leases thereof, as it may deem appropriate. Said ordinance and other proceedings may also prohibit the further issuance of bonds or other obligations payable from the pledged revenues, or may reserve the right to issue additional bonds to be secured by a pledge of and payable from said net revenues on a parity with, or subordinate to, the lien and pledge in support of the bonds being issued, subject to the conditions as are set forth in said ordinance or other proceedings. Such ordinance and other proceedings may contain such other provisions and covenants, as the governing body shall determine, not prohibited by the Constitution of the State of Texas or by this Act, and the governing body may adopt and cause to be executed any other proceedings or instruments necessary or convenient in the issuance of said revenue bonds.

Revenue Bonds Secured by Pledge of Future Revenues

Sec. 6. For the purpose of providing funds for any of the Facilities provided in Section 1 hereof, the governing body of the city shall also have the power to issue, from time to time, revenue bonds payable from and secured by a pledge of the revenues, proceeds, or payments that will accrue to or be received by the city under any lease-purchase contract or contract of sale pertaining to any of the Facilities. Bonds may be issued secured solely by such pledge, and bonds may be issued secured not

only by such pledge but also by pledges of net revenues as elsewhere provided in this Act. All the provisions of this Act relating to revenue bonds shall, insofar as the same may be made applicable, also apply to bonds issued by the city secured in the manner authorized by this Section 6. The power and authority granted by this Section 6 shall be in addition to other powers and authority granted to the city by this Act and shall not in any way limit such other powers and authority.

Form of Bonds; Maturity; Examination and Approval; Registration

Sec. 7. All bonds of the city (tax bonds and revenue bonds) issued pursuant to the provisions of this Act shall be authorized by ordinance of the governing body of the city, shall be issued in the name of the city, shall be signed by the mayor (or presiding officer) of the city and countersigned by the city clerk (or city secretary), and shall have the seal of the city impressed thereon; provided, that the ordinance authorizing the issuance of such bonds may provide for the bonds to be signed by the facsimile signatures of said officers, either or both, and for the seal of the city on the bonds to be a printed facsimile seal; and provided further that the interest coupons attached to said bonds may also be executed by the facsimile signatures of said officers. Said bonds shall mature serially or otherwise in not to exceed forty (40) years from their date or dates, and may be sold either at public or private sale (no public advertisement for bids being necessary) at a price and under terms determined by the governing body to be most advantageous and reasonably obtainable, provided that the interest cost to the city, calculated by the use of standard interest tables then currently in use by insurance companies and investment houses, does not exceed six per cent (6%) per annum, and within the discretion of the governing body such bonds may be issued as non-option bonds, or may be callable prior to maturity at such time or times and at such price or prices as may be prescribed in the ordinance authorizing the bonds. Such bonds may be made registerable as to principal, or as to both principal and interest.

After bonds have been authorized by the city, such bonds and the record relating to their issuance shall be submitted to the Attorney General of the State of Texas for his examination as to the validity thereof, and if such bonds have been authorized in accordance with this Act, the said Attorney General shall approve the same. After such approval, such bonds shall be registered by the Comptroller of Public Accounts of the State of Texas. When such bonds have been approved by the Attorney General, registered by the Comptroller of Public Accounts, and delivered to the purchasers, they shall thereafter be incontestable except for forgery or fraud. When any revenue bonds recite that they are secured partially or otherwise by a pledge of the proceeds of a contract or contracts made between the city and another party or parties (public agencies or otherwise), a copy of such contract or con-

tracts and of the proceedings authorizing the same shall be submitted to the Attorney General along with the bond record, and the approval by the Attorney General of the bonds shall constitute an approval of such contract or contracts, and thereafter the contract or contracts shall be incontestable except for forgery or fraud.

Proceeds of Sale

Sec. 8. From the proceeds of sale of any bonds issued under the provisions of this Act, the governing body may appropriate or set aside out of such proceeds (i) an amount for the payment of interest expected to accrue during the period of construction, (ii) an amount necessary to pay all expenses incurred and to be incurred in the issuance, sale, and delivery of the bonds, and, (iii) in the case of revenue bonds, such amount or amounts as may be prescribed by the bond ordinance to be deposited into the reserve fund or funds and into any other funds, as specified in said ordinance.

Additional Security; Mortgage of Physical Properties

Sec. 9. As additional security for the payment of any revenue bonds issued hereunder, the governing body of the city may in its discretion have executed in favor of the holders of such revenue bonds an indenture or deed of trust mortgaging and encumbering all or any part of the physical properties comprising the Facilities (the net revenues of which are pledged to the payment of such bonds), including the lands upon which said Facilities are located, and may provide in such mortgage or encumbrance for a grant to any purchaser or purchasers at foreclosure sale of a franchise to operate such Facilities and properties for a term of not over forty (40) years from the date of such purchase, subject to all laws regulating same then in force. Any such indenture or deed of trust may contain such terms and provisions as the governing body shall deem proper and shall be enforceable in the manner provided by the laws of the State of Texas for the enforcement of other mortgages or encumbrances. Under any such sale ordered pursuant to the provisions of such mortgage or encumbrance, the purchaser or purchasers at such sale, and his or their successors or assigns, shall be vested with a permit or franchise conforming to the provisions stipulated in the indenture or deed of trust to maintain the Facilities and properties purchased at such sale with like powers and privileges as may theretofore have been enjoyed by the city in the operation of said Facilities and properties. The purchaser or purchasers of such Facilities and properties at any such sale, and his or their successors and assigns, may operate the same as provided in the last above sentence or may at their option remove all or any part or parts of said Facilities and properties for division to other purposes. The laws of the State of Texas (other than this Act) shall not be applicable to the authorization or execution of any mortgage or encumbrance entered into pursuant to the provi-

sions of this Act, nor to the granting of any franchise hereunder.

Management and Control of Facilities

Sec. 10. While any revenue bonds issued under the provisions of this Act or any interest thereon remain outstanding and unpaid, and whether or not there is an indenture or deed of trust mortgaging and encumbering the physical properties comprising the Facilities (the net revenues of which are pledged), as provided in Section 9 hereof, the management and control of such Facilities (and the physical properties comprising the same), by the terms of the ordinance authorizing the issuance of such bonds, may be placed in the hands of the governing body of the city or may be placed in the hands of a board of trustees to be named in such ordinance, consisting of not more than seven (7) members, one (1) of whom shall be a member of the governing body of such city. The compensation of such trustees shall be fixed in the bond ordinance, but shall never exceed five per cent (5%) of the gross revenues of such Facilities. The terms of office of the members of such board of trustees, their powers and duties, the manner of exercising same, the election or appointment of their successors, and all matters pertaining to their organization and duties shall be specified in said ordinance. In all matters where such ordinance is silent, the laws and rules governing the governing body of the city shall govern said board of trustees so far as applicable.

Refunding Bonds

Sec. 11. (a) The governing body of the city shall have the power and authority to issue tax bonds for the purpose of refunding any outstanding bonds (original or refunding) issued by the city under the provisions of this Act and accrued interest thereon, and no election therefor shall be necessary. Such refunding bonds may be issued to refund bonds of more than one series or issues of outstanding tax bonds. Such refunding bonds shall bear interest at the same or lower rate than that of the bonds refunded unless it is shown mathematically that a saving will result in the total amount of interest to be paid.

(b) The governing body of the city shall have the power and authority to issue revenue bonds for the purpose of refunding any outstanding revenue bonds (original or refunding) issued by the city under the provisions of this Act, and accrued interest thereon, and no election therefor shall be necessary. Revenue refunding bonds, at the option of the governing body, may be combined with new or original revenue bonds into one series or issue of bonds. Such revenue refunding bonds may be issued to refund bonds of more than one series or issue of outstanding revenue bonds and combine pledges for the outstanding bonds for the security of the refunding bonds, and such revenue refunding bonds may be secured by pledges of other net

revenues and additional net revenues; provided, that such refunding will not impair the contract rights of the holders of any of the outstanding revenue bonds which are not to be refunded. Revenue refunding bonds may bear interest at a rate higher than that borne by the bonds refunded; provided, that such interest rate shall not exceed the rate specified in Section 7 of this Act.

(c) Refunding bonds (both tax refunding bonds and revenue refunding bonds) shall be authorized by ordinance of the governing body of the city, and shall be executed and mature as is provided in this Act for original bonds. They shall be approved by the Attorney General of the State of Texas as in the case of original bonds, and shall be registered by the Comptroller of Public Accounts of the State of Texas upon surrender and cancellation of the bonds to be refunded; but in lieu thereof, the ordinance authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the place or places where the underlying bonds are payable, in which case the refunding bonds may be issued in an amount sufficient, not only to pay the principal of the underlying bonds, but also to pay the interest on the underlying bonds to their option or maturity dates, and the Comptroller of Public Accounts shall register them without the surrender and cancellation of the underlying bonds. In those situations where the proceeds of revenue refunding bonds are deposited in the place or places where the underlying bonds are payable, they shall be so deposited under an escrow agreement so that such proceeds will be available for the payment of the interest on and principal of said underlying bonds as such interest and principal respectively become due; and such escrow agreement may provide that such proceeds may, until such time as the same are needed to pay interest and principal as the same become due, be invested in direct obligations of the United States of America, in which instances the interest earned on such investments shall be considered as revenues of the Facilities.

(d) When any refunding bonds (both tax refunding bonds and revenue refunding bonds) have been approved by the Attorney General and registered by the Comptroller of Public Accounts, they shall thereafter be incontestable except for forgery or fraud.

(e) All the provisions of this Act relating to original bonds, insofar as the same may be made applicable, shall also apply to refunding bonds issued hereunder (both tax refunding bonds and revenue refunding bonds).

Applicability of Statutes

Sec. 12. Insofar as the same may be applicable, the provisions of Articles 1111 to 1118, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto, shall apply to revenue bonds issued under the provisions of this Act, and any city covered by this Act shall have, with respect to revenue bonds issued hereunder, all

the powers granted by said Statutes. However, where the provisions of said Statutes are in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall govern and prevail.

Legal and Authorized Investments

Sec. 13. All bonds issued under the provisions of this Act (tax bonds and revenue bonds, and original bonds and refunding bonds) shall be, and are hereby declared to be, and to have all the qualifications of, negotiable instruments under the Negotiable Instruments Law of the State of Texas, and all such bonds shall be, and are hereby declared to be, legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas, and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value when accompanied by all unmatured interest coupons appurtenant thereto.

Eminent Domain

Sec. 14. The right of eminent domain is hereby expressly conferred upon any city operating under the provisions of this Act, for the purpose of enabling such city to acquire the fee simple title, easement or right-of-way to, over and through any and all lands, water, lands under water, or any other property or properties of any nature whatsoever, private or public (except land and property used for cemetery purposes), which the governing body of the city deems to be necessary for the accomplishment of any of the purposes provided in Section 1 hereof. In the event of the condemnation, or the taking, damaging or destroying of any property for such purposes, the city shall pay to the owner thereof adequate compensation for the property taken, damaged, or destroyed. Compensation and damages adjudicated in any condemnation proceedings, and damages which may be done to the property of any person or corporation in the accomplishment of such purposes may be paid out of funds derived from the sale of any bonds (tax bonds or revenue bonds) issued pursuant to this Act or from any other available funds of the city. All procedure with reference to condemnation, the assessment of and estimating of damages, payment, appeal, the entering upon the property pending the appeal, etc., shall be in conformity with the procedure prescribed in Title 52, Articles 3264 to 3271,¹ both inclusive, Revised Civil Statutes of Texas, 1925, and any amendments thereto.

¹ Generally repealed; see, now, Property Code, Arts. 21.001 et seq.

Cumulative Effect

Sec. 15. This Act is cumulative of all existing laws of the State of Texas that are applicable, but when a city acts under the provisions of this Act, to the extent that such existing laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall govern and prevail. Moreover, the provisions of this Act shall take precedence over any and all conflicting or inconsistent city charter provisions.

Validation of Proceedings and Contracts

Sec. 16. All proceedings heretofore had and all actions heretofore taken and all contracts heretofore entered into by any city relating to any of the matters covered by, or power or authority granted by, the provisions of this Act are hereby in all things validated. It is provided, however, that the validation provisions of this Section 16 shall have no application to litigation pending upon the effective date hereof questioning the validity of any of the matters hereby validated if such litigation is ultimately determined against the validity of the same.

[Acts 1961, 57th Leg., p. 743, ch. 346.]

CHAPTER TEN. PUBLIC UTILITIES

1. CITY OWNED UTILITIES

- | | |
|----------|--|
| Art. | |
| 1106. | Appropriation of Revenue. |
| 1107. | Condemnation of Property. |
| 1108. | Public Utilities. |
| 1108a. | Electric Properties Partly in Texas and Partly in New Mexico. |
| 1108b. | Issuance of Certificates of Indebtedness; Judgments Against Municipal Natural Gas System. |
| 1109. | Waterworks. |
| 1109a. | Mortgage of Water System; Extension or Enlargements. |
| 1109a-1. | Validation of Waterworks System Revenue Refunding Bonds and Sewer System Revenue Refunding Bonds. |
| 1109a-2. | Warrants for Completion of Waterworks Extensions and Improvements. |
| 1109a-3. | Acquisition of Property for Water Purification and Treatment Facilities. |
| 1109b. | Eminent Domain. |
| 1109c. | Repealed. |
| 1109d. | Cities and Towns Authorized to Contract with Water Improvement or Water Control and Improvement District for Water Supply. |
| 1109e. | Contract with District Created to Supply Water to City. |
| 1109e-1. | Contracts with Conservation and Reclamation Districts for Water Supply. |
| 1109e-2. | Validation of Proceedings and Contracts with Districts to Supply Water. |
| 1109f. | Validation of Contracts for Water Supply. |
| 1109f-1. | Validation of Contracts Between Districts and Cities and Towns for Water Supply. |
| 1109g. | Water Supply Contracts with Persons, Firms or Corporations. |

- | | |
|--|---|
| <p>Art.
1109h. Eligible City Authorized to Issue Revenue Bonds; Construction and Equipment of Water Supply Project.</p> <p>1109i. Water Supply and Sewage Transportation and Disposal Contracts of Certain Cities with Trinity River Authority.</p> <p>1109i-1. Contract with District for Sewage Transportation, Treatment and Disposal Services.</p> <p>1109j. Contracts with Water Districts or Non-profit Corporations for Water, Sewer or Drainage Services.</p> <p>1109k. Repealed.</p> <p>1110. Waterworks Right of Way.</p> <p>1110a. Issuance of Revenue Bonds Against Which Judgment is Entered.</p> <p>1110b. Separate City and Rural Systems of Home Rule Cities.</p> <p>1110c. Improvements to Water and Sewer Systems.</p> <p>1110d. Improvements to Water and Sewer Systems; Purchase of Properties of Water Control and Improvement Districts.</p> <p>1110e. Waterworks and Sanitary Sewer Systems; "On-site" and "Off-site" Improvements; Assessments; Certificates; Procedure.</p> <p>1110f. Sewage; Joint Collection, Transportation, Treatment, and Disposal; Public Utility Agencies.</p> <p>1110g. Relocation or Replacement of Sanitation Sewer Laterals; Contracts; Assessments and Liens; Procedure.</p> <p>2. ENCUMBERED CITY SYSTEM</p> <p>1111. Powers.</p> <p>1111a. Additional Bonds and Refunding Bonds; Water or Sewer Systems.</p> <p>1111b. Additional Bonds and Refunding Bonds; Light and Power Systems.</p> <p>1111c. Issuance of Bonds in Two Series with Different Security.</p> <p>1111d. Payment of Principal and Interest.</p> <p>1112. Vote, Etc.</p> <p>1113. Income; Expenses a Lien; Rates; Records; Reports; Penalty.</p> <p>1113a. Transfer of Revenues to General Fund.</p> <p>1113b. Accounts and Records on Other Than Cash Basis.</p> <p>1114. Notes, Etc.</p> <p>1114a. Self-liquidating.</p> <p>1114b. Conflicting Laws Repealed.</p> <p>1114c. Ordinances, Resolutions, and Securities Validated.</p> <p>1114d. Validation of Bonds for Swimming Pools.</p> <p>1115. Control.</p> <p>1116. Rules.</p> <p>1117. Default.</p> <p>1118. Notice.</p> <p>1118a. Mortgage of Gas, Water, Light or Sewer Systems by Cities and Towns.</p> <p>1118a-1. Moneys in Lieu of School Taxes; Payment from Current Revenue of Existing Public Utility Acquired and Financed Through Revenue Bonds.</p> <p>1118b. Bonds and Proceedings Validated.</p> <p>1118c. Order of Appropriation of Revenues of Municipal Public Utility Systems.</p> <p>1118d. Bonds Validated.</p> <p>1118e. Bonds, Notes and Warrants Validated.</p> <p>1118f. Validating Revenue Bonds.</p> <p>1118g. Validating Bonds for Public Works.</p> | <p>Art.
1118h. Validating Bonds of Cities of Over 15,000 Population.</p> <p>1118i. Validating Bonds of Cities in Counties of Less Than 80,000 and More Than 70,000.</p> <p>1118j. Validating Bonds and Proceedings for Loans or Grants From Federal Government in Cities and Towns of Not Over 3,000 Population.</p> <p>1118j-1. Validation of Bond Proceedings in Cities or Towns Over 5,000 to Help Finance Improvements for Which Loan or Grant From Federal Government was Made.</p> <p>1118j-2. Validation of Sewer System Bond Proceedings in Cities and Towns of Not Over 3,000.</p> <p>1118k. Validating Bonds in Cities of Over 160,000 Population.</p> <p>1118l. Validating Bonds and Bond Elections in Cities and Towns of 2601 to 2632 Population.</p> <p>1118m. Validating Waterworks Revenue Bond Elections and Bonds in Cities and Towns of 989 to 1,039 in Counties of 98,650 to 98,750.</p> <p>1118m-1. Validation of Election Proceedings on Issuance of Bonds for Waterworks in Certain Home-Rule Cities.</p> <p>1118m-2. Validation of Evidences of Debt for Acquisition of Waterworks Systems.</p> <p>1118n. Bonds Authorized by Elections During 1938 in Cities or Towns Not Owning Certain Utilities.</p> <p>1118n-1. Validating Bonds for Waterworks and Sewer Systems in Cities Operating Under General Law.</p> <p>1118n-2. Validating Revenue and Ad Valorem Tax Bonds and Proceedings for Waterworks and Sewer Systems in Other Than Home-Rule Cities.</p> <p>1118n-3. Refunding Bonds, Issuance by Cities Operating Under General Law and Owning Waterworks or Sewer System.</p> <p>1118n-4. Redemption of Outstanding Waterworks Revenue Bonds; Additional Revenue Bonds.</p> <p>1118n-5. Redemption of Outstanding Revenue Bonds and Issuance of New Bonds.</p> <p>1118n-6. Validating; Bonds, Bond Elections, and Proceedings for Utility Systems in any City or Town; Home-Rule City Elections for Disposition of City Owned Plant, Utility or Business.</p> <p>1118n-7. Redemption and Refunding of Outstanding Waterworks Revenue Bonds; Additional Revenue Bonds.</p> <p>1118n-8. Refunding Bonds, Issuance by Certain Cities Operating Under General Law and Owning Waterworks, Natural Gas and Sewer Systems.</p> <p>1118n-9. Validating City Tax Bonds for Waterworks and Sewage Systems.</p> <p>1118n-10. Refunding Outstanding Waterworks and Sewer Revenue Bonds; Additional Refunding Bonds.</p> <p>1118n-11. Refunding Certain Outstanding Interest Bearing Obligations.</p> <p>1118n-12. Refunding Certain Bonds and Other Obligations of Cities, Towns, and Villages.</p> <p>1118o-1. Validating Acts and Proceedings of Cities in Borrowing Money From Federal Agencies to Repair or Extend Dam for Waterworks System.</p> |
|--|---|

- Art.
1118p. Refunding Bonds in Counties of 525,000 or More; Payment from Water or Sewer Revenues.
1118q. Hydro-Electric Generating Facilities, Acquisition of.
1118q-1. Contracts With Conservation and Reclamation Districts for Hydroelectric Power or Energy.
1118r. Electric Light and Power Systems; Validation of Bonds.
1118s. Revenue Bonds for Sewage Disposal Facilities; Cities Serving Territory Outside Boundaries.
1118t. Additional Revenue Bonds; Issuance Without Election.
1118u. Additional Revenue Bonds; Waterworks, Sewers and Swimming Pool.
1118v. Refunding Outstanding Revenue Bonds Issued for Certain Utilities or Combination of Utilities.
1118w. Mass Transportation Systems; Power to Own, Acquire, Construct, Operate, Etc.; Federal Grants and Loans; Revenue Bonds.
1118x. Metropolitan Rapid Transit Authorities.
1118y. Regional Transportation Authorities.

3. CITY REGULATION

1119. Repealed.
1120. Protective Ordinances, Etc.
1121, 1122. Repealed.
1123. City Owned Plants.
1124. Repealed.
1124a. Official Reading of Meters.

4. JUDICIAL REGULATION

- 1125 to 1132. Repealed.

1. CITY OWNED UTILITIES

Art. 1106. Appropriation of Revenue

The governing body of any city or town in this State, whether operating under special charter or under general law, may appropriate and apply the net revenues of its waterworks system or other public utility system, service or enterprise to the payment of the sinking fund and interest due by said city or town on the bonded indebtedness incurred on account of said system, service or enterprise, producing such revenues in the following manner:

1. Whenever said governing body desires to take advantage of the provisions of this article it shall at the end of its fiscal year, and before the passage of any ordinance levying taxes for that year, appropriate and set aside out of the net revenues such sums for such purpose only as such governing body shall deem to the best interest of the city or town.
2. Where the sums so set aside and appropriated shall be sufficient to pay in full the amounts needed for such sinking fund and interest for the fiscal year in which said revenues are produced, it shall not be thereafter necessary for the governing body to levy any tax for such sinking fund or interest for which this appropriation is made; but when said sums so appropriated shall not be sufficient to meet the required amounts for such sinking fund and

interest, then the governing body shall include in the general tax ordinance for that year a tax sufficient to meet the deficiency in such sinking fund and interest allowance for that year. Nothing herein shall authorize said city or town to exceed the authorized tax limit.

[Acts 1925, S.B. 84.]

Art. 1107. Condemnation of Property

An incorporated city or town shall have the right of eminent domain to condemn private property for either of the following purposes:

1. To open, change or widen any public street, avenue, or alley.
2. To construct water mains, or supply reservoirs, or standpipes for waterworks or sewers.
3. To establish thereon one or more hospitals or pesthouses, within or without the limits of such city or town.
4. To construct and maintain sewer pipes, mains and laterals and connections and also private property upon which to maintain vats, filtration pipes and other pipes, and which to use and occupy as a place for ultimate disposition of sewage in or out of the town or city limits, whenever it be made to appear that the use of any such private property is necessary for successful operation of such sewer system, and when it also be made to appear that such sewer system is beneficial to the public use, health, and convenience.

5. Construct, maintain, and operate municipal airports within or without the limits of such city or town.

6. To dig or drill water wells or well upon or produce water from or construct pump stations or reservoirs thereon, whether within or without the city limits.

7. To open and lengthen streets and alleys; to secure space for the erection of public buildings or space to relieve crowded conditions, within or without the limits of such city or town; provided, however, that the provision of this sub-section 7 shall apply only to incorporated cities or towns having a population of less than two thousand (2,000) inhabitants as shown by the last preceding or any future Federal Census.

[Acts 1925, S.B. 84. Amended by Acts 1931, 42nd Leg., p. 417, ch. 250, § 1; Acts 1941, 47th Leg., p. 267, ch. 181, § 1; Acts 1945, 49th Leg., p. 255, ch. 189, § 1.]

Art. 1108. Public Utilities

Any town or city in this State which has or may be chartered or organized under the general laws of Texas, or by special Act or charter, and which owns or operates waterworks, sewers, gas or electric lights, shall have the power and right:

1. To own land for such purposes within or without the limits of such town or city.

2. To purchase, construct and operate water, sewer and gas and electric light systems inside or outside of such towns or city limits, and regulate and control same in a manner to protect the interests of such town or city.

3. To extend the lines of such systems outside of the limits of such towns or cities and to sell water, sewer, gas, and electric light and power privileges or service to any person or corporation outside of the limits of such towns or cities, or permit them to connect therewith under contract with such town or city under such terms and conditions as may appear to be for the best interest of such town or city; provided that no electric lines shall, for the purposes stated in this section, be extended into the corporate limits of another incorporated town or city.

4. To prescribe the kind of water or gas mains or sewer pipes and electric appliances within or beyond the limits of such town or city, and to inspect the same and require them to be kept in good order and condition at all times and to make such rules and regulations and prescribe penalties concerning same, as shall be necessary and proper.

[Acts 1925, S.B. 84; Acts 1935, 44th Leg., p. 496, ch. 207, § 1. Amended by Acts 1937, 45th Leg., p. 806, ch. 397, § 1.]

Art. 1108a. Electric Properties Partly in Texas and Partly in New Mexico

Sec. 1. Where any city in Texas is now or hereafter being supplied with electricity by means of a privately owned electric plant and system, part of which, including facilities for the generation and transmission of electricity distributed in part to the inhabitants of said city, is located in the State of New Mexico, such city is hereby authorized to acquire, own and operate such electric plant and system in whole or in part, and in order to pay for the cost of such acquisition to issue the revenue bonds of such city in the manner now provided for the issuance of revenue bonds by cities under the general laws of Texas, and the revenue bonds so issued shall be fully negotiable instruments for all purposes.

Sec. 2. Any city so acquiring an electric plant and system is authorized to sell electricity either at retail or wholesale for distribution in the State of New Mexico and to enter into such contracts and agreements in that connection as may be provided by the governing body thereof.

Sec. 3. The provisions of this Act are severable, and if any of its provisions shall be held to be invalid by any court of competent jurisdiction, the remaining provisions shall remain fully effective, it being hereby expressly declared to be the legislative intent that this Act would have been adopted had any such invalid provision not been included therein.

[Acts 1943, 48th Leg., p. 301, ch. 195.]

Art. 1108b. Issuance of Certificates of Indebtedness; Judgments Against Municipal Natural Gas System

Authority to Issue Certificates

Sec. 1. A city or town incorporated and operating under the general laws of the state may issue certificates of indebtedness to fund a final judgment or decree of a court of competent jurisdiction or a settlement of a lawsuit resulting from the operation by the city or town of its municipally owned and municipally operated natural gas system.

Requirements for Issuance

Sec. 2. The certificates of indebtedness must be issued in the name of the city or town and sold for cash with the proceeds from the sale to be used for the purposes authorized by this Act. The governing body of the city or town must authorize the certificates, which shall mature serially or otherwise not to exceed 20 years from their date. The certificates may be sold at public or private sale, at a price and on terms to be determined by the governing body of the city or town, and with an option to prepay principal as may be considered advisable by the governing body. The certificates must be signed by the mayor and the city secretary or city clerk, with the seal of the city to be impressed on the certificates in accordance with the Texas Uniform Facsimile Signature of Public Officials Act, as amended (Article 717j-1, Vernon's Texas Civil Statutes).

Notice; Petition Protesting Issuance

Sec. 3. (a) A certificate of indebtedness may not be authorized until the city or town has caused a notice of its intention to issue the certificates to be published in a newspaper of general circulation in the city or town. The notice must:

(1) state the time and place the city or town tentatively proposes to authorize the issuance of the certificates, the maximum amount to be issued, and the purpose for which the certificates are to be issued; and

(2) be published once a week for two consecutive weeks, the date of the first publication to be at least 14 days before the date tentatively set for the passage of the ordinance authorizing the certificates.

(b) If, before the authorization of the certificates of indebtedness, a petition signed by five percent of the qualified voters of the city or town is filed with the city secretary or city clerk protesting the issuance of the certificates, the city or town may not issue the certificates unless the issuance is approved at an election held and conducted in the manner provided for bond elections under Chapter 1, Title 22, Revised Statutes, as amended (Article 701 et seq., Vernon's Texas Civil Statutes).

Taxes

Sec. 4. The governing body of the city or town shall levy and have assessed and collected annual ad valorem taxes sufficient to pay the principal of and interest on the certificates of indebtedness as the principal and interest mature.

Approval of Attorney General

Sec. 5. After any certificates of indebtedness are authorized by the city or town, the certificates and a record of the proceedings relating to their issuance shall be submitted to the attorney general for his examination and determination as to their validity. If he finds that the certificates have been authorized in accordance with the constitution and laws of the state, he shall approve the certificates and the certificates shall be registered by the comptroller of public accounts. After registration, the certificates shall be valid and binding obligations in accordance with their terms for all purposes and shall be incontestable in any court or other forum for any reason.

Legal Investments

Sec. 6. Certificates of indebtedness issued under this Act are legal and authorized investments for banks, savings banks, trust companies, savings and loan associations, insurance companies, fiduciaries, trustees, and guardians and for any sinking funds of cities, towns, villages, counties, school districts, and other political corporations or subdivisions of the state. The certificates are eligible to secure the deposit of any public funds of the state or of cities, towns, villages, counties, school districts, and other political corporations or subdivisions of the state and are lawful and sufficient security for the deposits at their face value when accompanied by all unmatured coupons, if any, appurtenant to them.

Cumulative Act

Sec. 7. This Act is cumulative of all other laws.

Legislative Finding

Sec. 8. The legislature finds that cities and towns in this state are in urgent need of the authority conferred by this Act so that they can proceed immediately with the funding of judgments and settlements of lawsuits in connection with municipally owned and municipally operated gas systems. [Acts 1983, 68th, Leg., p. 286, ch. 58, eff. May 3, 1983.]

Art. 1109. Waterworks

These rules shall govern incorporated cities having more than one thousand inhabitants according to its preceding Federal census and owning and operating their own waterworks systems for the purpose of supplying the inhabitants thereof with water for fire protection or domestic consumption and the users of the city:

1. They may proceed in accordance with the provisions of this article independently of and with-

out reference to any other applicable law or charter provision, present or future, except as hereinafter provided, which said law or charter provisions shall remain in force as alternate methods.

2. Subject to the terms hereof, any such city may by purchase, gift or devise, or by the exercise of the right of eminent domain, acquire and own in fee simple or otherwise public or private lands and property including riparian rights, within or without the city limits or within any county in this State.

3. To furnish any such city an adequate and wholesome supply of water, any such city may exercise the right of eminent domain to acquire and condemn either public or private lands or property for the extension, improvement or enlargement of its waterworks system, including water supply reservoirs, riparian rights, stand pipes, water sheds, the construction of water supply reservoirs, wells or artesian wells and dams and the construction, building, erection or establishment of any necessary appurtenances or facilities which will furnish to the inhabitants of the city an abundant supply of wholesome water.

4. Any such city shall also have all the powers conferred upon water improvement districts or water control and preservation districts under the statutes now or hereafter existing providing for the exercise of the right of eminent domain, and shall have all the powers conferred by general law authorizing cities and towns to exercise the right of eminent domain.

5. Any such city may acquire the fee simple title to any land or property when same is expressed in the resolution ordering said condemnation proceedings by the governing body.

6. The term "city" or "cities" as used herein shall include all incorporated towns and cities acting hereunder.

[Acts 1925, S.B. 84.]

Art. 1109a. Mortgage of Water System; Extension or Enlargements**Power to Mortgage; Acquisition of Additions; Franchise to Foreclosure Purchaser**

Sec. 1. All cities having more than one hundred and sixty thousand (160,000) inhabitants shall have power to issue bonds or notes therefor, and to secure payment thereof, to mortgage and encumber any such water system, and the incomes thereof and everything pertaining thereto.

And to purchase or otherwise acquire additions to, or extensions or enlargements of any such water systems, or additional water powers, riparian rights, or repair of such systems, or either of them; all cities having more than one hundred and sixty thousand (160,000) inhabitants shall have power to issue bonds and notes therefor, and to secure payment thereof, to mortgage and encumber such additions, extensions, enlargements, additional water powers,

riparian rights, the income therefrom, and everything pertaining thereto, either separately or with such systems, or either of them.

And as additional security therefor, by the terms of such encumbrance, may grant to the purchaser, or purchaser under any sale or foreclosure thereunder, a franchise to operate the system and properties so purchased, for a term not over twenty (20) years after such purchase, subject to all laws regulating the same then in force.

Operating Expense First Lien on Income; Rates; Priorities; Agreements as to Payment

Sec. 2. Whenever the income of any water system shall be encumbered under this Act, the expense of operating and maintenance, including all salaries, labor, materials, interest, repairs and extensions necessary to render efficient service, and every proper item of expense shall always be a first lien and charge against such income. The rates charged for services furnished by said system shall be equal and uniform, and no free service shall ever be allowed, except in the discretion of the governing body, for city public schools, or buildings and institutions operated by such city, and there shall be charged and collected for such services a sufficient rate to pay for all operating, maintenance, depreciation, replacement, betterment and interest charges, and for an interest and sinking fund sufficient to pay any bonds or notes issued to purchase, construct or improve such system or any outstanding indebtedness against same.

Where bonds, notes or obligations are issued hereunder, and at the time of the authorization of such bonds or notes in the manner hereinafter prescribed, there are then outstanding other bonds, notes or obligations payable from the revenues of the water system, the additional bonds or notes may nevertheless be issued, but shall be issued in such manner that they are in all respects subordinate to each issue of bonds, notes or obligations then outstanding. Each series of bonds or notes issued hereunder shall, as to lien on the revenues and physical properties of the water system, be subordinate to each series of bonds, notes or obligations theretofore issued and remaining outstanding. Provided, however, in those instances where in the ordinance or Deed of Trust or indenture of trust provision has been or shall be made for the subsequent issuance of additional bonds on a parity with the bonds issued pursuant to the provisions of such ordinance or Deed of Trust or indenture of trust, any such city or town shall have the power to authorize, issue and sell additional bonds payable from the revenues of the water system and secured by pledges and liens on a parity with and of equal dignity with the pledges and liens securing the bonds previously issued; and such additional bonds, notes or obligations when issued shall in all respects be on a parity with and of equal dignity with said previously issued bonds which are then outstanding, provided in the ordinance or Deed of Trust or inden-

ture of trust authorizing or securing such additional bonds they are declared to be on a parity and of equal dignity with said previously issued bonds, but subject in all respects to the conditions imposed upon the issuance of additional bonds by the ordinance, Deed of Trust or indenture of trust issuing or securing the bonds which are outstanding. In the issuance of revenue bonds in the future for any such purposes any such city or town may prescribe in the ordinance or Deed of Trust or indenture of trust for the issuance later of additional issues or series of bonds on a parity with the bonds being issued pursuant to and subject to the restrictions, covenants and limitations contained in such ordinance, Deed of Trust or indenture of trust.

Subject to the terms and provisions hereof, the governing body of the city, in authorizing the issuance of bonds, notes or obligations hereunder, may enter into such agreements and covenants with respect to the manner of payment of such bonds, notes or obligations, and the application of the revenues of the water system as it may deem fit, provided, however, that no such bond, warrant or note shall ever be a general obligation of such city, and it shall be proper for the governing body to apply surplus revenues of the system not needed for the payment of principal of and interest on such bonds, notes or obligations, and not needed for the payment of operating and maintenance expenses, to the payment of any notes, warrants or other obligations the proceeds of which were used for the purpose of improving, repairing, adding to or extending the waterworks system.

Bonds as Charge on Property Encumbered

Sec. 3. All cities acquiring a water system, or any addition, improvement or extension thereto, under this Act, may borrow money on the security of the plant, or addition or extension, so acquired, or owned, for the purpose of paying the purchase price and for the addition, improvement and extension thereof, and may issue bonds, notes or other obligations to evidence the moneys so borrowed, which bonds, notes or other obligations shall have the characteristics of negotiable instruments under the law merchant. Every contract, bond, or note executed or issued under this Act shall contain this clause "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation." No such obligation shall ever be a debt of such city, but solely a charge upon the properties so encumbered, and shall never be reckoned in determining the power of such city to issue bonds for any purpose authorized by law.

Management During Encumbrance

Sec. 4. The management and control of any such system or systems during the time same are encumbered, may by the terms of such encumbrance be placed in the hands of the city council of such city; but if deemed advisable may be placed in

the hands of a board of trustees to be named in such encumbrance, consisting of not more than five (5) members, one of whom shall always be the mayor of such city; and the compensation of such trustees shall be fixed by such contract, but shall never exceed five per cent (5%) of the gross receipts of any such systems in any one year. The terms of office of such board of trustees, their powers and duties, the manner of exercising same, the election of their successors, and all matter pertaining to their organization and duties may be specified in such contract of encumbrance; but in all matters where such contract is silent, the laws and rules governing the council of such city shall govern said board of trustees so far as applicable. Said city council or board of trustees having such management and control shall have power to make rules and regulations governing the furnishing of service to patrons and for the payment for same, and providing for discontinuance of such service to those failing to pay therefor when due until payment is made; and such city council shall have power to provide penalties for the violation of such rules and regulations and for the use of such service without the consent or knowledge of the authorities in charge thereof, and to provide penalties for all interference, trespassing or injury to any such systems, appliances or premises on which same may be located.

Default in Payments; Procedure

Sec. 5. Any contract of encumbrance under this Act may name, or provide for the selection of a trustee to make sale upon default in the payment of the principal or interest according to the terms of such contract, and for the selection of his successor, if disqualified or failing to act, and may provide for collection fees not exceeding five per cent (5%) of the principal; but no collection fees shall accrue, and no foreclosure proceedings shall be begun in any court or through any trustee, and no option to mature any part of such obligation, because of default in payment of any installment of principal shall be exercised until ninety (90) days written notice shall be given to each member of the city council of such city and to each member of such board of trustees, if any, that payment has been demanded and default made, which notice shall date from the sending of a letter to each person to be notified, by registered mail, postage and registration fees prepaid, and addressed to them at the post office in such city; and if the installments of principal and interest then due shall be paid before the expiration of said ninety (90) days, together with the interest prescribed in such contract, not exceeding ten per cent (10%) per annum, from the date of default until the date of payment, it shall have like effect as if paid on the date same was originally due.

Property Included in Encumbrance; Attorney General to Approve Bonds; Submission to Voters

Sec. 6. In the encumbrance of any properties under this Act such city may encumber any such water systems, or any extensions, additions or enlargements thereof, singly or together, and may or may not include in such encumbrance the franchise provided for, and may omit or include in said encumbrances the whole or any part of the properties mentioned in Section 1 of this Act; but no such system shall ever be sold until such sale is authorized by a majority vote of the qualified property taxpayers of such city, or under the terms of any such mortgage or encumbrance, such vote where necessary to be ascertained at an election, of which notice shall have been given in like manner as in cases of the issuance of municipal bonds by such cities.

All bonds and notes issued hereunder shall be submitted to the Attorney General for examination, and upon his approval thereof, shall be registered by the State Comptroller in a book kept for that purpose, and the Comptroller shall endorse his certificate of registration on each such bond or note. Any bonds or notes so approved by the Attorney General, registered by the Comptroller, and delivered to the purchaser or purchasers for not less than their par value plus accrued interest shall thereafter be incontestable.

Bonds or notes may be issued under the provisions hereof and the revenues or physical properties of the water system encumbered as security for the payment of such bonds and notes; such bonds or notes shall not be issued, however, until such issuance has been authorized by a majority vote of the qualified electors who own taxable property in the city where said election is being held, and who have duly rendered their property for taxation, such electors voting only in the precinct of their residence, and voting on such proposition under the Constitution and Laws of Texas. Such election shall be called and held in the manner provided for the calling and holding of other bond elections in such city. No other notices need be published or opportunities for the filing of petitions granted despite the provisions of any other statute or of the charter of any such city.

Prior Proceedings Validated; Proviso as to Cities of 290,000

Sec. 7. All proceedings heretofore had by cities having more than one hundred and sixty thousand (160,000) inhabitants, in the acquisition of any water systems, and the encumbrance of same, within the authority given by this Act, be and the same are hereby approved and ratified.

Provided, that in cities having a population of more than two hundred and ninety thousand (290,000) according to the last preceding Federal Census, the governing body thereof shall have the power to borrow money and issue bonds or notes which shall

be fully negotiable within the meaning and for all purposes under the negotiable instrument law; said bonds and notes to be payable solely out of the income of such system or any extensions, replacements, betterments, additions or improvements which, in the judgment of the governing body of such city, are necessary to render adequate service and to pledge and use the income of such system for the payment of such bonds or notes and such determination by such governing body shall be conclusive and any ordinance pledging or encumbering such rents, income or revenues shall be deemed a part of the contract of said city with the holders of such bonds or notes, and

Provided, further, that the election called for in Section 6 hereof shall not be necessary in said cities having a population of more than two hundred and ninety thousand (290,000) inhabitants according to the last preceding Federal Census, to authorize the issuance of bonds or notes payable solely out of the income of said system, and

Provided, further, that all bonds or notes of said last mentioned cities authorized under Section 1 of this Act shall be submitted to the Attorney General of Texas for his examination and when such bonds or notes have been examined and certified as legal obligations of such cities by said Attorney General they shall be registered by the Comptroller of Texas in a book kept for such purposes, and the Comptroller shall endorse his certificate of registration upon each of such bonds or notes; and any bonds or notes so approved by the Attorney General, registered by the Comptroller, and delivered to the purchaser or purchasers for not less than their par value plus accrued interest shall thereafter be incontestable.

Provided, further, that nothing in this Act, however, shall repeal or affect any other legislation pertaining to the same or similar subjects but shall be cumulative of all Acts granting the power to all such cities and towns, including home rule cities, operating under Title 28 of the Revised Civil Statutes of 1925,¹ and it is not intended to limit or impair any power given by any other of such Acts, nor shall any other Act be deemed to limit or impair the power of any city under this Act.

[Acts 1925, S.B. 84. Amended by Acts 1933, 43rd Leg., 1st C.S., p. 113, ch. 36, § 1; Acts 1939, 46th Leg., p. 99, §§ 2, 3; Acts 1953, 53rd Leg., p. 419, ch. 121, § 1.]

¹ Article 961 et seq.

Art. 1109a-1. Validation of Waterworks System Revenue Refunding Bonds and Sewer System Revenue Refunding Bonds

All Waterworks System Revenue Refunding Bonds and all Sewer System Revenue Refunding Bonds heretofore authorized, issued, exchanged, and delivered by cities in Texas operating under the provisions of Special Charters and which refunding bonds have been heretofore validated and confirmed

by a final decree of a United States District Court in Texas, be, and the same are hereby in all things ratified, validated, and confirmed, and such refunding bonds so authorized, issued, exchanged, and delivered, shall hereafter be and constitute valid and binding obligations upon the revenues of such systems.

[Acts 1937, 45th Leg., 2nd C.S., p. 1999, ch. 69, § 1.]

Art. 1109a-2. Warrants for Completion of Waterworks Extensions and Improvements

Sec. 1. In each instance where a city heretofore has issued and sold bonds for the purpose of extending and improving its waterworks system, and the governing body thereof finds and determines that the proceeds from such bonds will not be sufficient to complete such extensions and improvements according to plans and specifications heretofore approved by the governing body, and that such extensions and improvements must be completed immediately in order to afford adequate fire protection and to protect the public health, the governing body is hereby authorized to issue interest-bearing time warrants to pay for the completion of the extensions and improvements. Such warrants may be issued without the prerequisite of an election and without giving notice of intention to issue warrants.

Sec. 2. In the event of conflict between any of the provisions of this Act and any provisions of a city charter, the provisions of this Act shall prevail. Provided, however, that no city shall issue warrants under this law to a greater amount than Thirty Thousand (\$30,000.00) Dollars, that such warrants shall bear not more than four (4%) per cent interest, and shall mature in not to exceed five (5) years from their date, and provided further that no ordinance, authorizing the issuance of such warrants, shall be passed after ninety (90) days after the effective date of this Act; but the limitations contained in this sentence shall not restrict the authority conferred by any of the provisions of Section 6 of the Bond and Warrant Law of 1931.¹

[Acts 1941, 47th Leg., p. 550, ch. 347.]

¹ Article 2368a.

Art. 1109a-3. Acquisition of Property for Water Purification and Treatment Facilities

Authority of Certain Cities and Towns

Sec. 1. Cities and towns of this state incorporated under General or Special Law or operating under a Home Rule Charter and which are located within or which have contracted or which may hereafter contract with any Municipal Water Authority or other District organized under the provisions of Section 59 of Article XVI of the Texas Constitution, for a supply of untreated water shall have and are hereby granted the power separately or jointly, in combination with any one or more such cities or towns, to receive and acquire through gift or dedica-

tion, by purchase without condemnation or by condemnation, any property in this state located inside or outside the corporate limits of any such city or town for the purpose of building and acquiring water purification and treatment facilities, reservoirs, pipelines, and water transporting facilities of every kind deemed necessary for providing such cities or towns separately or jointly with a supply of fresh water for municipal, domestic and industrial purposes, and to build, construct or otherwise acquire any and all such facilities. The procedure to be followed in condemnation proceedings hereunder and authorized herein shall be in accordance with the provisions of state law with reference to eminent domain including particularly the provisions of Title 52 of the Revised Civil Statutes of Texas, 1925, as amended.¹

¹ Article 3264 et seq.

Acquisition and Construction of Improvements and Facilities

Sec. 2. Such cities and towns are hereby empowered separately or jointly to maintain, improve and operate all properties acquired and constructed hereunder and all improvements thereon and to sell or lease all or any part of such property and improvements and shall have full and ample power to separately or jointly manage, control and operate properties so owned jointly by two or more such cities and towns by entering into contract with each other on terms mutually agreeable.

Negotiable Bonds or Warrants; Taxes for Interest and Sinking Fund

Sec. 3. The governing body of any city which may provide water treatment facilities under the provisions of this Act may for such purpose issue negotiable bonds or warrants of such city and levy taxes to provide the interest and sinking fund therefor in the manner provided by law for the issuance of tax supported bonds and warrants of such cities and towns, or may issue bonds supported by the revenues of any one or all of its utilities in the manner provided in Article 1111 et seq., Revised Civil Statutes of Texas, 1925, as amended.

Improvement, Maintenance and Operation of Facilities; Charges; Contracts for Services; Rules and Regulations

Sec. 4. Any city or town acquiring property and facilities separately or cities and towns acquiring property and facilities jointly under this Act are authorized and empowered to improve, maintain, operate and conduct same for the authorized purposes and to make and provide all necessary or useful improvements and facilities and to fix and make such reasonable charges for the use thereof as the governing body or governing bodies, by mutual agreement may determine. Any such city or town acting separately and any such cities and towns acting jointly may contract with any other city or town for supplying the latter with services to be afforded by the improvements and facilities ac-

quired and constructed hereunder and such cities and towns are granted all necessary powers and authority to make and enforce rules and regulations pertaining to the use of improvements and facilities as the interested governing bodies may, by ordinance, determine.

Approval of Contract for Water Treatment

Sec. 5. No election shall be required of any city or town for approval of any contract pertaining to water treatment under this Act but any such contract may be entered into without the necessity of an election.

Taxes for Operation and Maintenance of Improvements and Facilities

Sec. 6. In addition to any taxes which may be levied by any city or town for the interest and sinking fund of any bonds issued hereunder any city or town acquiring improvements and facilities either separately or jointly pursuant to this Act are authorized and empowered to levy and collect taxes for the purpose of improving, operating and maintaining any such improvements and facilities; provided that nothing in this Act shall be construed as authorizing any city or town to exceed the limits of taxation placed upon it by the Constitution and Laws of this state or by their home rule charter.

Validation of Water Treatment Contracts

Sec. 7. All acts and proceedings of the governing bodies of cities and towns, eligible under the provisions of this Act, heretofore accomplished in the authorization and execution of water treatment contracts as herein contemplated as well as the terms and provisions of said water treatment contracts themselves are hereby ratified, approved, confirmed and validated and declared to be valid in all respects as of the respective dates thereof with the parties thereto bound accordingly until the terms and provisions of said contracts are lawfully changed by mutual consent of the parties thereto.

Cumulative Effect

Sec. 8. This Act is cumulative of all other laws and city charter provisions relating to the same subject and shall take precedence over any city charter provision in conflict but only to the extent of such conflict.

[Acts 1962, 57th Leg., 3rd C.S., p. 48, ch. 18, §§ 1 to 8.]

Art. 1109b. Eminent Domain

Incorporated cities and towns shall have the power to appropriate private property for public purposes whenever the governing authorities shall deem it necessary and to take any private property within or without the city limits for any of the following purposes, to wit:

To have the power to appropriate private property for public purposes whenever the governing authorities shall deem it necessary and to take any private

property within or without the city limits for any of the following purposes, to wit: City halls, police stations, jails, calaboose, fire stations, libraries, school houses, high school buildings, academies, hospitals, sanitariums, auditoriums, market houses, reformatories, abattoirs, railroad terminals, docks, wharves, warehouses, ferries, ferry landings, elevators, loading and unloading devices, shipping facilities, piers, streets, alleys, parks, highways, boulevards, speedways, playgrounds, sewer systems, storm sewers, sewage disposal plants, drains, filtering beds and emptying grounds for sewer systems, reservoirs, water sheds, water supply sources, wells, water and electric light systems, gas plants, cemeteries, crematories, prison farms, and to acquire lands with¹ and without the city for any other municipal purposes that may be deemed advisable.

The power herein granted for the purpose of acquiring private property shall include the power of the improvement and enlargement of the water works, including water supply, riparian rights, stand pipes, water sheds, the construction of supply reservoirs, parks, squares, and pleasure grounds, public wharves and landing places for steamers and other crafts, and for the purpose of straightening or improving the channel of any stream, branch or drain, or the straightening or widening or extension of any street, alley, avenue or boulevard. That, in all cases where the city seeks to exercise the power of eminent domain, it shall be controlled, as nearly as practicable, by the law governing the condemnation of property of railroad corporations in this State, the city taking the position of the railroad corporations in any such case; that the power of eminent domain hereby conferred shall include the right of the governing authority, when so expressed, to take the fee in the lands so condemned and such power and authority shall include the right to condemn public property for such purposes.

[Acts 1925, S.B. 84. Amended by Acts 1945, 49th Leg., p. 379, ch. 243, § 1.]

¹ Probably should read "within."

Art. 1109c. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts Titles 1 and 2 of the Texas Education Code.

Art. 1109d. Cities and Towns Authorized to Contract with Water Improvement or Water Control and Improvement District for Water Supply

Duration of Contracts

Sec. 1. Any city or town in this state may contract with any Water Improvement District or Water Control and Improvement District deriving its powers from Article XVI, Section 59, of the Constitution of Texas and any such District may contract with any such City or Town, for supplying water to said City. Such contract may run for such length of time as may be agreed upon between the Board of Directors of said District and the governing body of

said City, not to exceed 30 years from the date of the contract, but said contract may also provide that it shall run until all warrants, notes or bonds, issued by such District for the acquisition of facilities necessary or convenient to enable the District to supply the City with water, have been paid in full.

Payment for Water Out of Water System Revenues Exclusively

Sec. 2. Payment for water so supplied shall be made out of the water system revenues of such city or town, and the District shall never have the right to demand payment out of moneys raised or to be raised by taxation, and payments under the contracts herein authorized may be secured by a first lien on, and an irrevocable pledge of the revenues of said water system.

Election Approving Contract; Notice of Election; Ballots

Sec. 3. Provided, however, that no such contract shall become binding until approved by a majority vote of the qualified electors in such City or Town at an election held for that purpose. Such election may be called by the governing body of the city on its own motion. Notice of such election shall be published in a newspaper of general circulation published in such City or Town once each week for two consecutive weeks the first of which publications shall be at least ten full days prior to the day set for the election, provided, that if no newspaper is published in such City or Town, notice of said election shall be given by posting notice thereof in each of the voting precincts of such City or Town and one at the City Hall. The notice of election shall state the date upon which the same shall be held, and shall state the proposition to be voted upon in such form as the governing body shall prescribe, but the notice need not set out the contract at length, or detail its provisions. For ten days next, preceding the election the proposed contract shall be on file in the office of the City Secretary and may be examined by any person. The governing body of the City shall prescribe the form of the ballots.

General Election Law to Govern Elections; Qualification of Electors; Returns

Sec. 4. Except as otherwise provided in this Act, said election shall be conducted according to the general election law. Only qualified electors who own taxable property in the City and who have duly rendered the same for taxation, shall be qualified to vote. Returns of said election shall be made to the governing body of the city.

Canvass of Returns; Effect of Election

Sec. 5. The governing body shall canvass the returns of said election as soon as practicable. If a majority of the votes cast at such election are in favor of approving the contract, the contract shall at once become binding and effective; if a majority of the votes are against the contract, the contract shall not become effective.

**Construction or Acquiring of Canals, Reservoirs,
Basins, Pipelines, Filtration Plants, and Other
Equipment and Supplies**

Sec. 6. Any such district may construct, or otherwise acquire and equip, such canals, reservoirs, basins, pipelines, conduits, filtration, and aeration plants, and all other equipment and supplies, and may acquire by purchase, eminent domain, or otherwise all such property as is necessary or convenient for the purpose of supplying water to a city as provided herein.

**Issuance of Warrants, Notes, or Bonds; Refunding
or Reissuing Bonds**

Sec. 7. Any such District may issue warrants, notes or bonds to provide for the acquisition of the facilities necessary or convenient for supplying water to such city or town, and to secure such warrants, notes or bonds by a pledge of the revenues to be derived under any such contract then in existence or thereafter to be made for supplying water to such city or town. Where tax supported bonds hereafter are voted for such purpose, such bonds may be issued, secured by the pledge of such tax levy and by the pledge of such revenues or by either of such pledges. In instances where tax supported bonds have been voted heretofore in any such district but all or part thereof have not yet been sold, such unsold bonds may be issued and sold and the proceeds or any part thereof may be used for such purpose without the necessity of another election, and in such instances the District may secure such bonds by a levy of such taxes and by a pledge of the revenues to be derived under any such contract for supplying water either then in existence or thereafter to be made, or may secure said bonds by either of such methods. Bonds of such Districts heretofore voted may be refunded or re-issued without an election and such refunding or re-issued bonds may be secured as in this section provided.

Partial Invalidity

Sec. 8. In the event any provision of this Act shall be in conflict with any other law the provisions of this Act shall be effective.

[Acts 1937, 45th Leg., 2nd C.S., p. 1879, ch. 12.]

**Art. 1109e. Contract with District Created to
Supply Water to City**

Contract Authorized; Provisions of Contract

Sec. 1. Any city or town within this State is hereby authorized to enter into a contract with any district or authority, hereinafter called "district," created under Article XVI, Section 59 of the Constitution for the purpose of supplying water to such city. Any such city may also by contract lease its water production, water supply, and water supply facilities to such district, or make a contract with such district for operation by the district of its water production, water supply, and water supply facilities, or the operation by the city of the dis-

trict's water production, water supply, and water supply facilities. Any contract authorized by this Act may provide that the city shall not obtain water from any source other than the district except to the extent provided in such contract. Any such contract may be upon such terms and for such time as the parties may agree, and it may provide that it shall continue in effect until bonds specified therein and refunding bonds issued in lieu of such bonds are paid.

Rates

Sec. 2. Any water supply contract provided in the preceding section shall be subject to the statutory or the contractual duty of the district from time to time to revise the rate of compensation for water sold and services rendered by the district to the city under such contract so that the net revenues of the district will at all times be sufficient to enable the District to pay its operation and maintenance expense and to pay the principal and interest on bonds secured by such contract to the extent provided in the resolution authorizing said bonds. Money required to be paid by the city to the district under such contract shall constitute an operating expense of the waterworks system of the city.

Election

Sec. 3. (a) No city shall make any contract authorized by this Act unless authorized by a majority vote in an election held in such city. Such election shall be ordered by the governing body of the city and notice thereof shall be published once each week for two (2) consecutive weeks, the first of such publications to be at least fourteen (14) days prior to the election, in a newspaper of general circulation published within the city. If no newspaper is published in the city the notice shall be posted at the City Hall and at two (2) other public places in the city. The notice shall be sufficient if it states the time and place of holding the election, and that the purpose of the election is to determine whether the governing body of the City shall be authorized to make the water supply contract, or make the lease or operating contract, or both as the case may be. Both questions may be submitted in the same proposition.

(b) Only qualified electors of the city who own taxable property therein and who have duly rendered the same for taxation shall be permitted to vote at such election. Except as otherwise provided in this Act, the general election laws shall govern such election.

(c) If a majority of the votes cast at said election are in favor of the proposition the governing body shall pass an ordinance prescribing the form and substance of the lease or contract, or both, as the case may be, and directing the mayor or mayor pro tem to sign it. Such ordinance may be passed by vote of a majority of the members of the governing

body on one (1) reading and at the same meeting at which it is introduced.

[Acts 1949, 51st Leg., p. 667, ch. 342. Amended by Acts 1971, 62nd Leg., p. 1625, ch. 452, § 1, eff. May 26, 1971.]

Art. 1109e-1. Contracts with Conservation and Reclamation Districts for Water Supply

Sec. 1. Incorporated cities having a population of more than 900,000 according to the next preceding Federal Census which own and operate a municipal water system shall be authorized to enter into contracts and joint enterprises with conservation and reclamation districts created under Article XVI, Section 59 of the Constitution of Texas for the conveyance, transportation and distribution of water for and on behalf of such cities or may contract to sell water to such districts and to repurchase all or part thereof at a designated point or points on the district's conveyance, transportation and distribution system. Such contracts may be for such period of time, not exceeding forty (40) years, as may be prescribed therein, and may provide that they shall continue in effect until bonds issued by such districts to finance the cost of such conveyance, transportation and distribution facilities and extensions, enlargements and improvements thereto, and refunding bonds issued in lieu of such bonds, are paid.

Sec. 2. Such contracts may provide that money required to be paid by the city to the district thereunder shall constitute an operating expense of the waterworks system of the city or shall be payable from surplus or other funds of the city's waterworks system or from the revenues of specified water sales contracts or from other sources; provided that if such contract involves an obligation by the city to pay all or any part of the consideration out of funds raised or to be raised by taxation, such contract shall not become effective until an election shall have been called, held and carried, in the manner required for bond elections of such city, on the proposition of authorizing the governing body to execute such a contract; otherwise no election shall be required.

Sec. 3. Such cities may enter into contracts for the sale of water to industrial and commercial customers and to municipal corporations and political subdivisions upon such terms and for such periods, not to exceed forty (40) years, as may be prescribed by ordinance.

Sec. 4. This Act shall be cumulative of other legislation pertaining to the same or similar subjects; provided, that cities electing to make contracts under this Act shall be governed solely by the provisions of this Act, any other Statute, charter provision or ordinance to the contrary notwithstanding.

[Acts 1967, 60th Leg., p. 1281, ch. 571, eff. June 16, 1967.]

Art. 1109e-2. Validation of Proceedings and Contracts with Districts to Supply Water

Sec. 1. Where any city or town within this State has heretofore submitted to the qualified resident electors of such city or town who own taxable property within such city or town and who had duly rendered the same for taxation a proposition or propositions to authorize the governing body of such city or town to enter into a contract with any district or authority created under Article XVI, Section 59 of the Texas Constitution for the purpose of supplying water to such city or town, pursuant to the provisions of Chapter 342, Acts of the 51st Legislature, 1949,¹ and such water supply contract was approved by a majority vote of the said property taxpaying voters voting at such election, all such election proceedings, the results thereof, and proceedings of the governing body and officials of such city or town relating to such contracts and the authorization, execution, and delivery thereof are hereby validated, ratified, and confirmed, and any such contract heretofore entered into by any such city or town pursuant to such election is hereby validated, ratified, and confirmed, notwithstanding the fact that only qualified electors of such city or town who owned taxable property there in and who had duly rendered the same for taxation participated in such election.

Sec. 2. The provisions hereof shall not be construed as validating any contract where (i) such contract was required by law to be approved at an election, unless such contract was approved by a majority of the participating resident qualified electors owning taxable property within such city or town who had duly rendered same for taxation and the statutory election contest period has expired prior to the effective date of this Act, or (ii) such contract or election proceedings are involved in litigation questioning the validity thereof on the effective date of this Act.

[Acts 1971, 62nd Leg., p. 31, ch. 14, eff. March 9, 1971.]

¹ Article 1109e.

Art. 1109f. Validation of Contracts for Water Supply

Sec. 1. This Act shall be applicable to any contract heretofore executed by and between an "Eligible City" and an "Eligible District" as the terms are defined in this Act. An "Eligible City" is a city having a population in excess of two hundred thousand (200,000) according to the latest Federal Census. An "Eligible District" is one created under Article XVI, Section 59 of the Constitution, which has contracted to furnish water supply service to a city or cities.

Sec. 2. Any water supply contract heretofore execute by and between an Eligible City and an Eligible District obligating the district to convey and make available for delivery water which the city will have the right to use as a supplemental supply,

and for which service the city is obligated to make payments from the revenues of its waterworks system and which imposes no obligation on the tax resources of the city, is hereby validated in all things whether or not an election has been held in the city on the question of authorizing or approving such contract.

Sec. 2a. This law shall not apply to any contract by and between an Eligible City and an Eligible District as referenced above, which is now involved in litigation in any District Court of this State, Court of Civil Appeals, or the Supreme Court of Texas in which litigation the validity of any Eligible District or the validity of any contract to furnish water by and between the above referenced parties is attacked.

[Acts 1954, 53rd Leg., 1st C.S., p. 68, ch. 29.]

Art 1109f-1. Validation of Contracts Between Districts and Cities and Towns for Water Supply

Sec. 1. All contracts between districts or authorities heretofore created under the provisions of Article 16, Section 59, of the Constitution of Texas and cities, towns or villages heretofore created under the General Laws of the State of Texas, whereby the district or authority has agreed and contracted to furnish a water supply to such cities, towns or villages, are hereby validated.

Sec. 2. The provisions of this Act shall not apply to validate any agreement or contract which imposes any obligation upon the tax resources of any such city, town or village, but shall apply only to those contracts whereby payments for a water supply are to be made from the revenues of the purchasers' water distribution system; nor shall this Act apply to any contract now involved in litigation questioning the validity of its provisions, if the question is ultimately determined against the validity thereof.

[Acts 1959, 56th Leg., p. 770, ch. 349.]

Art. 1109g. Water Supply Contracts with Persons, Firms or Corporations

Sec. 1. Any city or town whether operating under the general law or under its special or home rule charter, which owns and operates its water distribution system, is authorized to enter into a contract for such period of time, with such renewal and extension privileges as may be prescribed therein, with any person, firm or corporation (when operating without profit) under the terms of which such supplier will make available for delivery to and use by the municipality all or part of the raw or treated water to be used in or for the distribution system of such municipality.

Sec. 2. If any such contract which is to be effective for a longer period than one (1) year involves an obligation by the municipality to pay all or any part of the consideration for such service out of funds raised or to be raised by taxation, or if it involves

the leasing to the supplier or the right to operate a major part of any existing water production or supply facilities belonging to the municipality, or if the contract restricts the municipality from obtaining water from any other supplier, such contract shall not become effective unless and until an election shall have been called, held and carried on the proposition to approve or authorize such contract. In instances where such contract shall be payable solely from the revenues of the municipality's water system, not involving any obligation against its taxing power and not conferring on the supplier the right to lease or to operate a major part of the municipality's existing water production or supply facilities, and if the contracts do not restrict the municipality from obtaining water from any other supplier, no election shall be necessary. However, within its discretion the governing body of the municipality may order an election on the question before approving any such contract. Any election under this Act shall be held in accordance with the provisions of Chapter 2 of Title 22 of the Revised Civil Statutes of Texas insofar as such provisions are applicable.

Sec. 3. When any contract made under this law provides for payments solely out of water system revenues of such municipality the money thus required to be paid by the municipality shall constitute an operating expense of the City's water system, and such municipality shall fix and maintain rates and charges for services rendered by such water system as will be sufficient to pay the maintenance and operation expenses thereof as contemplated by Article 1113, Revised Civil Statutes, as amended, and provide for the payment of principal of and interest on any revenue bonds of such municipality which shall be payable from its water revenues.

Sec. 4. As is customary under water supply contracts made between cities and towns on the one part and districts and authorities on the other part under Chapter 342, Acts of the Regular Session of the Fifty-first Legislature,¹ the service to be rendered by the supplier may include among other items the holding of water available for and the readiness to serve the water needs of such municipality, and the charge to be effective under such contract may include compensation for such item of service.

[Acts 1954, 53rd Leg., 1st C.S., p. 91, ch. 41.]

¹ Article 1109e.

Art. 1109h. Eligible City Authorized to Issue Revenue Bonds; Construction and Equipment of Water Supply Project

Eligible City Defined

Sec. 1. An "eligible" city under this Act is one having a population of more than 275,000 under the last preceding federal census, in which a majority of the resident qualified voters who shall have duly

rendered their property for taxation, participating in an election, have voted to authorize such city to enter into a contract to acquire a water supply from a River Authority (hereinafter called an "Authority") created by the Legislature under Article XVI, Section 59 of the Constitution, and which shall have obtained a permit from the State Board of Water Engineers to utilize the water from such source of supply.

Alternative Financing Procedure

Sec. 2. The right of an eligible city and of an Authority to proceed with the financing of the entire cost or the portion of such cost which is not to be provided by such city of the water supply project under law through the issuance by the Authority of its revenue bonds based on the voted contract with an eligible city is not affected by the passage of this Act. But as an alternative procedure an eligible city and an Authority may amend the voted contract so as to implement the provisions of this Act, including, but without limiting the extent of such amendments, provisions defining the extent of the city's rights in such water supply project, and the procedures under which the city will make available to the Authority the proceeds of revenue bonds issued under authority of this Act, as needed for payment of construction costs including such city's intake structures, pumping and filtration equipment, or such portion thereof as Authority is not required under such contract to provide through the issuance of its revenue bonds, and arrangements for auditing the funds and accounts to be used in the construction program. Such eligible city may proceed with the issuance and sale of its revenue bonds, payable from the revenues of its waterworks system or, if combined in such city, its waterworks and sanitary sewer system (hereinafter called the "city revenue bonds") and the use of the proceeds as provided in succeeding sections of this Act.

Ordinance Authorizing Bond Issue; Notice; Petition; Bond Election

Sec. 3. Before passage of an ordinance authorizing the issuance of bonds under this Act, the governing body of such city shall give notice of the time when such ordinance is to be passed. Such notice shall be published in a newspaper of general circulation in such city, in at least two issues thereof, the date of the first publication to be not less than fourteen (14) days prior to the date so fixed for passage of the ordinance. Unless prior to the scheduled time for passing the ordinance a petition is filed with the city secretary, signed by not less than 10% of the qualified voters of the city who have duly rendered their property for taxation, requesting that an election be held on the question of issuing such bonds, the governing body may proceed in the issuance thereof without an election. If such petition is duly filed, it shall be the duty of the governing body to proceed in the manner prescribed in Chapter I of Title 22 of the Revised Civil Statutes, with an election on the question, and such

bonds shall not be issued unless a majority of the voters, voting at such election, vote favorably on the question. The governing body within its discretion may call an election for the issuance of the bonds without awaiting the filing of a petition requesting a referendum election.

Extent of Water Supply Projects; Passage of Bond Issue Ordinance; Amount of Bonds; Operation of Project

Sec. 4. The water supply project of the Authority may consist of a dam, reservoir, related outlet facilities, or any or all of such elements, including but without limiting the meaning of the term, lands, easements, flowage rights and interest during construction. When the designs, plans and specifications for the water supply project of the Authority shall have been completed to the extent that they have been approved by the governing body of the Authority, which will actually construct the water supply project, and likewise by the governing body of such city, such eligible city may pass an appropriate ordinance or ordinances authorizing the issuance of its revenue bonds in an amount estimated to cover the entire cost to be incurred by the Authority in constructing the water supply project, or such portion thereof as the city shall have contracted to provide. Within the discretion of the governing body of such eligible city such revenue bonds may be issued in an amount sufficient to cover the cost of providing all other facilities needed to deliver to the city treated water from the water supply project, including but without limiting the effect of this provision, the intake structure, pumping stations and equipment, pipelines, treatment and filtration plants and all intermediate and terminal reservoirs, intermediate reservoirs to be used wholly or in part for storing water from the water supply project and pumping and pipeline facilities for conveying water to and from such intermediate reservoirs, or any or all of such elements, including but without limiting the meaning of the term, lands, easements and rights-of-way needed for such purposes, and interest during construction. The construction and operation of the water supply project will remain the responsibility of the Authority, and except for such part of said property, if any, as may be owned by such city under the contract between the Authority and such city, such property and facilities shall be owned by the Authority; and except for the water supply project and other facilities specified by contract, city will have the responsibility of constructing and operating, and shall own all of such facilities and property, including the intake, pumping stations, pipelines and equipment, treatment and filtration plants and all intermediate and terminal reservoirs. Within the discretion of such city the bonds may be authorized and sold at one time or in installments from time to time.

Bonds, Requisites and Provisions; Additional Bond Issues; Rates, Tolls and Charges; Refunding Bonds

Sec. 5. (a) Such eligible city may authorize such revenue bonds by ordinance. The bonds shall be

signed by the Mayor and by another designated officer of the city and the seal of the city shall be impressed thereon; but within the discretion of the governing body evidenced in the ordinance, bonds may be issued bearing the facsimile signature of the Mayor and the seal of such city may be printed thereon, but the signature of the other designated officer in such cases must be manually affixed. Such bonds shall mature serially or otherwise within such period and at such times as may be prescribed in the ordinance but not exceeding a maximum of 40 years. The bonds may be sold at a price and under terms determined by the governing body of such city to be the most advantageous reasonably obtainable, provided that the interest cost to the city calculated by use of standard bond interest tables currently in use by insurance companies and investment houses does not exceed 6% per annum. The bonds may be registrable as to principal only or as to both principal and interest. Appropriate provisions may be inserted in the ordinance authorizing the execution and delivery of bonds for the conversion of registered bonds into bearer of bonds and vice versa. Provision may be made in the bond ordinance for substitution of new bonds for those lost or mutilated.

(b) In the ordinance authorizing such revenue bonds, the right may be reserved under the conditions therein specified to issue additional revenue bonds which will be on a parity with or subordinate to the bonds when being issued.

(c) After such revenue bonds shall have been issued, it shall be the duty of the governing body of such city to fix and from time to time to revise the rates, tolls and charges for sales and services rendered by the city's waterworks system or waterworks and sanitary sewer system, as the case may be, to the end that such rates, tolls and charges will yield sufficient money to pay the expense of operating and maintaining such system or systems, the principal of and interest on said bonds as such principal and such interest mature, and to create and maintain the reserve funds and other funds as prescribed in the ordinance authorizing the bonds.

(d) It shall be the duty of such city to provide for such deposits into the interest and sinking fund, the reserve and other funds to the extent and as prescribed in the ordinance authorizing such bonds. Such ordinance shall require all or any of such deposits to be made from the revenues of its waterworks system or, if combined in such city, its waterworks and sanitary sewer system; but within the discretion of the governing body of such city all or any part of the deposits necessary to pay interest during construction and for not exceeding two additional years, may be provided from the proceeds of the sale of the bonds. The proceeds from the sale of such bonds shall be deposited by such city in a fund which will be utilized solely to pay the expense of issuing and selling said bonds and to pay the construction cost of such portion of the water supply project as the city shall be obligated to provide

under the contract with the Authority and to pay the construction cost of that part of the facilities to be constructed, owned and operated by the city as provided in Section 4 of said Chapter 35, Acts of the Regular Session of the 55th Legislature as amended.

(e) Pending the issuance of definitive bonds, such city may authorize the delivery of negotiable interim bonds, eligible to be exchanged for definitive bonds.

(f) Such city is authorized to issue refunding bonds for the purpose of refunding any outstanding bonds and interest thereon, authorized by this Act. The governing body, in its discretion, may inject additional security for the refunding issue. Refunding bonds shall be registrable by the Comptroller of Public Accounts upon surrender and cancellation of the bonds to be refunded, but in lieu of such procedure the ordinance authorizing the issuance of the refunding bonds may provide that they shall be sold and the proceeds thereof deposited in the bank, or in one (1) or more of the banks where the original bonds are payable. In the latter case, the refunding bonds may be issued in an amount sufficient to pay the interest on the original bonds to their maturity date or to the date on which the bonds are to be redeemed, and the amount of the call premium, if any, as to bonds called for redemption prior to maturity, and in such event the Comptroller shall register the refunding bonds without the concurrent surrender and cancellation of the original bonds. No election shall be necessary in connection with the authorization and issuance of refunding bonds.

(g) No such bonds shall be issued by such city until they shall have been approved by the Attorney General of the State of Texas. After the bonds shall have been approved by the Attorney General and registered by the Comptroller of Public Accounts of the State of Texas, they shall as well as such bonds as shall be issued by Authority be negotiable instruments and shall be incontestable, provided that when the bonds of an issue shall have been thus approved and registered, the bonds thereafter delivered by such city in lieu thereof, pursuant to subsection (a) of this Section, in connection with the exchange of registered for unregistered bonds, or unregistered bonds for registered bonds, or in lieu of lost or mutilated bonds, need not be reapproved by the Attorney General or re-registered by the Comptroller of Public Accounts. Nevertheless, such bonds shall likewise be incontestable, and except for the limitations resulting from registration shall be negotiable.

(h) Proceeds from the sale of any such issue of bonds may be invested during the period of construction or prior to their use for construction purposes, in bonds or other direct obligations of the United States government, and such securities may be sold pursuant to the directions of the governing body of the city when needed for construction purposes.

**Bonds as Legal Investments; Security for Deposits
of Public Funds**

Sec. 6. All such bonds shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, saving and loan associations and insurance companies. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas, and such bonds shall be lawful and sufficient security for said deposits to the extent of the principal amount thereof, or their value on the market, whichever is the lesser, when accompanied by all unmatured coupons appurtenant thereto.

Precedence Over Conflicting Provisions

Sec. 7. The provisions of this Act shall take precedence over conflicting and inconsistent provisions of other statutes and special and home rule charters.

Severability Provision

Sec. 8. The provisions of this Act are severable. If any provisions of this Act or the application thereof to any person or circumstances shall be held to be invalid or unconstitutional, the remainder of the Act and the application of such provisions to other persons or circumstances shall not be affected thereby.

[Acts 1957, 55th Leg., p. 73, ch. 35. Amended by Acts 1959, 56th Leg., p. 77, ch. 36, §§ 1, 2; Acts 1961, 57th Leg., 1st C.S., p. 151, ch. 38, § 1.]

Art. 1109i. Water Supply and Sewage Transportation and Disposal Contracts of Certain Cities with Trinity River Authority

Eligible City

Sec. 1. Each city or town which either is situated wholly or partly within the boundaries of Trinity River Authority of Texas, created by Chapter 518, Acts of the Regular Session of the 54th Legislature,¹ and any amendments thereto, (hereinafter called the "Authority"), or is situated wholly or partly within the watershed of the Trinity River, is an "Eligible City" within the meaning of this Act.

¹ Water Auxiliary Laws Table, art. 8280-188.

**Contracts Authorized; Revenues Received,
Disposition, Etc.**

Sec. 2. An Eligible City, pursuant to an ordinance passed by its governing body, is hereby authorized to make a contract with the Authority under which the Authority will make available to and provide for the Eligible City, sewage transportation and disposal (including treatment) services or any or all of such services, and when prescribed therein, provision for stand-by service. Such contract may be upon such terms and for such period

of time as the parties may agree, and may provide that it will remain in effect until the bonds issued by the Authority as mentioned therein and refunding bonds issued in lieu thereof, are paid. Such City shall have the right to the continued performance of such services after the amortization of the Authority's investment in such facilities during the useful life thereof, upon payment of charges reduced to take into consideration such amortization.

The revenues received by the Authority from the participating Eligible Cities shall be used only (1) for payment of principal of and interest on, and to provide reserves created for, the bonds to be issued by Authority to finance such transportation, disposal (including treatment) facilities, and (2) to pay the operation and maintenance expenses (including within the meaning of the term, legal, administrative and management supervision fees and expenses) in connection therewith; provided that such part of any surplus accumulated for the benefit of a participating Eligible City, as may be prescribed in contract between such City and the Authority, may be expended by the Authority for enlargements and betterments of Authority's facilities which are used to serve, especially, such City.

In consideration of payments made by an Eligible City under such contract, and the services performed by the Authority the Authority shall become the owner of sewage accepted by it for transportation and treatment and shall be solely responsible for the proper treatment and disposal of such sewage and the effluent, and no participating Eligible City shall be entitled to any rights in, nor shall it be liable for any improper treatment or disposal of, such sewage or effluent.

No city shall be entitled to credit of any type either in the exchange of water, money or other consideration for any effluent delivered to the Authority, and no such exchange or sale can be made a condition to any contract hereunder.

**Payments by City to Authority; Source;
Operating Expense**

Sec. 3. Payments by such City to the Authority shall be made from the City's waterworks system or its sanitary sewer system or of both systems or of its combined water and sanitary sewer system, as prescribed in the contract between such City and the Authority, and shall constitute an operating expense of the system or systems whose revenues are thus pledged. Unless the alternative procedure prescribed in Section 4 is followed, neither the Authority nor the holder of any bonds of the Authority shall have the right to demand payment of the City's obligation out of any funds raised or to be raised by taxation.

Outstanding Bonds; Revenues

Sec. 3a. If any such city has revenue bonds outstanding at the time it executes such contract, secured by a pledge of the net revenues from the operation of a combined system comprising a water-

works system and a sanitary sewer system, and in addition thereto either a natural gas distribution system or an electric lighting and power system, that portion of the payments made by such city to the Authority which is used by the Authority for debt service on Authority's bonds may be treated by the city for its accounting purposes as a capital expenditure, provided that and so long as these conditions exist:

(1) The revenues from the city's gas system or electric lighting and power system, as the case may be, are adequate to satisfy the requirements of the bond ordinance or ordinances authorizing all revenue bonds outstanding at the time of making the contract and all such bonds thereafter authorized, for the provision of funds for operation, maintenance, and debt service; and

(2) The revenues from the city's sanitary sewer system and (if encumbered under the contract) the city's waterworks system, are ample to meet the requirements of the contract with the Authority.

Elections; Bond Issues

Sec. 4. (a) If an election is held and carried substantially according to the procedure prescribed in Chapter 1, Title 22 of the Revised Civil Statutes, as amended, in reference to the issuance of bonds by Cities, determining that the governing body of the City is authorized to execute the proposed contract for sewage transportation and disposal (including treatment) or for any of such services, and to levy ad valorem taxes to pay such obligation to the Authority, whether or not the City's obligation is to be credited with application of certain revenues of such system or systems, the contract, in such an event, will constitute an obligation against the taxing power of such City, but may be payable both from taxes and such revenues, as may be prescribed in the contract.

(b) Only qualified electors of the City who own taxable property therein and who have duly rendered the same for taxation shall be entitled to vote at such election. Except as otherwise provided in this Section and in such Chapter 1, Title 22 of the Revised Civil Statutes as amended, the general election laws shall govern such election.

(c) If a majority of the votes cast at said election are in favor of the proposition the governing body shall pass an ordinance prescribing the form and substance of the contract, and directing the proper officers of the City to sign it.

Rates for Services

Sec. 5. Whenever any such City shall have executed a contract with the Authority involving the performance of such duties by the Authority, if the payments thereunder are to be made either wholly or partly from the revenues of the City's waterworks system or sanitary sewer system or from both systems or a combination of both systems, the duty is hereby imposed on such City and it is hereby

authorized to establish and maintain and from time to time to adjust the rates charged by the City for the services of such system or systems, to the end that the revenues therefrom will be sufficient at all times to pay: the expense of operating and maintaining such system in accordance with current standards and requirements for preventing stream pollution; the City's obligations to Authority under such contract; and all of such City's obligations under and in connection with revenue bonds theretofore issued, or which may be issued thereafter for such system or systems. Any such City may charge the users of the system or systems whose revenues are to be used in paying the City's obligation under the contract rates sufficient to pay such obligation of the City. Any such contract may require the use of consulting engineers and financial experts to advise the City whether and when such service rates are to be adjusted.

Contract Provisions

Sec. 6. Any such contract between the Authority and such City may provide for services to be rendered concurrently by the Authority to more than one (1) City through the construction and operation of a multiple City system or plant, the cost for such services to be allocated among the several Cities as determined in such contract or group of contracts. It is expressly provided and recognized that all of the compensation to be received by, and all of the security pledged to the Authority by each such City and all such Cities will be available to the Authority as security for the bonds it will issue to provide necessary construction funds. Any such contract, if to be used by the Authority, as security for Authority's bonds, issued to finance its plant and facilities, must be submitted by Authority to the Attorney General for examination, and when such bonds and contract have been approved by the Attorney General, such contract thereafter shall be incontestable.

Validation of Contracts

Sec. 7. All contracts heretofore executed by and between Eligible Cities and the Authority, pursuant to ordinances passed respectively by the governing bodies thereof and pursuant to action of the Board of Directors of the Authority obligating the Authority to render service which includes transportation and disposal (including treatment) of sanitary sewage or any or all of such services, and obligating the City to pay for such services out of its waterworks system revenues or sanitary sewer system revenues or a combination of its water and sanitary sewer system revenues, are hereby validated. Any such contract for which a tax was levied, when an election has been held resulting favorably to the execution of such contract, including the obligation to make payments from ad valorem taxes, is hereby validated.

[Acts 1957, 55th Leg., p. 1288, ch. 430. Amended by Acts 1959, 56th Leg., p. 771, ch. 350, §§ 1, 2.]

Art. 1109i-1. Contract with District for Sewage Transportation, Treatment and Disposal Services

Eligible City

Sec. 1. Any city or town, situated wholly or partially within a county containing a District which derives its powers from Article XVI, Section 59 of the Constitution and has statutory authority to make contracts with cities and towns for transportation and disposal of sewage (herein called "District") is an "Eligible City" within the meaning of this Act.

Contracts Authorized; Revenues Received; Disposition

Sec. 2. An Eligible City, pursuant to an ordinance passed by its governing body, is hereby authorized to make a contract with the District under which the District will make available to and provide for the Eligible City, sewage transportation, treatment and disposal services, or any or all of such services, and when prescribed therein, provision for stand-by service, such contract may also provide for use by the District of sewage transportation, treatment and disposal facilities owned by such city. Such contract may be upon such terms and for such period of time as the parties may agree, and may provide that it will remain in effect until the bonds issued by the District mentioned therein and refunding bonds issued in lieu thereof, are paid. Such a contract may contain such other provisions and requirements as the governing body of such Eligible City may find reasonably necessary to accomplish its purpose. Such city shall have the right to the continued performance of such services after the amortization of the District's investment in such facilities during the useful life thereof, upon payment of charges reduced to take into consideration such amortization.

The revenues received by the District from the participating Eligible Cities shall be used only (1) for payment of principal of and interest on, and to provide reserves created for, the bonds to be issued by District to finance such transportation, treatment and disposal facilities; and (2) to pay the operation and maintenance expenses (including within the meaning of the term, legal, administrative and management supervision fees and expenses) in connection therewith; provided that such part of any surplus accumulated for the benefit of a participating Eligible City, as may be prescribed in contract between such city and the District, may be expended by the District for enlargements and betterments of District's facilities which are used to serve such city.

Payments by City to District; Operating Expense

Sec. 3. Payments by such city to the District shall be made from the city's waterworks system or its sanitary sewer system or of both systems or of its combined water and sanitary sewer system, as prescribed in the contract between such city and the

District, and shall constitute an operating expense of the system or systems whose revenues are thus to be applied. Unless the alternative procedure prescribed in Section 4 is followed, neither the District nor the holder of any bonds of the District shall have the right to demand payment of the city's obligation out of any funds raised or to be raised by taxation.

Elections; Bond Issues

Sec. 4. (a) If an election is held and carried substantially according to the procedure prescribed in Chapter 1, Title 22 of the Revised Civil Statutes, as amended, in reference to the issuance of bonds by cities, determining that the governing body of the city is authorized to execute the proposed contract for sewage transportation, treatment and disposal or for any of such services, and to levy ad valorem taxes to pay such obligation to the District, whether or not the city's obligation is to be credited with application of certain revenues of such system or systems, the contract, in such an event, will constitute an obligation against the taxing power of such city, but may be payable both from taxes and such revenues, as may be prescribed in the contract.

(b) Only qualified electors of the city who own taxable property therein and who have duly rendered the same for taxation shall be entitled to vote at such election. Except as otherwise provided in this Section and in such Chapter 1, Title 22 of the Revised Civil Statutes as amended, the General Election Laws shall govern such election.

(c) If a majority of the votes cast at said election are in favor of the proposition the governing body shall pass an ordinance prescribing the form and substance of the contract, and directing the proper officers of the city to sign it.

Rates for Services

Sec. 5. Whenever any such city shall have executed a contract with the District involving the performance of such duties by the District, if the payments thereunder are to be made either wholly or partly from the revenues of the city's waterworks system or sanitary sewer system or from both systems or a combination of both systems, the duty is hereby imposed on such city and it is hereby authorized to establish and maintain and from time to time to adjust the rates charged by the city for the services of such system or systems, to the end that the revenues therefrom will be sufficient at all times to pay: the expense of operating and maintaining such system in accordance with current standards and requirements for preventing stream pollution; the city's obligations to District under such contract; and all of such city's obligations under and in connection with revenue bonds theretofore issued, or which may be issued thereafter for such system or systems. Any such contract may require the use of consulting engineers and financial experts to advise the city whether and when such service rates are to be adjusted.

Contract Provisions

Sec. 6. Any such contract between the District and such city may provide for services to be rendered concurrently by the District to more than one city through the construction and operation of a multiple city system or plant, the cost for such services to be allocated among the several cities as determined in such contract or group of contracts. It is expressly provided and recognized that all of the compensation to be received by, and all of the security pledged to the District by each such city and all such cities will be available to the District as security for the bonds it will issue to provide necessary construction funds.

[Acts 1961, 57th Leg., p. 360, ch. 181.]

Art. 1109j. Contracts with Water Districts or Non-profit Corporations for Water, Sewer or Drainage Services**Authorization**

Sec. 1. Any city or town, whether operating under the General Law or under its special or home rule charter, is authorized to enter into a contract with a district organized under the authority of Article XVI, Section 59 of the Constitution of Texas or any corporation or corporations organized to be operated without profit, and any such district or corporation is authorized to enter into a contract with any such city or town, under the terms of which such district, corporation or corporations will acquire for the benefit of and convey to the city or town one or more water supply or treatment systems, water distribution systems, sanitary sewer collection or treatment systems or works or improvements necessary for the drainage of lands in the city, either singularly or together, and in connection with such acquisition make such improvements, enlargements and extensions of and additions to the existing facilities of such city or town as may be provided for in such contract.

Payments for Water, Sewer or Drainage Services; Purchase of Systems; Pledge of Revenues

Sec. 2. When any such contract shall provide that the city or town shall become the owner of such water, sewer or drainage system or systems upon completion of construction or at such time as all debt incurred by such district or corporation in the acquisition, construction, improvement or extension of such system or systems is paid in full, such city or town shall be authorized to make payments to such district or corporation for water, sewer or drainage services to part or all of the inhabitants of such city or town. Such contract may provide for purchase by the city or town of such system or systems by periodic payments to such district or corporation by the city or town in amounts which, together with the net income of the district or corporation, will be sufficient to pay the principal of and interest on the bonds of the district or corporation as they become due. Such contract may pro-

vide that any payments under this Section 2 shall be payable from and secured by a pledge of a specified portion of the revenues of the water system, the sewer system or the drainage system or systems of the city or town or may provide for the levying of a tax to make such payments, or may provide for such payments to be made from a combination of such revenues and taxes.

Use of Streets and Public Ways by District or Corporation

Sec. 3. Any such contract may provide that such district or corporation shall have the right to use the streets, alleys and public ways and places of the city or town for water, sewer or drainage purposes for a period of time which shall terminate at the time all such indebtedness of such district or corporation is paid in full and the city or town acquires title to such system or systems in accordance with this Act.

Operation of Systems by City

Sec. 4. Any such contract may provide that the city shall operate the system or systems, and if such contract does so provide, the city or town shall be authorized to operate such system or systems.

Approval of Contract by Governing Body

Sec. 5. Any contract made by any city or town pursuant to this Act may be authorized by a majority vote of the governing body of such city or town.

[Acts 1959, 56th Leg., p. 511, ch. 224. Amended by Acts 1971, 62nd Leg., p. 3370, ch. 1032, § 1, eff. June 15, 1971; Acts 1973, 63rd Leg., p. 491, ch. 215, § 1, eff. May 28, 1973; Acts 1977, 65th Leg., p. 1307, ch. 515, §§ 1, 2, eff. Aug. 29, 1977.]

Art. 1109k. Repealed by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 388, repealing this article, enacts the Agriculture Code.

For disposition of the subject matter of the repealed article, see Disposition Table preceding the Agriculture Code.

Art. 1110. Waterworks Right of Way

To acquire rights of way for digging or excavating canals, laying mains or pipe lines for the purpose of conducting water through the same into the cities or towns for the use of the public, incorporated cities and towns owning their own waterworks system shall have the right of eminent domain to condemn private property for public use in and outside of the city or town limits of such cities or towns.

[Acts 1925, S.B. 84.]

Art. 1110a. Issuance of Revenue Bonds Against Which Judgment is Entered

Sec. 1. This Act shall be applicable to any city or town against which a judgment shall have been entered or may be entered hereafter because of purchase or construction money expended or advanced, awarding the plaintiff any properties there-

tofore used by the city as if a part of the city's waterworks system, or requiring it to pay to plaintiff an amount of money equivalent to the value of, or in lieu of the surrender of such property, whether or not requiring it to pay a rental for use and detention of such property. Any such city or town, acting through its governing body, may, subject to compliance with the provisions of the Bond and Warrant law of 1931¹ with preference to the publication of notice for a period of fourteen days and affording an opportunity to the qualified voters of such city or town to file a petition for a referendum election upon such question and the favorable outcome of such election if thus required, repurchase from such plaintiff or plaintiff's successor in title, the properties involved, or pay the money judgment awarded against it or acquire needed property in lieu of such property, and may issue revenue bonds for such purposes, conditioned that the holder thereof shall never have the right to demand payment thereof out of moneys raised or to be raised by taxation, and payable out of the revenues of its system which shall include all properties and everything pertaining thereto then owned or thereafter acquired, hereinafter called the "system," and within the discretion of the governing body of such city, further secured by a lien upon the properties constituting the system and a lien upon and grant of a franchise to operate such system, in the event of sale of such system after default in the payment of such Revenue Bonds or interest thereon. The ordinance authorizing such Revenue Bonds may pledge all or any designated part of the net revenues of such system to the payment of such Revenue Bonds. Except as otherwise provided in this Act, such Revenue Bonds shall be issued in accordance with Article 1111 and Articles 1113 to 1118, both inclusive, of the Revised Civil Statutes of Texas as amended.

Sec. 2. After Revenue Bonds shall have been issued under Section 1 of this Act, so secured by the pledge of the revenues of such system, and whether or not secured by a lien upon the properties constituting the system and franchise, nevertheless the city may thereafter while all or a part of said bonds are still outstanding issue additional revenue bonds secured by a pledge of the net revenues of such system and by a lien similar to that, if any, securing the outstanding revenue bonds, for improvements, extensions, repairs, or replacements of and to the system, or for any or all of said purposes, to the extent and in the manner expressly permitted by the ordinance or ordinances authorizing such previously authorized and outstanding revenue bonds. Such additional revenue bonds shall be issued only after an authorizing election on the question shall have been held in the manner prescribed by Chapter 1 of Title 22 of the Revised Civil Statutes of Texas, 1925.² If and when such revenue bonds are subsequently issued in accordance with the limitations contained in the ordinance or ordinances authorizing the revenue bonds previously issued under authority of Section 1 of this Act, they shall be secured by

a pledge of the revenues of such system and lien upon the properties constituting the system and upon the franchise of equal dignity with the pledge and liens securing such outstanding revenue bonds.

Sec. 3. Within the discretion of the governing body of such city or town, revenue bonds issued either under Section 1 of³ Section 2 of this Act and which are made available for such purpose, may be refunded by the same issue or several issues of refunding bonds, provided that the interest cost to the city is not increased by the refunding of such bonds.

Sec. 4. Before any revenue bonds are delivered under the provisions of this Act they shall be submitted to and approved by the Attorney General, and shall be registered by the Comptroller of Public Accounts in the manner and with the effect provided in Articles 709 to 715, both inclusive, of the Revised Civil Statutes of Texas of 1925, pertaining to the issuance by cities of tax supported bonds.

[Acts 1945, 49th Leg., p. 605, ch. 349.]

¹ Article 2368a.

² Article 701 et seq.

³ So in enrolled bill; probably should read "or".

Art. 1110b. Separate City and Rural Systems of Home Rule Cities

Sec. 1. The acts of all home-rule cities whose charters authorize such cities to furnish electric light and power service both within and without corporate limits of such cities, and which cities now own and operate municipal electric systems and where, by such acts, such cities have heretofore set up and now own and operate rural electric systems as a unit separate and apart from the city system and as a separate utility, are hereby validated in all respects as though they have been duly and legally established as separate systems in the first instance. All the acts of municipal governing bodies of such municipalities setting up such systems as separate units and all bonds, mortgages, warrants and other evidence of indebtedness heretofore issued or heretofore voted or authorized to be issued, but not issued, are hereby validated; and such bonds, mortgages, warrants, and other evidences of indebtedness shall be an obligation of each unit separately. The encumbrances and obligations pertaining to one system shall in no way apply to or affect the other system. No such obligation heretofore or hereafter issued shall ever be a debt of such city but solely a charge upon the properties of the system, and shall never be reckoned in determining the power of such city to issue bonds for any purpose authorized by law. The expense of operation and maintenance of such system shall always be a first lien and charge against the income thereof. Included within such expense shall be all salaries, labor, repairs, cost of electrical energy, interests, repairs or extensions necessary to render efficient service, and every other proper operation and maintenance expense. The governing bodies of such cities mentioned in this Act shall charge and

collect for such service a sufficient rate to pay all operation and maintenance expense, depreciation, replacement, betterment and interest charged, and to pay the principal of and interest on all obligations issued against each system separately, and to maintain such reserve or reserves, if any, as may be prescribed in the ordinance authorizing the issuance of such obligations. No part of the income of each of such systems shall ever be used to pay any other debt, expense or operation until the indebtedness so secured shall have been finally paid. Every evidence of indebtedness issued by the cities mentioned herein shall contain the clause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation." All evidences of indebtedness hereafter issued by the cities mentioned herein shall be payable in not more than forty years from date and shall bear interest at not more than 5% per annum. Such evidences of indebtedness shall be signed by the mayor and countersigned by the city secretary; provided, however, that the facsimile signatures of such officers may be printed or lithographed on any interest coupons attached to any obligation issued by such cities. Such cities mentioned herein need not submit any obligation issued against either of such systems to any public official of this State, the only approval required or authorized under this Act being that of the governing body of the city. Any such obligations issued hereunder shall be non-contestable after issuance and delivery, except for fraud and forgery. Provided, however, no authority granted herein shall ever permit or authorize any such cities to construct facilities or furnish electric power and energy to any areas already being served with central station electric service.

Sec. 2. Any obligation issued hereunder shall be exempt from taxation by the State of Texas or by any municipal corporation, county, or other political subdivision or taxing district of the State.

Sec. 3. All acts of any such city and the governing body thereof in heretofore setting up and operating such systems are hereby in all things validated, and all encumbrances and mortgages pertaining to each such system and all obligations heretofore or hereafter issued, secured by a pledge of and/or payable from the revenues thereof, are hereby in all things validated; and such obligations shall be considered as obligations issued under this Act.

Sec. 4. The governing body of any home-rule city to which Section 1 of this Act applies, upon finding that it is in the best interests of its separately owned rural electric system and its municipal electric system, may by ordinance order that its rural electric system shall be merged into and become a part of its municipal electric system. From and after said merger, all laws relating to its municipal electric system, including but not limited to all laws relating to the authorization and issuance of

bonds, shall apply to the municipal system as thus enlarged and merged pursuant to this section.

[Acts 1949, 51st Leg., p. 973, ch. 535. Amended by Acts 1983, 68th Leg., p. 4454, ch. 717, § 1, eff. Sept. 1, 1983.]

Art. 1110c. Improvements to Water and Sewer Systems

Constructing, Extending, Enlarging or Reconstructing Systems

Sec. 1. Cities, towns and villages as hereinafter defined shall have power under this Act to improve any water works system or sanitary sewer system within their limits by constructing, extending, enlarging or reconstructing such water or sanitary sewer systems, which power shall include that of making any one or more of the kinds or classes of improvements herein named or any combination thereof or parts thereof.

Definitions

Sec. 2. As used in this Act, unless the context otherwise requires, the term:

(A) "City" shall mean any incorporated city, town or village, including home rule cities, which has all or a major portion of its territory in a county which, at the time any action is taken under the powers herein granted, has a population in excess of 25,000 according to the last preceding Federal Census.

(B) "Improvements to the Sewer System" shall mean the laying of all mains, laterals and extensions, and all appliances and necessary adjuncts thereto necessary for the sanitary disposal of excreta and offal from the area in which such improvements are constructed hereunder, but shall not include such off-site mains, laterals and extensions, and appliances and necessary adjuncts thereto shall be necessary to connect such improvements to the existing sanitary sewer system operated by the city.

(C) "Improvements to the Water System" shall mean the laying of a water main or mains with gates, tees, crosses, taps, meter boxes, manholes or extensions and any and all other appurtenances necessary and required for the furnishing of water for domestic or commercial purposes to the area in which such improvements are constructed hereunder, but shall not include such off-site mains, gates, tees, crosses, taps, meter boxes, manholes or extensions, and other appurtenances as shall be necessary to connect such improvements to the existing water system operated by the city.

(D) "Cost of Improvement" with regard to the construction of improvements to the water system and sewer system, either or both, shall include expenses of engineering, fiscal fees, and other expenses incident to construction of improvements in addition to the other costs of the improvements.

(E) "Construction of Improvement" when used herein shall mean the construction of improvements to the water or sewer system, either or both, as same are herein defined.

(F) "Improvements" when used alone herein shall mean improvements to the sewer or water system, either or both, as herein defined.

(G) "Governing Body" shall mean the city, town or village council or commission which serves as the legislative body of the city.

(H) "Benefited Property" shall mean any lot or tract to which water and sewer service, either or both, is made available under the terms of this Act.

Necessity of Improvements; Determination and Order

Sec. 3. The governing body of the city shall have power to determine the necessity for, and to order, the construction of improvements within said city and to contract for the construction of such improvements in the name of the city, and to provide for the payment of the cost of improvements by the city or partly by the city and partly by assessments as hereinafter provided.

Ordinance or Resolution; Costs; Assessments Against Benefited Property

Sec. 4. By the ordinance or resolution declaring that the necessity exists for such improvements, the city shall state generally the nature and extent of such improvements, and may direct that detailed plans, specifications and cost estimates therefor be prepared and submitted to the governing body. The cost of improvements may be wholly paid by the city, or partly by the city and partly by the property benefited by the construction of improvements and the owners of such property, but if any part of the cost is to be paid by such benefited property and the owners thereof, then before any improvements are actually constructed, either before or after receipt of bids for the proposed construction are received by the city, but before any hearing herein provided for is held, the governing body shall prepare, or cause to be prepared, an estimate of the cost of such improvements; in no event shall more than nine-tenths of the costs of such improvements as shown on such estimate be assessed against such benefited property and the owners thereof.

Tax or Assessment Against Railway, Street Railway or Interurban Right-of-Way

Sec. 5. No special tax or assessment shall be levied against a railway, street railway or interurban right-of-way to defray a portion of the cost of the improvements to a city's water or sanitary sewer system.

Amount of Assessment Against Benefited Property; Payment and Default; Liens; Certificates of Special Assessment; Contents

Sec. 6. Subject to the terms hereof, the governing body of any city shall have power by ordinance to assess nine-tenths of the estimated cost of improvements against benefited property, and against the owners of such property, and to provide the time, terms, and conditions of payment and defaults

of such assessments, and to prescribe the rate of interest thereon not to exceed ten per cent per annum. Any assessment against benefited property shall be a first and prior lien thereon, and shall be a personal liability and charge against the true owners of such property at the date upon which said lien is fixed and becomes effective, whether named or not in any notice, instrument, certificate or ordinance provided for hereunder. The governing body shall have power to cause to be issued in the name of the city assignable certificates in evidence of assessments levied hereunder declaring the lien upon the property and liability of the true owners thereof whether correctly named or not and to fix the terms and conditions of such certificates.

If any such certificate shall recite substantially that the proceeding with reference to making the improvements therein referred to have been regularly had in compliance with the law and that all prerequisites to the fixing of the assessment lien against the property described in said certificate and the personal liability of the owner or owners thereof have been performed, same shall be prima facie evidence of all the matters recited in said certificate, and no further proof thereof shall be required. In any suit upon any assessment or reassessment in evidence of which a certificate may be issued under the terms of this Act it shall be sufficient to allege the substance of the recitals in such certificate and that such recitals are in fact true, and further allegations with reference to the proceedings relating to such assessment or reassessment shall not be necessary.

Such assessments shall be collectable with interest, expense of collections, and reasonable attorney's fees, if incurred, and shall be first and prior liens on the property assessed, superior to all other liens and claims except State, county, school district and city ad valorem taxes, and shall be a personal liability and charge against said owners of the property assessed.

Apportionment of Assessments; Front Foot Plan

Sec. 7. That part of the cost of water and sewer improvements, either or both, but computed separately, which may be assessed against benefited property and the owners thereof shall be apportioned among the tracts or parcels of benefited property and the owners thereof in accordance with the front foot plan or rule, provided that if the application of this rule would, in the opinion of the governing body, in particular cases, result in injustice or inequality, it shall be the duty of said body to apportion and assess said costs in such proportion as it may deem just and equitable, having in view the special benefits in enhanced value to be received by such owners, and the adjustment of such apportionment so as to produce a substantial equality of benefits received and burdens imposed. For purposes of computing the amount of the assessment to be made under such front foot plan or rule, each parcel of benefited property shall be assessed ac-

ording to the number of lineal feet of each such parcel abutting upon a public street irrespective of the location of improvements constructed hereunder relative to such parcel so long as such improvements provide water and sewer service, either or both, to the parcel to be assessed; provided, however, that corner lots shall be assessed only for the shorter side of same abutting upon a public street.

Notice of Improvement, Assessment and Lien

Sec. 8. Whenever the governing body of any city shall, pursuant to this Act, determine it to be necessary that any sewer or water system be improved in any manner, than if it is proposed that all or any part of the cost of such improvements be levied or assessed and made a lien on property benefited thereby, there may be filed with the county clerk of the county or counties in which such property is situated a notice signed in the name of such city, by its clerk, secretary or mayor or other officer performing the duties of such. Such notice shall meet all requirements of the act when it shows substantially that the governing body of such city has ordered, directed or otherwise provided or determined it to be necessary that such system be improved and shall describe the location and limits between which same is to be or has been improved or shall otherwise identify or designate such system and shall state that a portion of the cost of such improvement is to be or has been specially assessed as a lien upon property benefited thereby, and shall describe such property. It is specially provided that one notice may embrace and include any number of such systems or improvements.

Contents of Notice; Filing

Sec. 9. It shall not be necessary that any notice required by this Act give details or that it be sworn to or acknowledged and same may be filed at any time and the county clerk with whom any such notice is filed shall record same in the records of mortgages or deeds of trust and shall index same in the name of the city and in the name of other designation of the water or sewer system or systems to the improvement of which the notice relates.

Effective Date of Lien

Sec. 10. In all instances coming within the purview of this Act the lien of any assessment or re-assessment upon the property assessed or re-assessed shall take effect and be in force at and from the filing of the notice herein provided for and not before.

Exemptions; Personal Liability for Assessments; Enforcement of Liability

Sec. 11. No property of any kind, church, school or otherwise, shall be exempt from any tax or assessment or assessments authorized hereby for local improvements, provided, however, that nothing herein shall empower any city or its governing body

to fix a lien against any interest in property which is exempt from the lien of special assessments for local improvements under the Constitution of Texas at the time the lien takes effect, but the owner or owners of such property shall nevertheless be personally liable for any assessment in connection with such improvement and the city shall have power and authority to refuse water or sewer service, either or both, to the owners of such property until the owner thereof pays to the city the amount of the assessment made against such property or an amount equal to that amount assessed for such improvements against private property of equal or comparable size. The fact that any improvement, though ordered, is omitted as to any property, any interest in which is so exempt, shall not invalidate the lien or liability of assessments made against other property.

The lien created against any property and the personal liability of the owner or owners thereof may be enforced by suit in any court having jurisdiction, or by sale of the property assessed in the same manner as may be provided by law or charter in force in the particular city for sale of property for ad valorem city taxes, and the city, as an aid to the enforcement of the liability imposed by the assessment, may refuse to connect or may disconnect sewer or water service to a tract or parcel of benefited property during the period on which there is a default in the payment of any amount assessed hereunder against such tract or parcel and the owners thereof.

Hearing on Assessment; Notice; Contents Contesting Assessment; Appeal; Defenses

Sec. 12. No assessment herein provided for shall be made against any benefited property of¹ its owners, until after notice and opportunity for hearing as herein provided, and no assessment shall be made against any benefited property or owners thereof in excess of the special benefits of such property and its owners in the enhanced value thereof by means of such improvements as determined at such hearing. Such notice shall be by writing mailed to the address of the owner of such property or the person who last paid taxes on such property as determined from the tax rolls of the city, such written notice to be mailed at least ten days prior to the date set for the hearing, and by advertisement inserted at least three times in some newspaper of general circulation in the city where such special assessment tax is to be imposed, the first publication to be at least ten days before the date of the hearing. Proof of such mailing and such publication shall constitute proof that all notice requirements of this Act have been fully complied with.

If any such notice shall describe in general terms the nature of the improvements for which assessments are proposed to be levied and to which such notice relates, shall state the water or sanitary sewer system, portion or portions thereof to be

improved, shall state the estimated amount or amounts per front foot proposed to be assessed against benefited property or the owners thereof and describe the property benefited by each system or portion, with reference to which hearing mentioned in the notice is to be held, and shall state the estimated total cost of the improvements on each such system, portion or portions thereof, and shall state the time and the place at which such hearing shall be held, then such notice shall be sufficient, valid and binding upon all owning or claiming such benefited property, or any interest therein. Such hearing shall be by and before the governing body of such city and all owning or claiming such benefited property, or any interest therein, shall have the right, at such hearing, to be heard on any matter as to which hearing is a constitutional prerequisite to the validity of any assessment authorized by this Act, and to contest the amounts of the proposed assessments, the lien and liability thereof, the special benefits to the benefited property and owners thereof by means of the improvements for which assessments are to be levied, the accuracy, sufficiency, regularity and validity of the proceedings and contract in connection with such improvements and proposed assessments, and the governing body shall have power to correct any deficiencies, and to determine the amounts of assessments and all other matters necessary, and by ordinance to close such hearing and levy such assessments before, during or after the construction or¹ such improvements, but no part of any assessment shall be made to mature prior to acceptance by the city of the improvements for which assessment is levied.

Anyone owning or claiming any property assessed, or any interest therein, who shall desire to contest any such assessment on account of the amount thereof, or any inaccuracy, irregularity, invalidity, or insufficiency of the proceedings or contract with reference thereto, or with reference to such improvements, or on account of any matter or thing not in the discretion of the governing body, shall have the right to appeal therefrom and from such hearing by instituting suit for that purpose in any court having jurisdiction within fifteen days from the time such assessment is levied; and anyone who shall fail to institute such suit within such time shall be held to have waived every matter which might have been taken advantage of at such hearing, and shall be barred and estopped from in any manner contesting or questioning such assessment, the amount, accuracy, validity, regularity and sufficiency thereof, and of the proceedings and contract with reference thereto and with reference to such improvements for or on account of any matter whatsoever. And the only defense to any such assessment in any suit to enforce the same shall be that the notice of hearing was not published or mailed or did not contain the substance of one or more of the requisites therefor herein prescribed, or that the assessments exceed the amount of the estimate, and no words or acts of any officer or employee of the city, or member of any governing

body of the city, other than the action of the governing body shown in its written proceedings and records shall in any way affect the force and effect of the provisions of this Act.

¹ So in enrolled bill.

Changes or Abandonment in Plans, Methods or Contracts

Sec. 13. The governing body of the city shall have power to provide for changes in plans, methods or contracts for improvements, or other proceedings relating thereto, but any change substantially affecting the nature or quality of any improvements shall only be made when it is determined by two-thirds vote of the governing body that it is not practical to proceed with the improvements as theretofore provided for, and if any such substantial change be made after any hearing has been ordered or held then unless the improvement be abandoned altogether a new estimate of cost shall be made and a new hearing ordered, and held, and new notices given, all with like effect and in the like manner as herein provided for original notice and hearings. Changes in or abandonment of improvements must be with the consent of such person, firm or corporation as may have contracted with the city for the construction thereof, if any such contract has been entered into, and in case of abandonment of any particular improvement an ordinance shall be passed which shall have the effect of cancelling any assessments theretofore levied therefor, and all other proceedings relating thereto.

Assessment Against Parcels Owned by Same Person

Sec. 14. Assessments against several parcels of benefited property may be made in one assessment when owned by the same person, firm, corporation or estate, and benefited property owned jointly by one or more persons, firms or corporations may be assessed jointly.

Exercise of Powers

Sec. 15. Said governing body shall have power to carry out all the terms and provisions of this Act and to exercise all the powers thereof, either by resolution, motion, order or ordinance, except where ordinance is specifically prescribed, and such governing body shall have power to adopt, either by resolution or ordinance, any and all rules or regulations appropriate to the exercise of such powers, the method and manner of ordering and holding such hearings, and the giving of notices thereof.

Invalid or Unenforceable Assessments; Correction of Irregularities; Re-assessments

Sec. 16. In case any assessment shall for any reason whatsoever be held or determined to be invalid or unenforceable, then the governing body of such city is empowered to supply any deficiency in proceedings with reference thereto and correct any mistake or irregularity in connection therewith, and at any time to make and levy re-assessments

after notice and hearing as nearly as possible in the manner herein provided for original assessments and subject to the provisions hereof with reference to special benefits. Recitals in certificates issued in evidence of re-assessments shall have the same force as provided for recitals in certificates relating to original assessments.

Right of Appeal from Re-assessment

Sec. 17. Anyone owning or claiming any property interest in any property against which such re-assessment is levied shall have the same right of appeal as herein provided in connection with original assessments, and in the event of failure to appeal within fifteen days from the date of hearing relative to such re-assessment, the provisions hereinabove made with reference to waiver, bar, estoppel and defense shall apply to such re-assessment.

Assessments in Conjunction With Street Improvements; Joint Proceeding; Single Assessment Certificate

Sec. 18. Should any city so desire, it may make the improvements and assessments provided for hereunder in conjunction with street improvements and assessments provided for in Article 1105b, V.A. T.C.S. by one joint proceeding and only one hearing shall be necessary, and in such event the procedure herein provided shall govern. A single assessment certificate may be issued against any tract or parcel of benefited property and the owners thereof in evidence of the total assessment made for all or any improvements, including street improvements made in a joint proceeding as provided in the preceding sentence, made under this Act, provided that the amount assessed for each class of said improvements is shown separately and distinctly in the ordinance by which any assessment is made hereunder.

Assessment of Subdivided or Platted Property; Cities of Less Than 700,000

Sec. 19. In cities located in counties with a population of less than 700,000 inhabitants according to the last preceding Federal Census no assessment or other charge for the construction of improvements to any water or sewer system shall be made against any property or property owners, regardless of who initiates the request for said construction, unless such property is in an area which has been subdivided or platted for a period of at least ten years next preceding the date of assessment. For purposes of determining property or areas to which this Act shall apply, "subdivided or platted property" shall mean such property as has been duly platted under the terms of Article 974-a, Vernon's Texas Civil Statutes or any property which has been subdivided or platted by map or plat filed for record in the office of any county clerk, by the terms of which map or plat there has been made any dedication of the property to the public use for a street or alley right-of-way or for public utility easements.

Duty to Furnish Water or Sewer Service

Sec. 19-A. It is the intention of the Legislature, due to the emergency nature of this Act, that nothing contained herein shall be construed to effect any change in any way in the law of this state, whether promulgated by Statute or court decision, either or both, relating to the duty of a city in its proprietary capacity to furnish water and sewer service, either or both.

Certificates as Legal and Authorized Investments

Sec. 20. Certificates of special assessment issued under the provisions of this Act, including certificates issued in joint proceedings as hereinabove set out, shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, and sinking funds of cities, towns and villages, counties, school districts or other political subdivisions of the State of Texas and for all other public funds of the state or its agencies.

Cumulative Effect

Sec. 21. The provisions of this Act shall be cumulative of existing laws. The provisions of this Act shall be liberally construed to effectuate its purposes and substantial compliance with the provisions hereof shall be sufficient.

Home Rule Cities; Plans and Specifications for Improvements; Payment of Contractor; Reimbursement; Assessments

Sec. 22. A home rule city to which this Act applies shall have the power and authority to adopt plans and specifications for improvements in accordance with the provisions hereof and shall have the power to pay to the contractor, the successful bidder, that part of the cost that may be assessed against the owners and their benefited property in cash and the city may reimburse itself for the amount by levying an assessment against benefited property and the owners thereof, after hearing and notice, as in this Act provided, up to the amount of the enhancement in value represented by the benefits and permitted by this Statute, and issue assignable certificates in favor of such city for the assessment. The certificates shall be enforceable in the same manner as herein provided. The city shall likewise have the power to do the improvement or improvements by its own forces if the work can be done more expeditiously and economically.

Partial Invalidity

Sec. 23. Should any Section, provision, word, phrase, or clause of this Act or the application thereof to any person or circumstance be held invalid, unconstitutional or ineffective, the remainder of the Act, and the application of such provisions to

other persons or circumstances shall not be affected thereby.

[Acts 1963, 58th Leg., p. 512, ch. 192. Amended by Acts 1967, 60th Leg., p. 2068, ch. 769, §§ 1, 2, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 1681, ch. 542, § 1, eff. June 11, 1969; Acts 1971, 62nd Leg., pp. 2820, 2821, ch. 920, §§ 1, 2, eff. Aug. 30, 1971; Acts 1973, 63rd Leg., p. 425, ch. 190, § 2, eff. Aug. 27, 1973.]

Section 3 of the 1967 amendatory act provides:

"If any provisions of this Act or the application thereof to any person or circumstance is held invalid such invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provisions or applications, and to this end the provisions of this Act are declared to be severable."

The 1971 act, which by §§ 1 and 2 amended §§ 2(H), 6, and 19 of this article, provided in § 3:

"As used in this Act, 'the last preceding federal census' means the 1970 census or any future decennial federal census. This is despite any legislation that has been or may be enacted during any session of the 62nd Legislature delaying the effectiveness of the 1970 census for general State and Local governmental purposes."

Art. 1110d. Improvements to Water and Sewer Systems; Purchase of Properties of Water Control and Improvement Districts

Application of Act

Sec. 1. This Act shall apply to any city having a population in excess of 275,000 and whose water and sewer system are operated by a board of trustees or a public service board, and water control and improvement district where all or part of the district is contained within the city and where the district's properties are being separately operated under a contract between the city and the district by a board of trustees or public service board established by the city charter or by ordinance.

Definitions

Sec. 2. Words and terms used in this Act shall have the following meanings:

(a) "city" and "district" mean a city or a district to which this Act is applicable;

(b) "improvement bonds" means bonds issued under this Act where the proceeds thereof are to be used for the purchase of district properties as herein authorized;

(c) "district properties" means the water and sewer properties owned by the District or the portion of such properties which could constitute or be used as improvements, extensions or betterments to the City's water and sewer system.

Issuance of Improvement Bonds; Use of Proceeds; Pledge of Revenues

Sec. 3. A city is authorized to issue its negotiable improvement bonds for the purpose of improving, extending or bettering the city's water and sewer system and to use the proceeds from the sale of the improvement bonds for the purchase of district properties, if the amount to be paid by the City to the District, together with other applicable funds of the District, is adequate to make provision for

the payment of all outstanding bonds of the District. The Improvement Bonds shall be secured by and payable from a pledge of net revenues of the water and sewer system of the City including the District Properties.

Notice; Petition for Election

Sec. 4. Before the issuance of Improvement Bonds the Mayor of the City shall issue a notice of the City's intent to issue such bonds stating the maximum amount thereof, the maximum interest rate and the maximum maturity, and cause such notice to be published in a newspaper having general circulation in the City once each week for two consecutive weeks, the first such publication shall be not less than fourteen days prior to the date upon which the governing body of the city intends to pass the ordinance directing the issuance of the Improvement Bonds. If, by the date specified for the passage of such ordinance, a petition signed by at least ten per cent of the voters qualified to vote in bond elections and requesting an election on the question of the issuance of such Bonds is filed with the City Secretary or City Clerk, the Improvement Bonds shall not be issued unless such election is held and results in a majority vote in favor of the Bonds. If such petition is not filed, no election is required, and the governing body may, on the date specified in the notice or on a later date, pass the ordinance directing the issuance of the Improvement Bonds. If an election is called, it shall be called and held and notice thereof given as provided in Chapter 1, Title 22, Revised Civil Statutes of 1925, as amended.¹ The Improvement Bonds shall be approved by the Attorney General of Texas, or may be validated by suit under Chapter 316, Acts of the 56th Legislature,² or both, and when so approved or validated they shall be incontestable.

¹ Article 701 et seq.

² Article 717m (repealed; see, now, art. 717m-1).

Sale of District Properties; Amount

Sec. 5. The District is authorized to sell District Properties to the City upon payment by the City to the District of an amount of money which, together with other applicable funds of the District, will be sufficient to provide for the payment of all of the outstanding bonds of the District and the interest thereon to the maturity dates of such bonds or to the date to be fixed by the District for prior redemption of its bonds, and to provide for the payment of any required prior redemption premium, and the fees of the bank of payment.

Interest and Sinking Fund; Investment and Deposit

Sec. 6. Money thus paid by the City to the District, together with other applicable funds of the District, shall be promptly deposited in the interest and sinking fund of the District which fund shall be permanently maintained in the bank where the District's bonds are payable. Said fund shall be invested immediately in direct obligations of the United States Government, or deposited in banks or in

savings and loan associations to the extent that such deposits are insured by an agency of the United States Government, or in any combination of such investments and deposits. Money and investments deposited with such bank of payment under this Act shall be held by said bank in trust for the benefit of the holders of the outstanding bonds of the District.

Payment of Interest and Principal on District Bonds

Sec. 7. The investments made of the District's interest and sinking fund shall be in obligations or deposits which will mature and produce income, without reinvestment, at times and in amounts which will pay the interest on the District's bonds as it becomes due and pay the principal as it becomes due or on the date fixed by the District for prior redemption, and any redemption premium on the redemption date, and the fees of the bank of payment.

Other Indebtedness

Sec. 8. If the District owes any indebtedness other than bonds and the amount paid by the City to the District is in excess of the amount required for bond requirements as specified in Section 7 hereof, such excess shall be applied to the payment of the other indebtedness.

Passage of Title to City; Abolishment of District; Operation and Management of Properties

Sec. 9. Upon payment of the money by the City to the District and the investment thereof as provided in this Act, the governing body of the City shall pass an ordinance specifying the date as of which title to the District Properties was or shall be vested in the City. The date so specified may, in the discretion of the governing body of the City, be the first day of the then fiscal year of the City. Title to the District Properties shall, for all purposes, be deemed vested in the City on the date specified in said ordinance. The governing body of the City shall also abolish the District by a provision in the ordinance above described or by a subsequent ordinance. Thereafter, the District Properties shall be operated and managed by the board of trustees or the public service board in which the management and operation of the other water and sewer properties of the City is vested.

Integration or Segregation of Properties

Sec. 10. After title to the District Properties is vested in the City and the District is abolished as provided in this Act, the board of trustees or public service board is authorized to integrate the District Properties with the water and sewer system of the City either completely or to the extent provided by the board. It is provided, however, that the payment and security of the outstanding bonds of the District shall not be impaired, and if money is not available at the bank where the bonds of the District are payable sufficient to pay interest on and

principal of said bonds as they become due, said board shall segregate the District Properties with all replacements, renewals, improvements and betterments thereof from the remainder of the City's water and sewer system in such manner that the District Properties shall constitute a complete and operating system to serve substantially the same area as it served at the time title passed from the District to the City. Thereafter, said board shall maintain and operate the District system separately, comply with the terms and provisions of the resolutions authorizing the outstanding bonds of the District, and be vested with all of the powers, duties and obligations theretofore vested in the board of directors of the District insofar as maintenance and operation of the District system, the handling of its funds and the payment of outstanding bonds of the District are concerned. For that purpose the board shall constitute a body corporate and occupy the same position as the District and its board of directors.

Payment of Outstanding District Bonds; Interest and Prior Redemption Premiums

Sec. 11. After money has been deposited with the bank where the outstanding District bonds are payable as provided in this Act, the District or the City, as the case may be, may, at any time and from time to time, pay off any outstanding District bonds provided that the amount of money and investments then remaining to the credit of the interest and sinking fund will be sufficient to provide for the payment of all of the remaining outstanding bonds of the District and the interest thereon to the maturity dates of such bonds or to the date fixed by the District for prior redemption of its bonds, and to provide for the payment of any required prior redemption premium.

Excessive Cash and Investments in Interest and Sinking Fund; Payment to Board of Trustees

Sec. 12. If, at any time, the cash and investments in the interest and sinking fund are in excess of the amount required by Section 7 of this Act the bank in which said fund is invested shall, upon request of the board of trustees or public service board, pay such excess to said board.

[Acts 1965, 59th Leg., p. 283, ch. 122, eff. May 6, 1965.]

Art. 1110e. Waterworks and Sanitary Sewer Systems; "On-Site" and "Off-Site" Improvements; Assessments; Certificates; Procedure

Power to Make Off-Site Improvements and Assessments

Sec. 1. Cities as defined herein shall have the power under this Act to make improvements of the kinds or classes herein named or any combination thereof or part thereof within certain designated or defined areas within their limits so as to enable water service or sanitary sewer service, either or both, to be furnished to property situated in such

areas from "off-site" waterworks system or sanitary sewer systems, either or both, as herein defined hereafter constructed, purchased or otherwise acquired by such cities and to assess a portion of the cost of such improvements against the properties benefited thereby and against the owners thereof, regardless of whether or not said property is in an area which has been subdivided or platted preceding the effective date of this Act by a plat filed for record in the office of the county clerk of the county in which such city is situated or otherwise.

Definitions

Sec. 2. (a) "City" shall mean any city or town, including general law and home rule cities, and not included in whole or in part within the boundaries of any political subdivision functioning and with an outstanding bonded indebtedness having as one of its purposes the supplying of fresh water for domestic or commercial uses or the furnishing of sanitary sewer services, and which city or town does not have a municipally owned water or sanitary sewer service system at the effective date of this Act. The powers conferred in this Act shall terminate after a period of 5 years from the effective date of this Act.

(b) "On-site" when used in connection with the words sanitary sewer system, water system, mains, gates, tees, crosses, adjuncts, appurtenances or improvements, or improvements to the sewer system or water system shall refer to such segments of a water or sanitary sewer system, or improvements in connection therewith, including mains, gates, tees, crosses, taps, meter boxes, manholes, laterals, extensions, appliances, adjuncts and other appurtenances located within the "Defined Area" within which the benefited property lies. "On-site Improvements" do not include the water and/or sanitary sewer plant proper even though situated within the area.

(c) "Off-site" when used in connection with the words sanitary sewer system, water system, mains, gates, tees, crosses, taps, meter boxes, manholes, laterals, extensions, appliances, adjuncts, appurtenances or improvements, or improvements to the sewer system or improvements to the water system shall refer to mains, gates, tees, crosses, taps, meter boxes, manholes, laterals, extensions, appliances, adjuncts and other appurtenances or segments of a water or sanitary sewer system located outside of the "Defined Area" in which the benefited property lies. "Off-site Improvements" include the waterworks and/or sanitary sewer plant proper whether situated within such area or outside of such area.

(d) "Improvements to the Sanitary Sewer System" shall mean the laying of all mains, laterals and extensions, any and all other appliances or appurtenances or adjuncts thereto and any combinations thereof or of portions thereof above mentioned, and other "on-site improvements" liberally construed, necessary or advisable for the sanitary disposal of

excreta and offal from Benefited Properties situated within the "Defined Area" but shall not embrace any connection facilities leading from public mains into private property for service to such property.

(e) "Improvements to the Water System" shall mean the laying of all water mains with gates, tees, crosses, taps, meter boxes, manholes, laterals, extensions, appliances, adjuncts thereto and any and all other appliances or appurtenances or adjuncts thereto and any combinations thereof or of portions thereof above mentioned and other "on-site improvements" liberally construed, advisable or necessary for the furnishing of water for domestic or commercial purposes to the Benefited Properties in the "Defined Area" but shall not embrace any connection facilities leading from a meter into private property.

(f) "Cost of Improvement" with regard to the construction of improvements to the water system and sewer system, either or both, shall include expenses of engineering, fiscal fees, and other expenses incident to construction of improvements in addition to the other costs of the improvements.

(g) "Construction of Improvement" when used herein shall mean the construction of "on-site" improvements, as same are defined herein, to the water or sewer system, either or both, hereafter constructed, purchased or otherwise acquired by the city.

(h) "Improvements" when used alone herein shall mean "on-site" improvements within designated or defined areas of cities which will enable water service or sanitary sewer service, either or both, to be furnished to property situated in such area from "off-site" waterworks and sanitary sewer systems, either or both, hereafter constructed, purchased or otherwise acquired by such cities.

(i) "Governing Body" shall mean the city, or town council or commission which serves as the legislative body of the municipality.

(j) "Benefited Property" shall mean any lot or tract of land situated in a "Defined Area" and to which water and sewer service, either or both, is made available under the terms of this Act.

(k) "Defined Area or Areas" means any area or any areas within the limits of any city to which this Act applies which is served by neither a municipally owned sanitary sewer or water system the boundaries of which area or areas are defined by the governing body of the city in an ordinance or resolution declaring that a necessity exists for improvements as herein defined.

Power to Make On-Site Improvements and Assessments

Sec. 3. The governing body of the city shall have at any time the power to determine the necessity for and to order the construction of "on-site" improvements within said city to a water system or to a sanitary sewer system, either or both, hereafter

constructed, purchased or otherwise acquired by the city and to contract for the construction of such improvements by one or more contracts in the name of the city and to provide for the payment of the costs of such improvements by the city or partly by the city and partly by assessments levied against benefited property and the owners thereof as herein provided.

Ordinance; Cost Estimates; Payment of Cost by Assessment and by City

Sec. 4. By the ordinance or resolution declaring that the necessity exists for such improvements, the city shall state generally the nature and extent of the "on-site" improvements, shall define the area or areas in which the benefited property lies and in which the "on-site" improvements are to be constructed, and may direct that detailed plans, specifications and cost estimates therefor be prepared and submitted to the governing body. The costs of "on-site" improvements may be wholly paid by the city or partly by the city and partly by the property benefited by the construction of the improvements and the owners of such property, but if any part of such cost is to be paid by such benefited property and the owners thereof, then before any "on-site" improvements are actually constructed, either before or after bids for the proposed construction are received by the city, and before any hearing herein provided for is held, the governing body shall prepare or cause to be prepared an estimate of the cost of such "on-site" improvements; in no event shall more than nine-tenths of the costs of such "on-site" improvements as shown on such estimate be assessed against such benefited property and the owners thereof. The city shall pay all of the costs of "off-site" improvements.

Railway Assessment Exemption

Sec. 5. No special tax or assessment shall be levied against a railway, street railway or interurban right-of-way to defray a portion of the cost of improvements to a city's water or sanitary sewer system.

Assessments; Payment and Interest; Priority of Liens; Assignable Certificates; Suits; Collection Costs

Sec. 6. Subject to the terms thereof, the governing body of any city shall have power by ordinance to assess not exceeding nine-tenths of the estimated cost of "on-site" improvements against benefited property, and against the owners of such property, and to provide the time, terms, and conditions of payment and defaults of such assessments, and to prescribe the rate of interest thereon not to exceed 10 percent per annum. Any assessment against benefited property shall be a first and prior lien thereon, from the date improvements are ordered and shall be a personal liability and charge against the true owners of such property at such date whether named or not in any notice, instrument, certificate or ordinance provided for hereunder. The governing body shall have the power to cause

to be issued in the name of city assignable certificates in evidence of assessments levied hereunder declaring the lien upon the property and liability of the true owners thereof whether correctly named or not and to fix the terms and conditions of such certificates. Such certificates may be signed by the mayor or mayor pro tem or other authorized officer and attested by the city secretary or city clerk, which signatures may be facsimile signatures in lieu of manual signatures and such facsimile signatures may be printed, engraved, lithographed, stamped or otherwise placed in facsimile thereon. The city seal may likewise be placed in facsimile thereon.

If any such certificate shall recite substantially that the proceeding with reference to making the improvements therein referred to have been regularly had in compliance with the law and that all prerequisites to the fixing of the assessment lien against the property described in said certificate and the personal liability of the owner or owners thereof have been performed, and that the improvements have been completed in accordance with the plans and specifications and have been accepted by the city and the date of such acceptance, same shall be prima facie evidence of all the matters recited in said certificate, and no further proof thereof shall be required. In any suit upon any assessment or reassessment in evidence of which a certificate may be issued under the terms of this Act it shall be sufficient to allege the substance of the recitals in such certificate and that such recitals are in fact true, and further allegations with reference to the proceedings relating to such assessment or reassessment shall not be necessary.

Such assessments shall be collectable with interest, expense of collections, and reasonable attorney's fees, if incurred, and shall be first and prior liens on the property assessed, superior to all other liens and claims except state, county, school district and city ad valorem taxes, and shall be a personal liability and charge against said owners of the property assessed.

Apportionment of Cost

Sec. 7. That part of the cost of water and sewer "on-site" improvements, either or both, but computed separately, which may be assessed against benefited property and the owners thereof in the Defined Area or Areas shall be apportioned among the tracts or parcels of property benefited by such water improvements or sewer improvements, or both, and against the owners thereof in accordance with the square footage of each tract or parcel of land as shown on a recorded plat if such property is platted and the square footage can be computed from the information shown on such plat, or if no such plat is recorded, then as such square footage may be estimated by the city's engineer from such information as is available, provided that if the application of this rule of apportionment would in the opinion of the governing body, in particular cases, result in injustice or inequality it shall be the

duty of said body to apportion and assess said costs in such proportion as it may deem just and equitable, having in view the special benefits in enhanced value to be received by such owners, and the adjustment of such apportionment so as to produce a substantial equality of benefits received and burdens imposed. For purposes of computing the amount of the assessment to be made each parcel benefited property shall be assessed according to the number of square feet of each such parcel irrespective of the location of "on-site" improvements constructed hereunder relative to such parcel so long as such improvements provide water or sanitary sewer service, or both, to the parcel to be assessed.

Notice of Assessment; Requisites; Filing

Sec. 8. Whenever the governing body of any city shall pursuant to this Act determine it to be necessary that any "on-site" improvements should be constructed, then if it is proposed that all or any part of the costs of the "on-site" improvements be levied or assessed and made a lien on property benefited thereby, there may be filed with the county clerk of the county or counties in which such property is situated a notice signed in the name of such city by the city clerk, secretary, mayor or mayor pro tem or other authorized officer, which signatures may be facsimile signatures in lieu of manual signatures, and such facsimile signatures may be printed, engraved, lithographed, stamped or otherwise placed in facsimile thereon. Such notice shall meet all requirements of the Act when it shows substantially that the governing body of such city has ordered, directed or otherwise provided or determined it to be necessary that such system be improved and shall define the outside boundaries of the area or areas in which the benefited property lies (the Defined Area or Areas), either by metes and bounds or by reference to streets, highways, survey lines, city limits lines or lot and block or subdivision lines shown on recorded plats, or shall otherwise identify or designate the area within which the improvements are to be made; and shall state that a portion of the costs of the "on-site" improvements is to be or has been specially assessed as a lien upon the benefited property. It is specially provided that one notice may embrace and include any number of such systems or improvements, or designated areas. If there are lots or parcels of land within any Defined Area or Areas which it has been determined by the governing body or the city's engineer will not be Benefited Property as that term is defined herein, then in such notice or in a later notice filed as promptly as feasible after such fact has been so determined such non-benefited property shall be described as adequately as possible and the inchoate lien against same and liability of the owners thereof shall be declared released and cancelled.

Necessity of Acknowledgment and Filing of Assessment Notice

Sec. 9. It shall not be necessary that any notice required by this Act give details or that it be sworn to or acknowledged and same may be filed at any time and the county clerk with whom any such notice is filed shall record same and index same in the name of the city and in the name or other designation of the water or sewer system or systems to the improvement of which it relates. The lien and liability of the assessment shall not be invalidated should said notice not be filed or not be indexed or recorded as herein provided, or shall be otherwise defective.

Exemptions From Assessment; Lien and Personal Liability; Enforcement

Sec. 10. No property of any kind, church, school or otherwise, shall be exempt from any tax or assessment or assessments authorized hereby for local improvements, provided, however, that nothing herein shall empower any city or its governing body to fix a lien against any interest in property which is exempt from the lien of special assessments for local improvements under the Constitution of Texas at the time the lien takes effect, but the owner or owners of such property shall nevertheless be personally liable for any assessment in connection with such improvement and the city shall have power and authority to refuse water or sewer service, either or both, to the owners of such property until the owner thereof pays to the city the amount of assessment made against such property or an amount equal to the amount assessed for such improvements against private property of equal or comparable size. The fact that any improvement, though ordered, is omitted as to any property, any interest in which is so exempt shall not invalidate the lien or liability of assessments made against other property.

The lien created against any property and the personal liability of the owner or owners thereof may be enforced by suit in any court having jurisdiction, or by sale of the property assessed in the same manner as may be provided by law or charter in force in the particular city for sale of property for ad valorem city taxes, and the city, as an aid to the enforcement of the liability imposed by the assessment, may refuse to connect or may disconnect sewer or water service to a tract or parcel of benefited property during the period on which there is a default in the payment of any amount assessed hereunder against such tract or parcel and the owners thereof.

Notice and Opportunity for Hearing; Publication and Mailing of Notices; Requisites; Powers of Governing Body; Appeal

Sec. 11. No assessment herein provided for shall be made against any benefited property or its owners, until after notice and opportunity for hearing as herein provided, and no assessment shall be made against any benefited property or owners thereof in

excess of the special benefits of such property and its owners in the enhanced value thereof by means of such improvements as determined at such hearing. Such notice shall be by advertisement inserted at least three times in some newspaper published in the city where such special assessment is to be imposed, if there be such a paper: if not, then in a newspaper published in the county wherein such city is situated with general circulation in such city; the first publication of such notice of hearing to be made at least 21 days before the date of the hearing; and, additional written notice of the hearing shall be given by depositing in the United States mail, at least 14 days before the date of the hearing, notice of such hearing, (which may consist of a copy of the published notice) postage prepaid, in envelopes addressed to the respective owners of the Benefited Properties, as the names of such owners are shown on the then current rendered tax rolls of such city and at the addresses so shown, or if the names of such respective owners do not appear on such rendered tax rolls, then addressed to such owners as their names are shown on the current unrendered rolls of the city at the addresses shown thereon. The certificate of the city clerk or city secretary of such mailing and such publication shall constitute proof that all notice requirements of this Act have been fully complied with.

If any such notice shall describe in general terms the nature of the improvements for which assessments are proposed to be levied and to which such notice relates; shall name the water or sanitary sewer system to be improved, shall state the estimated amount or amounts per square foot proposed to be assessed against benefited property or the owners thereof, showing separately the amount proposed to be assessed for water improvements and the amount proposed to be assessed for sanitary sewer improvements; shall define in the manner provided by Section 8 of this Act the outside boundaries of the area or areas in which the benefited property lies or lie (the Defined Area or Areas), with reference to which the hearing mentioned in the notice is to be held; shall state the estimated total cost of the "on-site" improvements to the water system separately from the estimated total cost of the "on-site" improvements to the sewer system; and shall state the time and place at which such hearing shall be held, then such notice shall be sufficient, valid and binding upon all owning or claiming such benefited property or any interest therein. Such hearing shall be by and before the governing body of such city and all owning or claiming such benefited property, or any interest therein, shall have the right, at such hearing, to be heard on any matter as to which hearing is a constitutional prerequisite to the validity of any assessment authorized by this Act, and to contest the amounts of the proposed assessments, the lien and liability thereof, the special benefits to the benefited property and owners thereof by means of the improvements for which assessments are to be levied, the accuracy, sufficiency, regularity and va-

lidity of the proceedings and contract or contracts in connection with such improvements and proposed assessments, and the governing body shall have power to correct any deficiencies, and to determine the amounts of assessments and all other matters necessary, and by ordinance to close such hearing and levy such assessments before, during or after the construction of such improvements, but no part of any assessment shall be made to mature prior to acceptance by the city of the improvements or the portion of such improvements which make service available to the Benefited Property against which assessment is levied.

Anyone owning or claiming any property assessed, or any interest therein, who shall desire to contest any such assessment on account of the amount thereof, or any inaccuracy, irregularity, invalidity, or insufficiency of the proceedings or contract with reference thereto, or with reference to such improvements, or on account of any matter or thing not in the discretion of the governing body, shall have the right to appeal therefrom and from such hearing by instituting suit for that purpose in any court having jurisdiction within 15 days from the time such assessment is levied; and anyone who shall fail to institute such suit within such time shall be held to have waived every matter which might have been taken advantage of at such hearing, and shall be barred and estopped from in any manner contesting or questioning such assessment, the amount, accuracy, validity, regularity and sufficiency thereof, and of the proceedings and contract with reference thereto and with reference to such improvements for or on account of any matter whatsoever. And the only defense to any such assessment in any suit to enforce the same shall be that the notice of hearing was not published or mailed or did not contain the substance of one or more of the requisites therefor herein prescribed, or that the assessments substantially exceed the amount of the estimate, and no words or acts of any officer or employee of the city, or member of any governing body of the city, other than the action of the governing body shown in its written proceedings and records shall in any way affect the force and effect of the provisions of this Act.

Changes in Improvements

Sec. 12. The governing body of the city shall have power to provide for changes in plans, methods or contracts for improvements, or other proceedings relating thereto, but any change substantially affecting the nature or quality of any improvements shall only be made when it is determined by a majority vote of the governing body that it is not practical to proceed with the improvements as theretofore provided for, and if any such substantial change be made after any hearing has been held or after notice has been given of any such hearing, as herein required, then unless the improvement be abandoned altogether a new estimate of cost shall be made and a new hearing ordered,

and held, and new notices given, all with like effect and in like manner as herein provided for original notice and hearings. The substitution of equivalents shall not be deemed a substantial change. The elimination or change of location of particular mains, laterals, adjuncts and other appurtenances shall not be deemed a substantial change if an ordinance shall be passed which shall have the effect of cancelling any assessments theretofore levied against properties and their owners will as a result of such elimination or change receive neither water nor sewer service and cancelling any assessment so levied for sewer improvements if sewer service is eliminated or for water improvements if water service is to be eliminated, as the case may be. Changes in or abandonment of improvements must be with the consent of such person, firm or corporation as may have contracted with the city for the construction thereof, if any such contract has been entered into.

Separate or Joint Assessments

Sec. 13. Assessments against several parcels of benefited property may be made in one assessment when owned by the same person, firm, corporation or estate, and benefited property owned jointly by one or more persons, firms or corporations may be assessed jointly.

Powers of Governing Body; Rules and Regulations

Sec. 14. Said governing body shall have power to carry out all the terms and provisions of this Act and to exercise all the powers thereof, either by resolution, motion, order or ordinance, except where ordinance is specifically prescribed, and such governing body shall have power to adopt, either by resolution or ordinance, any and all rules or regulations appropriate to the exercise of such powers, the method and manner of ordering and holding such hearings, and the giving of notices thereof.

Invalid Assessments; Correction of Irregularities; Amendment of Assessment; Reassessments; Effect on Certificates

Sec. 15. In case any assessment for any reason whatsoever be held or determined to be invalid or unenforceable, then the governing body of such city is empowered to supply any deficiency in proceedings with reference thereto and at any time before or after suit is filed seeking to enforce such assessment or during the pendency of any such suit but in any event not later than two years after the maturity date of the last installment on the assessment involved extended by the period of time, if any, in which litigation involving such assessment or the certificate evidencing same was pending to make and levy reassessments after notice and hearing as nearly as possible in the manner herein provided for original assessments and subject to the provisions hereof with reference to special benefits; however, such city may at any time correct any mistake or irregularity by amending any assessment without the necessity of reassessment proceedings and with-

out the necessity of new notice and hearing where the original notice to the property owners after the original hearing was published and mailed as required by this Act and contained, in substance, the information required to be contained therein by this Act and the irregularity or mistake can be corrected by the substitution of a correct property description for an incorrect one, or the making of a correction showing the true area of a particular tract where an incorrect area was originally shown, so long as such correction is insubstantial and does not go to the question of benefits, or where other similar irregularities exist and where such amendment does not require an increase in the square foot rate previously assessed against the benefited property and the owner thereof nor go to the question of benefits to such property. Recitals in certificates issued in evidence of reassessments or amended assessments shall have the same force as provided for in recitals in certificates relating to the original assessment, and such certificate shall be dated as of the date of the original certificate and shall bear interest as therein provided. Such certificates may be signed by the mayor, mayor pro tem or other authorized officer and attested by the city clerk or city secretary in office at the date of their issuance. Such signatures and the seal of the city may be placed on said reassessment certificates in facsimile in the manner herein provided for assessment certificates.

Reassessments; Appeal

Sec. 16. Anyone owning or claiming any property interest in any property against which such reassessment is levied shall have the same right of appeal as herein provided in connection with original assessments, and in the event of failure to appeal within 15 days from the date of hearing relative to such reassessment, the provisions hereinabove made with reference to waiver, bar, estoppel and defense shall apply to such reassessment.

Construction of Act

Sec. 17. The powers conferred by this Act shall not be construed as precedent beyond the powers specifically granted herein, and nothing contained herein shall be construed to affect in any way the law of this State whether promulgated by Statute or court decision, either or both, relating to the duty of a city in its proprietary capacity to furnish water and sewer service, either or both. Nor shall the legislative history of this Act be construed to affect in any way the law of this State.

Certificates of Assessment; Legal Investments

Sec. 18. Certificates of special assessment issued under the provisions of this Act shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, and sinking funds of cities, towns and villages, counties, school districts or other political

subdivisions of the State of Texas and for all other public funds of the State or its agencies.

Certificates of Assessment; Purchase From Contractor; Payment

Sec. 19. Any city to which this Act applies may purchase at not more than face value and accrued interest from the contractor constructing the improvements any certificates of special assessment which may be issued to him pursuant to the provisions of this Act out of the proceeds of any bond funds voted and issued for making such improvements (whether such bond funds be proceeds from the sale of general obligation tax bonds or revenue bonds issued by the city), or out of any other available funds; provided that the amount of the assessment evidenced by any such certificate levied for water improvements, if paid out of bond funds, is paid out of bond funds issued for such improvements and the amount of the assessment evidenced by any such certificates levied for sewer improvements, if paid out of bond funds, is paid out of the proceeds of bond funds voted and issued for such sewer improvements, and further provided that the proceeds from such certificates, both principal and interest, when collected shall be paid into the fund from which the money was obtained to purchase the certificates.

Cumulative Effect

Sec. 20. The provisions of this Act shall be cumulative of existing laws, except that the provisions of this Act shall be controlling as to cities acting under its provisions, over any irreconcilable conflicting provisions of any Act enacted contemporaneously herewith at this session. The provisions of this Act shall be liberally construed to effectuate its purposes and substantial compliance with the provisions hereof shall be sufficient.

Repealer

Sec. 21. All laws or parts of laws in conflict with the provisions of this Act are hereby repealed to the extent of conflict only.

Severability

Sec. 22. Should any section, provision, word, phrase, or clause of this Act or the application thereof to any person or circumstance be held invalid, unconstitutional or ineffective, the remainder of the Act, and the application of such provisions to other persons or circumstances shall not be affected thereby.

[Acts 1969, 61st Leg., p. 2442, ch. 818, eff. June 14, 1969.]

Art. 1110f. Sewage; Joint Collection, Transportation, Treatment, and Disposal; Public Utility Agencies

Purpose

Sec. 1. The purpose of this Act is to clarify the authority of public entities that are lawfully autho-

rized to engage in the collection, transportation, treatment, and disposal of sewage, to join together as cotenants or coowners, or by concurrent resolution or ordinance, to create a public utility agency, to engage in the planning, financing, acquiring, constructing, owning, operating, and maintaining of facilities so that each public entity will owe all of the duties, will have and be secure in all of the rights, powers, and liabilities, and shall be entitled to all of the privileges and exemptions attributable to its undivided interest as a cotenant or coowner should the entities elect not to create a public utility agency, as provided by law with respect to an entire interest in facilities planned, financed, acquired, constructed, owned, operated, and maintained by it alone. These alternatives are to serve as a means of achieving economies of scale by providing essential sewage systems to the public and promoting the orderly economic development of the state while providing environmentally sound protection of future wastewater needs of the state and its inhabitants. The provisions of this Act shall be liberally construed to effectuate these purposes but shall not be construed to otherwise enlarge, change, or modify in any way the rights, powers, or authority of any public or private entity under existing law. Nothing in this Act shall be construed to alter, change, abrogate, or otherwise affect the existing contracts in force at the time this Act takes effect.

Definitions

Sec. 2. As used in this Act:

(1) "Public entity" means any county, city, or other body politic or corporate of the state, including any district or authority created under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution.

(2) "Private entity" means any entity other than a public entity solely involved in financing, constructing, operating, and maintaining sewer facilities.

(3) "Facilities" means facilities necessary or incidental to the collection, transportation, treatment, or disposal of sewage, including plant sites, rights-of-way, and real and personal property and equipment and rights of every kind useful in connection with collection, transportation, treatment, or disposal of sewage.

(4) "Public utility agency" or "agency" means any agency created under this Act by two or more public entities for the purpose of planning, financing, constructing, owning, operating, and maintaining facilities for the purpose of achieving economies of scale in providing sewer services.

Public Utility Agency

Sec. 3. (a) To more readily accomplish the purposes of this Act, two or more public entities, by concurrent ordinances, may create an agency to be known as a public utility agency. The agency shall be without taxing power, and shall be a separate

agency, a political subdivision of the state, and body politic and corporate exercising all of the powers that are conferred by Chapter 10, Title 28, Revised Civil Statutes of Texas, 1925, as amended,¹ and this Act on a public entity. No agency is authorized to engage in any utility business other than the collection, transportation, treatment, or disposal of sewage for the participating public entities that are joint owners with the agency of a facility located within the state. A public entity, at the time of the passage of the concurrent ordinance, must be one that has the authority to engage in the collection, transportation, treatment, or disposal of sewage, but the entity may subsequently dispose of its facilities. Before the passage of a concurrent ordinance to create a public utility agency, the governing body of each public entity shall have notice of its intention to adopt the ordinance published in a newspaper of general circulation within the county in which the public entity is domiciled once a week for two consecutive weeks, the date of the first publication to be at least 14 days before the date set for the passage of the concurrent ordinance. The notice shall state the date, time, and place that the governing body proposes to pass the ordinance and that on the effective date of the concurrent ordinances the public entities adopting them shall have created a public utility agency. If, prior to the day set for the passage of a concurrent ordinance, 10 percent of the qualified electors of the particular public entity present a petition to the governing body requesting that a referendum election be called, the ordinance shall not become effective until a majority of the qualified electors of the entity voting in the election have approved the ordinance. The election shall be called and held in conformity with the Texas Election Code, as amended, Chapter 1, Title 22, Revised Civil Statutes of Texas, 1925, as amended,² and this Act. Except as provided in this Act, a concurrent ordinance shall not be subject to a referendum election.

(b) Public entities that establish a public utility agency may, by concurrent ordinances, provide for the re-creation of the agency by the addition or deletion or both of a public entity so long as there is no impairment of obligation of any existing obligation of the agency.

(c) Concurrent ordinances are ordinances or resolutions adopted by the governing bodies of more than one public entity that contain identical provisions with respect to the creation or re-creation of a public utility agency.

¹ Article 1106 et seq.

² Article 701 et seq.

Rights and Powers of Participating Public Entities

Sec. 4. (a) Each participating public entity may use its funds in planning, acquiring, constructing, owning, operating, and maintaining its undivided interest and may share in the facilities and may issue bonds and other securities to raise funds for these purposes in the same manner and to the same

extent and subject to the same conditions that would apply if the undivided interest of the public entity were an entire interest in the facilities.

(b) Each participating public entity may acquire for the use and benefit of all participating public entities by purchase or through the exercise of the power of eminent domain, land, easements, and property for the purpose of jointly owned facilities and may transfer or convey the land, easements, and property, or interests in it, or may otherwise have the land, easements, and property, or interests in it, become vested in other participating public entities to the extent and in the manner agreed between those entities. In all cases in which a participating public entity exercises the power of eminent domain conferred by this Act, the public entity shall be controlled by the law governing the condemnation of property by incorporated cities and towns in this state, and the power of eminent domain conferred by this Act shall include the power to take the fee title in land condemned, excluding mineral interests, except that no participating public entity has the right or power to take by the exercise of the power of eminent domain any facilities or interest in any facilities belonging to any other public or private entity.

(c) Each participating public entity is entitled to the same constitutional and statutory exemption from ad valorem taxes and other taxes, including but not limited to excise, sales, and use taxes, attributable to the participating public entity's interest in the ownership of the jointly owned facilities and the purchase, sale, lease, or use of properties or services in connection with the construction, maintenance, repair, or operation of the jointly owned facilities to the extent that the public entity would have been exempt from the tax of its undivided interest were an entire interest in the facilities and in property and services used or acquired in connection therewith. Each exempt public entity shall be entitled to exemption certificates and other certificates and statements as provided by law to evidence or make effective the exemption.

(d) Public entities that create a public utility agency or provide for re-creation by addition or deletion of a public entity shall by concurrent ordinances:

(1) define the boundaries of the agency to include the territory within the jurisdictional limits of the public entities as changed from time to time;

(2) designate the name of the agency;

(3) designate the number of directors that will constitute the board of directors of the agency and their initial term; and

(4) specify the manner in which the directors shall be appointed, provided that each public entity is entitled to appoint at least one director.

(e) Directors shall serve by places, and the concurrent ordinances shall specify the director for each place and his successors that the governing

body of the particular public entity may appoint and the method of each appointment. Directors shall serve without compensation but are entitled to \$50 a day for each day spent in attending meetings of the board and a like amount per diem when authorized by resolution of the board, plus actual expenses incurred in attending the meetings. An employee, officer, or member of the governing body of a public entity may serve as a director of the agency, but directors, officers, and employees may have no personal interest, other than may exist as an employee, officer, or member of the governing body of a public entity, in any contract executed by the agency.

(f) The agency may make contracts, leases, and agreements with and accept grants and loans from the United States of America, its departments and agencies, the State of Texas, its agencies, counties, municipalities, and political subdivisions, and public or private corporations and persons and may generally perform all acts necessary for the full exercise of the powers vested in the agency. Each agency may contract with those public entities creating the agency for the collection, transportation, treatment, and disposal of sewage, and the authority to contract for these services shall also extend to private entities under terms and conditions the agency's board of directors may consider appropriate. The agency may sell, lease, convey, or otherwise dispose of any right, interest, or property that is, in its judgment, not needed for the efficient operation and maintenance of its facilities. The responsibility of the management, operation, and control of the properties belonging to the agency shall be vested in the board of directors.

(g) The agency, in contracting with any public or private entity for wastewater collection, transmission, treatment, or disposal services, must charge rates sufficient to produce revenues adequate:

- (1) to pay all expenses of operation and maintenance;
- (2) to pay all interest and principal due on bonds issued as they become due and payable;
- (3) to pay the principal of and interest on any legal debt of the agency;
- (4) to pay all sinking and reserve fund payments as they become due and payable; and
- (5) to fulfill the terms of any agreements made with the holders of any bonds.

The agency may also establish a reasonable depreciation and emergency fund. Payments made pursuant to contracts with the agencies are to constitute an operating expense of the public or private entity served as a result of the contracts unless otherwise prohibited by a previously outstanding obligation of the purchasing entity.

(h) The State of Texas reserves its power to regulate and control the rates and charges by the agency, but pledges and agrees with the purchasers and

successive holders of the obligations issued under this Act that the state will not limit or alter the powers vested in the agency to establish and collect rates and charges that will produce revenues sufficient to pay for those items set forth in Subsection (g) of this section, as well as any other obligations of the agency in connection therewith, until they are fully met and discharged.

(i) To the payment of obligations issued by it, the agency may pledge the revenues of all or part of its facilities, including or not including those facilities later acquired, as the agency may determine, but the expense of operation and maintenance, including salaries, labor, materials, and repairs necessary to render efficient service, of the facilities whose revenues are encumbered and pledged shall be a first lien on and charge against the revenues.

(j) The agency may issue revenue bonds or notes, also referred to as obligations in this Act, from time to time, for the accomplishment of its purposes within the interest rate limitations of Chapter 3, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 717k-2, Vernon's Texas Civil Statutes).

(k) From the proceeds of the sale of obligations of the agency, the agency may set aside amounts for payments into the interest and sinking fund and reserve funds, and for interest and operating expenses during construction and development, as may be specified in the authorizing proceedings. Bond proceeds may be invested, pending their use for the purpose for which issued, in securities or interest-bearing certificates or in time deposits specified in the authorizing proceedings.

(l) Prior to delivery, obligations authorized to be issued under this Act and the records relating to their issuance shall be submitted to the attorney general for examination, and if he finds that they have been issued in accordance with the constitution and this Act and that they will be binding special obligations of the agency issuing them, he shall approve them, and they shall be registered by the state comptroller. After their approval, registration, sale, and delivery to the purchaser, the bonds are incontestable.

(m) Refunding bonds or notes may be issued for the purpose and in the manner provided by general law, including without limitation Chapter 503, Acts of the 54th Legislature, Regular Session, 1955, as amended (Article 717k, Vernon's Texas Civil Statutes), and Chapter 784, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-3, Vernon's Texas Civil Statutes), as amended.

(n) All obligations issued by an agency pursuant to this Act shall be and are declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, and insurance companies and shall be eligible to secure the deposit of any and all public funds of the State of Texas and any and all public funds of cities, towns, villages, counties,

school districts, or other political corporations or subdivisions of the State of Texas, and the obligations shall be lawful and sufficient security for those deposits to the extent of the principal amount of the obligations or their value on the market, whichever is the lesser, when accompanied by all unmatured coupons, if any, appurtenant thereto.

(o) The agency may adopt and from time to time amend rules to govern the operation of the agency, its employees, facilities, and service, but contracts for the construction of improvements that involve the expenditure of more than \$20,000 shall be awarded by the agency only after notice of intent to receive competitive bids has been published once a week for two consecutive weeks in a newspaper of general circulation within the county in which the agency is domiciled. The date of the first publication shall be at least 14 days before the date set for the receipt of bids.

(p) The bonds or notes shall be signed by the presiding officer or the assistant presiding officer of the agency, shall be attested by its secretary, and shall bear the seal of the agency. The signatures may be printed or lithographed on the bonds and notes if authorized by the agency, and the seal may be impressed on the bonds or notes or may be printed or lithographed on the bonds or notes. The agency may adopt or use for any purpose the signature of any person who has been an officer, notwithstanding the fact that he may have ceased to be an officer at the time that bonds or notes are delivered to a purchaser or purchasers. The bonds or notes shall mature serially or otherwise in not to exceed 40 years from their respective dates of issuance and may be sold, within interest rate limitations provided in this Act, at a public or private sale at a price or under terms determined by the agency to be the most advantageous reasonably obtainable, within the discretion of the agency. The bonds may be made callable prior to maturity at times and prices approved by the agency and may be in coupon form with or without provisions for registration as to principal or may be registrable as to both principal and interest.

(q) Bonds and notes issued under the provisions of this Act and coupons, if any, representing interest on bonds and notes shall, when delivered, be deemed and construed to be a security within the meaning of Chapter 8, Investment Securities, Uniform Commercial Code.

(r) The provisions of this section do not limit the general scope and application of Section 3 of this Act.

Interpretation and Construction of Act

Sec. 5. (a) This Act shall be liberally construed to carry out its purposes and shall be the full and complete authority for the creation and operation of public utility agencies and the performance of the public duties imposed on them. Insofar as this Act is inconsistent with any other laws, including Chap-

ter 10, Title 28, Revised Civil Statutes of Texas, 1925, as amended, or other laws regulating the affairs of municipal corporations, or with any home-rule charter provisions, this Act shall control.

(b) This Act shall be liberally construed to effectuate its purposes, but nothing in this Act shall have the effect of or be construed as altering, amending, or repealing the statutory purposes provided by any statute enacted by the Texas Legislature pertaining to the creation, establishment, or operation or regulation under the Water Code, as amended, or other applicable law, of a public entity that may become a coowner of a public utility agency under the provisions of this Act.

[Acts 1979, 66th Leg., p. 411, ch. 190, §§ 1 to 5, eff. Aug. 27, 1979.]

Art. 1110g. Relocation or Replacement of Sanitation Sewer Laterals; Contracts; Assessments and Liens; Procedure

Definition

Sec. 1. In this Act, "city" means an incorporated city or town.

Contract

Sec. 2. A city by ordinance may contract for the relocation or replacement of a sanitation sewer lateral that serves a residential structure on private property for the purpose of connecting the lateral to a new, renovated, or rebuilt sanitation main constructed by the city.

Assessment; Lien

Sec. 3. (a) The cost of the relocation or replacement of the sewer lateral shall be assessed against the property on which it is located.

(b) A lien is attached to the property for the cost of the relocation or replacement.

Consent

Sec. 4. Before a city makes a contract under Section 2 of this Act, the city must obtain the property owner's written consent to the contract, to the relocation or replacement of the sewer lateral, and to the assessment. The written consent must state that the person giving the consent is the owner of the property or is an authorized representative of the owner, must contain a statement of the owner's address, and must state:

- (1) that the consent is freely given;
- (2) that the owner understands that as a result of the assessment a lien will be attached to the property for the total cost of the relocation or replacement;
- (3) that no part of the cost of the relocation or replacement will be paid by the city; and
- (4) that the property owner will have five years from the date the work is completed to repay the cost to the city.

Notice

Sec. 5. (a) Before work is begun on the relocation or replacement of a sewer lateral and after the city files the written consent of the property owner with the city clerk or city secretary, the city in accordance with the law applicable to public improvements shall contract for the performance of the work. However, after the city has received the bids for the work and before the contract for the work is made, the city must give notice to the property owner. The notice must state the bid price accepted by the city for the completion of the work and that the contract price may be increased by no more than 10 percent because of the changes without the written consent of the owner. The notice shall be given to the owner by personal delivery or by depositing the notice in the United States mail, postage prepaid, addressed to the owner at the address contained in the owner's written consent.

(b) Not later than the 45th day after the day on which the notice is mailed, the owner may reject the contract by notifying the city clerk or city secretary of the withdrawal of the owner's consent. If the owner fails to withdraw consent during the 45 days, the city may contract for the performance of the work, the work may proceed, and the assessment may be made without further consent by the owner. After the expiration of the 45 days, the owner may not withdraw the consent previously given.

Changes in Contract

Sec. 6. The contract between the city and the contractor for the performance of the work may be changed as may be necessary for the successful completion of the work. However, the contract price may not be increased by more than 10 percent because of the changes without the written consent of the owner.

Certifying Completion of Work

Sec. 7. (a) Upon receipt by the city of a certificate from the contractor certifying that all work has been completed in accordance with the contract and upon a finding by the city that the work has been properly completed in accordance with the applicable codes and ordinances of the city, the city may pay the contractor the cost of the work completed.

(b) When payment is made to the contractor, the city shall issue a certificate certifying that the work has been completed and that payment has been made under the contract. The city shall file the certificate with the county clerk of the county where the property is located and shall deliver a copy of the certificate to the property owner.

Payment by Property Owner

Sec. 8. (a) The property owner has five years from the date of the issuance of the certificate under Subsection (b) of Section 7 of this Act to pay the city the amount that the city paid for the work completed, as evidenced by the certificate, plus sim-

ple interest in an amount not to exceed 10 percent a year as set by the governing body of the city.

(b) Upon payment of the principal amount and accrued interest, the city shall issue a release of the assessment and lien. The release may be filed for record in accordance with law.

Enforcement

Sec. 9. If the property owner does not pay the assessment during the five years, the city may enforce the lien on the property in the same manner in which it is authorized by law to enforce a lien for a paving or other assessment.

[Acts 1983, 68th Leg., p. 299, ch. 64, §§ 1 to 9.]

Section 10 of the 1983 Act provides:

"Effective Date. This Act takes effect when the amendment to the Texas Constitution proposed by the 68th Legislature, Regular Session, 1983, authorizing the legislature to enact laws permitting a city to expend public funds and levy assessments for the relocation or replacement of sanitation sewer laterals on private property [S.J.R. No. 17] is adopted."

S.J.R. No. 17 was adopted by vote of the people at an election held November 8, 1983.

2. ENCUMBERED CITY SYSTEM**Art. 1111. Powers**

All cities and towns including Home Rule Cities operating under this title shall have power to build and purchase, to mortgage and encumber their light systems, water systems, sewer systems, or sanitary disposal equipment and appliances, or natural gas systems, parks and/or swimming pools, either, or all, and the franchise and income thereof and everything pertaining thereto acquired or to be acquired and to evidence the obligation therefor by the issuance of bonds, notes or warrants, and to secure the payment of funds to purchase same; or to purchase additional water powers, riparian rights, or to build, improve, enlarge, extend or repair such systems, or any one of them, including the purchase of equipment and appliances for the sanitary disposal of excreta and offal, and as additional security therefor, by the terms of such encumbrance, may grant to the purchaser under sale or foreclosure thereunder, a franchise to operate the systems and properties so purchased for a term of not over twenty (20) years after purchase, subject to all laws regulating same then in force. No such obligation of any such systems shall ever be a debt of such city or town, but solely a charge upon the properties of the system so encumbered, and shall never be reckoned in determining the power of any such city or town to issue any bonds for any purpose authorized by law.

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., p. 276, ch. 194; Acts 1932, 42nd Leg., 3rd C.S., p. 96, ch. 32; Acts 1933, 43rd Leg., p. 320, ch. 122.]

Art. 1111a. Additional Bonds and Refunding Bonds; Water or Sewer Systems**Additional Bonds While Prior Bonds Outstanding**

Sec. 1. Any city or town including any Home Rule city which heretofore has issued or hereafter

may issue bonds payable from and secured by a pledge of the net revenues derived or to be derived from the operation of its water system or sewer system or both in the manner provided by Articles 1111-1118, inclusive, of the Revised Civil Statutes of Texas, 1925, as amended, or under any other law applicable to such city or town and while all or part of such bonds remain outstanding shall have the power on one or more occasions to issue bonds or other obligations for the purpose of improving or extending, or both for improving and extending such water system or sewer system, or both, payable from the revenues of such system or systems, and such bonds shall constitute a lien upon the revenues thereof in the order of their issuance inferior to the lien securing the payment of any or all issues and series of bonds previously issued. As to any such bonds issued and outstanding prior to the effective date of this Act the power herein conferred shall not be exercised unless expressly permitted in and shall be subject to any restrictions, covenants or limitations contained in the ordinance authorizing their issuance or in the deed of trust or the indenture of trust securing their payment; provided further, in those instances where in the ordinance or deed of trust or indenture of trust provision was made for the subsequent issuance of additional bonds on a parity with the bonds issued pursuant to the provisions of such ordinance or deed of trust or indenture of trust any such city or town shall have the power to authorize, issue and sell additional bonds payable from the revenues pledged to such bonds previously issued and secured by pledges and liens on a parity with and of equal dignity with the pledge securing the bonds previously issued. In the issuance of revenue bonds in the future for such purposes, any such city or town may prescribe in the ordinance or deed of trust or indenture of trust for the issuance later of additional issues or series of bonds on a parity with the bonds being issued pursuant to and subject to the restrictions, covenants and limitations contained in such ordinance, deed of trust or indenture of trust.

Refunding Bonds

Sec. 2. Refunding bonds may be issued for the purpose of refunding the bonds of a single series or issue or two or more consecutive issues or series of bonds and such refunding bonds shall enjoy the same priority of lien on the revenues pledged to their payment as pledged to the bonds refunded, provided that when two or more consecutive series or issues of bonds are refunded in a single issue of refunding bonds the lien of all such refunding bonds shall be equal if all of the outstanding bonds of the several series or issues of bonds to be refunded are surrendered in exchange for such new refunding bonds. No refunding bonds shall attain any degree of priority of lien greater than that enjoyed by the series or issue then to be refunded having the highest priority of lien. Such refunding bonds shall bear interest at the same or lower rate than borne by the bonds refunded, unless it is shown mathe-

matically that a saving will result in the total amount of interest to be paid and that the annual principal and interest burden will not be increased so as to infringe upon or impair the rights of the holders of any bonds enjoying a prior or inferior lien.

Approval and Issuance of Bonds

Sec. 3. Before any such bonds are sold or exchanged as the case may be, they shall be submitted to and approved by the Attorney General of the State of Texas in the manner and with the effect provided in Articles 709 to 715, both inclusive, Revised Civil Statutes of 1925, as amended, and except as otherwise provided by this law, such bonds shall be authorized and issued in accordance with Articles 1111-1118, inclusive, of the Revised Civil Statutes of Texas, 1925, as amended, and to the extent of any conflict herewith, this law shall take precedence over such conflicting or inconsistent provisions.

Partial Invalidity

Sec. 4. In case any one or more of the sections or provisions of this Act or the application of such sections or provisions to any situation or circumstance shall for any reason be held to be unconstitutional, such unconstitutionality shall not affect any other sections or provisions of this Act or the application of such sections or provisions to any other situation or circumstance, and it is intended that this law shall be construed and applied as if such unconstitutional section or provision had not been included herein.

[Acts 1949, 51st Leg., p. 463, ch. 249.]

Art. 1111b. Additional Bonds and Refunding Bonds; Light and Power Systems

Additional Bonds While Prior Bonds Outstanding

Sec. 1. Any city or town, including any Home Rule City, which has heretofore issued or hereafter may issue bonds payable from and secured by a pledge of revenues from the operation of its electric light and power system, gas system, water system, sewer system, or any combination of two (2) or more of such systems, in the manner provided by Articles 1111 to 1118, Revised Civil Statutes of Texas, 1925, as amended, or under any similar law, and while all or part of such bonds remain outstanding, shall have the power from time to time and on one or more occasions to issue bonds or other obligations for the purpose of extending or improving, or both, such system or systems, and such bonds shall constitute a lien upon the revenues thereof in the order of their issuance inferior to the lien securing the payment of any or all issues and series of bonds previously issued. As to any such revenue bonds issued and outstanding prior to the effective date of this Act the power herein conferred shall not be exercised unless expressly permitted in and shall be subject to any restrictions, covenants or limitations contained in the ordinance authorizing

their issuance or in the deed of trust or in the trust indenture securing their payment; provided further that in instances in which the ordinance or deed of trust or trust indenture authorizing or securing such revenue bonds (whether such bonds have been issued prior to the passage of this Act or may be hereafter issued), provide for the subsequent issuance of additional bonds on a parity with or of equal dignity to the previously issued revenue bonds (whether an original issue or a refunding issue), such city or town shall have the power to authorize, issue and sell additional bonds from time to time and in different series payable from the entire revenues of such system or systems on a parity with bonds previously issued and secured by liens on such system or systems on a parity with and of equal dignity with the lien securing the bonds previously issued, subject to such conditions as may be contained in the ordinance, deed of trust or trust indenture providing for or securing such issue of original bonds or refunding bonds.

Refunding Bonds

Sec. 2. Refunding bonds may be issued for the purpose of refunding the bonds of a single series or issue or two or more consecutive issues or series of bonds and such refunding bonds shall enjoy the same priority of lien on the revenues pledged to their payment as pledged to the bonds refunded, provided that when two or more consecutive series or issues of bonds are refunded in a single issue of refunding bonds the lien of all such refunding bonds shall be equal if all of the outstanding bonds of the several series or issues of bonds to be refunded are surrendered in exchange for such new refunding bonds. No refunding bonds shall attain any degree of priority of lien greater than that enjoyed by the series or issue then to be refunded having the highest priority of lien. Such refunding bonds shall bear interest at the same or lower rate than borne by the bonds refunded, unless it is shown mathematically that a saving will result in the total amount of interest to be paid and that the annual principal and interest burden will not be increased so as to infringe upon or impair the rights of the holders of any bonds enjoying a prior or inferior lien.

Approval and Issuance of Bonds

Sec. 3. Before any such bonds are sold or exchanged as the case may be, they shall be submitted to and approved by the Attorney General of the State of Texas in the manner and with the effect provided in Articles 709 to 715, both inclusive, Revised Civil Statutes of 1925, as amended, and except as otherwise provided by this law, such bonds shall be authorized and issued in accordance with Articles 1111-1118, inclusive, of the Revised Civil Statutes of Texas, 1925, as amended, and to the extent of any conflict herewith, this law shall take precedence over such conflicting or inconsistent provisions.

Partial Invalidity

Sec. 4. In case any one or more of the sections or provisions of this Act or the application of such sections or provisions to any situation or circumstance shall for any reason be held to be unconstitutional, such unconstitutionality shall not affect any other sections or provisions of this Act or the application of such sections or provisions to any other situation or circumstance, and it is intended that this law shall be construed and applied as if such unconstitutional section or provision had not been included herein.

[Acts 1949, 51st Leg., p. 465, ch. 250. Amended by Acts 1951, 52nd Leg., p. 30, ch. 23, § 1.]

Art. 1111c. Issuance of Bonds in Two Series with Different Security

Sec. 1. In the issuance of revenue bonds under Articles 1111-1118, Revised Civil Statutes as amended, for the purpose of improving, enlarging and extending a waterworks system, cities are authorized to issue such bonds in two series, one of which shall be payable from and secured by a pledge of all or any part of the proceeds of a contract between the city and a private corporation whereby the city agrees to sell water to such corporation for the payments therein specified, and the other series shall be payable from and secured by a pledge of the net revenues of the waterworks system or waterworks and sewer systems other than the proceeds of such contract. The ordinances directing the issuance of the bonds may provide that the entire cost of operation, maintenance and repair of the system or systems shall be paid from the revenues thereof other than the proceeds of such water supply contract. Cities are authorized to enter into contracts for the sale of water to private corporations and upon such terms as their governing bodies may prescribe for a period of not exceeding forty (40) years.

Sec. 2. Such bonds and a copy of the proceedings relating to their issuance shall be submitted to the Attorney General for his examination, and if they have been lawfully issued, he shall approve them. The bonds thereupon shall be registered by the Comptroller of Public Accounts and thereafter they shall be incontestable.

[Acts 1951, 52nd Leg., p. 776, ch. 428.]

Art. 1111d. Payment of Principal and Interest

Sec. 1. An incorporated city with a population of 75,000 or more according to the last preceding federal census, in issuing revenue bonds under Articles 1111 through 1118 of this chapter, as part of the cost of constructing new electric utility plan facilities may set aside and use a portion of the proceeds from the sale of the bonds, to the extent provided in the ordinance authorizing their issuance:

1. to pay interest on bonds, the proceeds of which are for the construction of the facilities, to the first interest payment date following the date

the new electric utility facilities are estimated to become operational; and

2. to establish or supplement a reserve fund created for the benefit of the holders of the bonds.

Sec. 2. Bond proceeds, interest and sinking funds, and reserve funds, pending their use for their intended purposes, may be invested in any securities, interest-bearing certificates, or time deposits as are specified in the proceedings authorizing the issuance of the bonds.

Sec. 3. This article is full authority for the exercise of the powers granted. It controls over any other state law or any provision of a city charter. [Acts 1977, 65th Leg., p. 1273, ch. 495, § 1, eff. Aug. 29, 1977.]

Art. 1112. Vote, etc.

Sec. 1. Except as provided in Section 2 of this article, no such light, water, sewer or natural gas systems, parks and/or swimming pools, shall be sold without authorization by a majority vote of the qualified voters of such city or town; nor shall same be encumbered for more than Ten Thousand Dollars (\$10,000) unless authorized in like manner, except for money for acquisitions, extensions, construction, improvement, or repair of such systems and facilities, or to refund any existing indebtedness lawfully created for such purposes. Such vote to sell or encumber such systems or facilities shall be ascertained at an election, which shall be held in accordance with the laws applicable to the issuance of municipal bonds by such cities and towns. The encumbrances authorized herein shall be applicable only to bonds payable from revenues derived from said system.

Sec. 2. A city with a population of more than 1,200,000, according to the last preceding federal census, may sell an unencumbered natural gas system owned by it without an election as required by Section 1 of this article.

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., p. 276, ch. 194; Acts 1932, 42nd Leg., 3rd C.S., p. 96, ch. 32; Acts 1933, 43rd Leg., p. 320, ch. 122; Acts 1953, 53rd Leg., p. 776, ch. 307, § 1; Acts 1973, 63rd Leg., p. 232, ch. 108, § 1, eff. May 18, 1973; Acts 1977, 65th Leg., p. 1910, ch. 762, § 1, eff. Aug. 29, 1977.]

Art. 1113. Income; Expenses a Lien; Rates; Records; Reports; Penalty

Whenever the income of any light, water, sewer, or natural gas systems, parks and/or swimming pools, shall be encumbered under this law, the expense of operation and maintenance, including all salaries, labor, materials, interest, repairs and extensions necessary to render efficient service and every proper item of expense shall always be a first lien and charge against such incomes. Provided, that only such repairs and extensions, as in the judgment of the governing body of such city or town, are necessary to keep the plant or utility in operation and render adequate service to such city

or town and the inhabitants thereof, or such as might be necessary to meet some physical accident or condition which would otherwise impair the original securities, shall be a lien prior to any existing lien. The rates charged for services furnished by any such system shall be equal and uniform, and no free service shall be allowed except for city public schools or buildings and institutions operated by such city or town. There shall be charged and collected for such services a sufficient rate to pay all operating, maintenance, depreciation, replacement, betterment and interest charges, and for interest and sinking fund sufficient to pay any bonds issued to purchase, construct or improve any such systems or any outstanding indebtedness against same. No part of the income of any such system shall ever be used to pay any other debt, expense, or obligation of such city or town except payments made in lieu of ad valorem taxes previously paid by the private owners of the plants or systems mentioned above until the indebtedness so secured shall have been finally paid.

It shall be the duty of the Mayor of such city or town to install and maintain, or cause to be installed and maintained, a complete system of records and accounts showing the free service rendered, and the value thereof, and showing separately the amounts expended and/or set aside for operation, salaries, labor, materials, repairs, maintenance, depreciation, replacements, extensions, interest, and the creation of a sinking fund to pay off such bonds and indebtedness.

It shall likewise be the duty of the superintendent or manager of such plant to file with the Mayor of such city or town, not later than February first, a detailed report of the operations of such plant for the year ending January first preceding, showing the total sums of money collected and the balance due, as well as the total disbursements made and the amounts remaining unpaid as the result of operation of such plan during such calendar year.

Failure or refusal on the part of the Mayor to install and maintain, or cause to be installed and maintained, such system of records and accounts within ninety (90) days after the completion of such plant, or on the part of such superintendent or manager, to file or cause to be filed such report, shall constitute a misdemeanor and, on conviction thereof, such Mayor or superintendent or manager shall be subject to a fine of not less than One Hundred Dollars (\$100), nor more than One Thousand Dollars (\$1,000); and any taxpayer or holder of such indebtedness residing within such city or town shall have the right, by appropriate civil action in the District Court of the County in which such city or town is located, to enforce the provisions of this Act as amended.

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., p. 276, ch. 194; Acts 1932, 42nd Leg., 3rd C.S., p. 96, ch. 32; Acts 1933, 43rd Leg., p. 320, ch. 122; Acts 1943, 48th Leg., p. 220, ch. 139, § 1.]

Repealed in Part

Acts 1941, 47th Leg., p. 421, ch. 251, authorizing the issuance of refunding bonds by cities of 525,000 or over, provided in § 6:

"All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict, and particularly that expression contained in Article 1113, Revised Civil Statutes of Texas which reads, 'No part of the income of any such system shall ever be used to pay any other debt, expense or obligation of such city or town, until the indebtedness so secured shall have been finally paid,' is hereby specially repealed."

Art. 1113a. Transfer of Revenues to General Fund

Incorporated cities, towns, and villages of the State of Texas, and their officials and utility trustees, are hereby authorized to transfer to the general fund of the city, town, or village and use for general or special purposes revenues (now on hand or hereafter received) of any municipally owned utility system in the amount and to the extent that may be authorized or permitted in the indenture, deed of trust, or ordinance providing for and securing payment of revenue bonds issued under Articles 1111-1118, Revised Civil Statutes of Texas, 1925, as amended, or other similar laws, notwithstanding any prohibition contained in Article 1113, Revised Civil Statutes of Texas, 1925, as amended, or other similar laws.

[Acts 1949, 51st Leg., p. 940, ch. 513, § 1. Amended by Acts 1953, 53rd Leg., p. 422, ch. 122, § 1; Acts 1965, 59th Leg., p. 341, ch. 159, § 1.]

Art. 1113b. Accounts and Records on Other Than Cash Basis

In lieu of keeping its accounts and records on facilities under this chapter on a cash basis, a municipality may keep such accounts and records or any other accounts and records of the municipality on another basis, in all instances, however, to the extent the same is permitted or required under generally accepted accounting principles for governmental entities. In no event shall a change in accounting methods affect a change in any then existing contractual covenant with respect to the power to issue additional obligations payable from such facilities.

[Acts 1981, 67th Leg., p. 119, ch. 57, § 1, eff. Aug. 31, 1981.]

Art. 1114. Notes, Etc.

Every contract, bond, note or other evidence of indebtedness issued or included under this law shall contain this clause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation."

Where bonds are issued hereunder, they may be presented to the Attorney General for his approval as is provided for the approval of municipal bonds issued by such cities or towns. In such case, the bonds shall be registered by the State Comptroller as in the case of other municipal bonds.

[Acts 1925, S.B. 84. Amended by Acts 1933, 43rd Leg., p. 320, ch. 122.]

Art. 1114a. Self-Liquidating

Projects financed in accordance with this law are hereby declared to be self liquidating in character and supported by charge other than by taxation.

[Acts 1933, 43rd Leg., p. 320, ch. 122.]

Art. 1114b. Conflicting Laws Repealed

All laws and parts thereof, in conflict herewith, are hereby repealed to the extent of the conflict, and this law shall take precedence over all conflicting city charter provisions.

[Acts 1933, 43rd Leg., p. 320, ch. 122.]

Art. 1114c. Ordinances, Resolutions, and Securities Validated

The actions of all cities and towns and of all officials in passing ordinances, adopting resolutions, executing securities and delivering securities to accomplish the objects permitted under this Act are hereby expressly authorized and validated in like manner as if this law had been effective at the time of such actions, subject to the provisions of Section 5.

[Acts 1933, 43rd Leg., p. 320, ch. 122.]

Art. 1114d. Validation of Bonds for Swimming Pools

Sec. 1. All bonds heretofore voted and issued or heretofore voted and not yet issued by any city or town in this State for the purpose of constructing swimming pools in said city or town, are hereby in all things validated, confirmed, and ratified as though they had been legally authorized in the first instance.

Sec. 2. The provisions of this Act shall not operate to validate any bonds or bond elections which, at the time of the effective date of this Act, are involved in litigation, or the validity of which said bonds or bond elections may be attacked in any suit or litigation instituted within thirty (30) days after the effective date of this Act.

[Acts 1937, 45th Leg., 2nd C.S., p. 1968, ch. 56.]

Art. 1115. Control

The management and control of any such system or systems during the time they are encumbered, may by the terms of such encumbrance, be placed in the hands of the city council of such town, or may be placed in the hands of a board of trustees to be named in such encumbrance, consisting of not more than five members, one of whom shall be the mayor

of such city or town. The compensation of such trustees shall be fixed by such contract, but shall never exceed five per cent of the gross receipts of such systems in any one year. The terms of office of such board of trustees, their powers and duties, the manner of exercising same, the election of their successors, and all matters pertaining to their organization and duties may be specified in such contract of encumbrance. In all matters where such contract is silent, the laws and rules governing the council of such city or town shall govern said board of trustees so far as applicable.

[Acts 1925, S.B. 84.]

Art. 1116. Rules

The city council or board of trustees having such management and control shall have the power to make rules and regulations governing the furnishing of service to patrons and for the payment of the same, and providing for the discontinuance of such service failing to pay therefor when due until payment is made. The city council shall have power to provide penalties for the violation of such rules and regulations and for the use of such service without the consent or knowledge of the authorities in charge thereof, and to provide penalties for all interference, trespassing or injury to any such systems, appliances or premises on which same may be located.

[Acts 1925, S.B. 84.]

Art. 1117. Default

A contract of encumbrance may provide for the selection of a trustee to make sale upon default in the payment of the principal or interest according to the terms of such contract, and for the selection of his successor if disqualified or failing to act, and for collection fees not exceeding five per cent of the principal.

[Acts 1925, S.B. 84.]

Art. 1118. Notice

No collection fees shall accrue, and no foreclosure proceedings shall be begun in any court or through any trustee, and no option to mature any part of such obligation because of default in payment of any installment of principal or interest shall be exercised until ninety days written notice shall be given to each member of the city council of such city or town and to each member of such board of trustees, if any, that payment has been demanded and default made, which notice shall date from the sending of a prepaid registered letter to each person to be notified, addressed to them at the post office in such city or town. If the installments of principal and interest then due shall be paid before the expiration of said ninety days, together with the interest prescribed in such contract, not exceeding ten per cent per annum, from the date of default

until the date of payment, it shall have like effect as if paid on the date the same was originally due.

[Acts 1925, S.B. 84.]

Art. 1118a. Mortgage of Gas, Water, Light or Sewer Systems by Cities and Towns

Power to Encumber; Obligation Not a Debt

Sec. 1. All cities and towns owning and operating their light systems and gas systems or water systems and gas systems or sewer and gas systems shall have power to mortgage and encumber any one or more of its gas, water, light or sewer systems and the franchise and income thereof and everything pertaining thereto acquired or to be acquired, to secure the payment of funds to purchase any one of same or to purchase additional water powers, riparian rights, or to build, improve, enlarge, extend or repair said systems or any one of said systems and as additional security therefor by the terms of such encumbrance may grant to the purchaser under sale or foreclosure thereunder a franchise to operate the system and properties so encumbered for a term not over twenty years after such purchase, subject to all laws regulating same then in force. No such obligation shall ever be a debt of such city or town, but solely a charge upon the properties so encumbered and shall never be reckoned in determining the power of such city or town to issue any bonds for any purpose authorized by law. Nothing herein shall be construed as prohibiting any such city or town from mortgaging and encumbering any one or more of said systems for the purpose of purchasing, building, improving, enlarging, extending, repairing or reconstructing another one or more of said systems and purchasing necessary land and other properties in connection therewith in the discretion of the governing body thereof.

Vote Required for Sale or Mortgage

Sec. 2. (a) Except as provided in Subsection (b) of this section, no such system or systems shall ever be sold until such sale is authorized by a majority vote of the qualified voters of such city; nor shall same be encumbered for more than Five Thousand (\$5,000.00) Dollars except for purchase money or to refund any existing indebtedness or for repair or reconstruction, unless authorized in like manner. Such vote where required shall be ascertained at an election of which notice shall be given in like manner as and which shall be held in like manner as in the cases of the issuance of municipal bonds by such city.

(b) A city with a population of more than 1,200,000, according to the last preceding federal census, may sell an unencumbered natural gas system owned by it without an election as required by Subsection (a) of this section.

Prior Act Inapplicable Until June 1, 1934

Sec. 2a. That notwithstanding any of the provisions of House Bill No. 312, Chapter 163, Acts of the 42nd Legislature, 1931,¹ the requirements of said House Bill No. 312, Acts 42nd Legislature, 1931, Chapter 163, with reference to notice, competitive bids, and the right to referendum, shall not apply to cities and towns acting under the authority conferred in this Act, until after June 1, 1934, instead of until after June 1, 1932, as provided in House Bill No. 312, Chapter 163, Acts 42nd Legislature, 1931.

¹ Article 2368a.

Operating Expenses as First Lien on Income; Rates

Sec. 3. Whenever the income of any system or systems shall be encumbered under this law, the expense of operation and maintenance, including all salaries, labor, materials, interest, repair and extensions necessary to render efficient service and every proper item of expense shall always be a first lien and charge against such incomes. The rates charged for services furnished for any such system shall be equal and uniform and no free service shall be allowed except for city public schools or buildings and institutions operated by such city. There shall be charged and collected for such service a sufficient rate to pay for all operating, maintenance, depreciation, replacement, betterment and interest charges and for interest and sinking fund sufficient to pay any bonds issued to purchase, construct or improve any such systems or of any outstanding indebtedness against same.

Bond Recital

Sec. 4. Every contract, bond or note issued or executed under this law shall contain this clause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation."

Management Pending Encumbrance

Sec. 5. The management and control of any such system or systems during the time they are encumbered shall by the terms of such encumbrance be placed in the city council or other governing body of said city. Such city council or other governing body shall have the power to make rules and regulations governing the furnishing of service to patrons and for the payment of same and providing for the discontinuance of such service, failing to pay therefor when due until payment is made. Such governing bodies shall have power to provide penalties for the violation of such rules and regulations and for the use of such service without the consent or knowledge of the authorities in charge therefor and to provide penalties for all interference, trespassing or injury to any such system or systems, appliances or premises on which same may be located.

Default in Payment; Procedure

Sec. 6. A contract of encumbrance may provide for the selection of a trustee to make sale upon default in the payment or ¹ the principal or interest according to the terms of such contract and for the selection of his successor if disqualified or failing to act and for collection fees not exceeding five (5%) per cent of the principal. Such encumbrance shall provide that in the event of default and sale under foreclosure and the granting of a franchise to operate the system or systems and properties so purchased for a term of not over twenty years, as hereinbefore provided, that said city at any time during any stipulated time during said franchise, not to exceed periods of five (5) years during said time, shall have the right and privilege to repurchase said system or systems upon reasonable terms and at reasonable prices, to be set forth together with said optional periods of redemption in said encumbrance agreement and in said franchise.

¹ So in enrolled bill. Session Laws read "of".

Notice of Default

Sec. 7. No collection fees shall accrue, and no foreclosure proceedings shall be begun in any court or through any trustee, and no option to mature any part of such obligation because of default in payment of any installment of principal or interest shall be exercised until ninety days written notice shall be given to each member of the city council of such city or town that payment has been demanded and default made, which notice shall date from the sending of a prepaid registered letter to each person to be notified, addressed to them at the post office in such city or town. If the installments of principal and interest then due shall be paid before the expiration of said ninety days, together with the interest prescribed in such contract, not exceeding ten (10%) per cent per annum, from the date of default until the date of payment, it shall have like effect as if paid on the date the same was originally due.

Property Included in Encumbrance

Sec. 8. In the encumbrance of any properties under this Act such city may encumber any such systems singly or together for the benefit and to secure funds for any one or more of said systems and may omit or include in said encumbrance the whole or any part of the properties mentioned in Section 1 of this Act.

Income Applied to Encumbrance

Sec. 9. No part of the income of any such system or systems so encumbered shall ever be used to pay any other debt, expense or obligation of such city except a debt, expense or obligation of the system or systems encumbered or the system or systems for which said encumbered system or sys-

tems was so encumbered until the indebtedness so secured shall have been finally paid.

[Acts 1931, 42nd Leg., p. 783, ch. 314. Amended by Acts 1932, 42nd Leg., 3rd C.S. p. 46, ch. 20; Acts 1933, 43rd Leg., p. 106, ch. 53; Acts 1977, 65th Leg., p. 1911, ch. 762, § 2, eff. Aug. 29, 1977.]

Art. 1118a-1. Moneys in Lieu of School Taxes; Payment from Current Revenue of Existing Public Utility Acquired and Financed Through Revenue Bonds

Sec. 1. Whenever any city or town, including home rule cities, is situated wholly or partially in a school district, or in which there is situated wholly or partially a school district, after the effective date of this law, shall acquire a public utility or utilities then existing, and finances the purchase thereof through the issuance of revenue bonds, and such public utility property, within its territorial limits is at the time subject to taxation for the benefit of any school district, the governing body of any such city or town in issuing revenue bonds for the purchase price thereof, may expressly provide in any indenture of trust, mortgage or other lien instrument evidencing the obligation of such city or town in respect of the purchase price of such utility or utilities, for the payment annually from the income of such utility or utilities, a sum in amount equivalent to the average annual taxes assessed in behalf of such school district upon the properties of such utility or utilities for the five (5) years immediately preceding the year in which such utility or utilities shall be acquired by such city or town; provided, however, that by mutual agreement of the board of trustees of such school district and the governing body of such city or town, provision may be made for the payment annually of a sum in lieu of school taxes as shall be deemed adequate and just under all the circumstances of the case, due consideration being given to the needs of such school district. The obligation thus assured by any such city or town, including home rule cities, to make such payment to a school district in lieu of ad valorem property school taxes shall constitute a proper item of operating expense, which together with other operating expenses shall always be a first lien and charge against the income of such encumbered utility or utilities.

Sec. 2. The obligation of any such city or town to pay any such school district moneys in lieu of taxes as provided in the encumbrance agreement shall be and constitute an "expense or obligation" of such system or systems as such terms are used in statutes authorizing the acquisition of such public utilities and the issuance of revenue bonds for the purchase thereof, and such obligations shall extend to and bind any and all cities or towns, including home rule cities, purchasing or otherwise acquiring any such then existing public utility or utilities, in accordance with the provisions of such encumbrance agreements or mutual agreements as authorized in Section 1 of this Act.

Sec. 3. The obligation of any such city or town, including home rule cities, as fixed in such indenture or encumbrance, shall not be impaired or affected, modified or released, by the release or discharge of such encumbrance, and such city or town, including home rule cities, shall continue while such city or town shall own and operate any such public utility to pay to any such school district annually from the revenues thereof such amount as a sum in amount equivalent to the average annual taxes assessed in behalf of such school district upon the properties of such utility or utilities for the five (5) years immediately preceding the year in which such utility or utilities shall be acquired by such city or town, including home rule cities; provided, however, that from and after the date of release or discharge of such encumbrance the board of trustees of any such school district and the governing body of such city or town may by mutual agreement from time to time provide for the payment annually from the revenues of such utility or utilities owned and operated by such city or town of such sum or sums in lieu of school taxes as shall be deemed adequate and just under all the circumstances of the case, due consideration being given to the needs of such school district.

Sec. 4. This Act shall apply solely to purchases or acquisitions, subsequent to the effective date hereof, of then existing public utilities made by any city or town of this state, including home rule cities, and shall not apply to or in any wise affect any purchase or acquisition of a public utility or utilities of whatsoever character acquired by any such city or town prior to the effective date of this Act. Cities and towns, including home rule cities, shall be authorized to operate under the provisions of this Act in acquiring existing public utilities under any and all laws of the state permitting the acquisition of existing public utilities through the issuance of revenue bonds, including Articles 1111 to 1113, inclusive, of the 1925 Revised Civil Statutes of the State of Texas and amendments thereto, and including Chapter 314, Acts of the Regular Session of the 42nd Legislature and amendments thereto.¹

[Acts 1943, 48th Leg., p. 398, ch. 269.]

¹ Article 1118a.

Art. 1118b. Bonds and Proceedings Validated

Bonds Issued in Connection With Public Utilities Validated

Sec. 1. That where the governing body of any city or town, owning and operating its light system and gas system, or water system and gas system, or sewer system and gas system, has authorized and/or issued bonds to purchase any one of such systems or to purchase additional water powers, riparian rights, or to build, improve, enlarge, extend or repair said systems, or any one of said systems, under authority of Chapter 314, of the General Laws passed by the 42nd Legislature, at its Regular Session in 1931,¹ and as security therefor has mort-

gaged and encumbered any one or more of its gas, water, light or sewer systems and the franchise and income thereof, and everything pertaining thereto, acquired or to be acquired, the ordinance or ordinances of such governing body, prescribing the date and maturity of such bonds, the rate of interest the same were to bear, the place of payment of principal and interest, and appropriating revenues of any such system or systems to pay the interest on such bonds and to produce a sinking fund sufficient to pay the bonds at maturity, having been recorded in the minutes or records of such governing body, and where the mortgage or indenture on the properties comprising such system or systems, to secure payment of said bonds, has been duly executed by the proper officers of said city, and the trustee therein named, and recorded in the proper deed of trust and mortgage records of the county or counties in which are situated the properties of such system or systems so mortgaged and encumbered, and such bonds having been heretofore approved by the Legal Department of the Reconstruction Finance Corporation in Washington, D.C., both as to legality and as being eligible for loan under the Act of Congress authorizing loans to municipalities to aid in financing projects which are self-liquidating in character, known as "Emergency Relief and Construction Act of 1932,"² all acts and proceedings had and done in connection therewith by the governing body and/or the mayor, city secretary, city treasurer or any other officers of such city or town, and the trustee named in such mortgage or indenture in respect of such bonds, the appropriation and pledge of revenues of any such system or systems, and/or the mortgage or indenture on the properties of any such system or systems to secure payment of such bonds are hereby ratified, confirmed, legalized, approved and validated.

Sale of Bonds Validated

Sec. 2. That sale of said bonds, or any parcel or installment thereof, by the governing body of any such city or town, is hereby ratified, confirmed, legalized, approved and validated, and such bonds, so sold and delivered, are hereby legalized and validated, and constituted the legal obligations upon the properties of such city or town so encumbered in accordance with the terms and provisions of such recorded mortgage or indenture.

Issuance of Bonds Not Previously Delivered

Sec. 3. In event any of said bonds, or any parcel or installment thereof, have not been sold, issued, delivered, or put into circulation, power and authority is hereby expressly conferred upon and delegated to the governing body of any such city or town, the mayor, city secretary, city treasurer or other proper officer thereof, and the trustee named in such mortgage or indenture, to discharge and perform all acts and duties necessary in the issuance or sale and delivery of such bonds, and such governing body is hereby further authorized to adopt all other and further orders, resolutions or ordinances necessary

in the issuance, sale, delivery and payment of said bonds, or any parcel or installment thereof.

[Acts 1933, 43rd Leg., p. 517, ch. 167.]

¹ Article 1118a.

² Act of July 21, 1932, ch. 520, 47 Stat. 709.

Art. 1118c. Order of Appropriation of Revenues of Municipal Public Utility Systems

Application

Sec. 1. In making up the annual appropriation of the income and revenue of any waterworks system, electric light plant or system, sewer system, or other public utility system, service, or enterprise now or that may be hereafter owned and operated by any city or town having a population of twelve thousand, four hundred and ten (12,410) inhabitants or less, according to the last preceding Federal Census, and owning and operating its municipal light system and municipal waterworks system in this State, the governing body thereof shall first make provision for the maintenance and operating expenses of such system, service, or enterprise, and shall then make provision for payment of principal and interest of any indebtedness outstanding against such system, service, or enterprise, and may then make such appropriations as the remaining income and revenue of such system, service, or enterprise may justify, to be appropriated among the respective departments of the municipal government, or otherwise appropriated for public uses, as such governing body may deem best; provided this Act shall not apply to municipally owned utilities or enterprises, the income from which has heretofore been pledged to secure payment of bonds or other indebtedness.

No Restrictions on Bonds Payable From Other Than Taxation

Sec. 2. Nothing in this Act shall restrict the power and authority of any such city or town to issue bonds, notes, or warrants, payable from revenues other than taxation, for the purposes, in the manner, and under the restrictions and limitations provided by the laws of this State relative to the issuance of such obligations; and all the provisions of such laws shall apply to and govern such city or town and the governing authorities thereof, except as herein otherwise provided.

Application to Cities of 12,410 or Less

Sec. 3. The benefits of this Act shall apply to any city or town having a population of twelve thousand, four hundred and ten (12,410) inhabitants or less, according to the last preceding Federal Census, and owning and operating its municipal light system and municipal waterworks system and the terms thereof extend to the same, when the governing body thereof shall submit the question of the adoption or rejection hereof, to a vote of the resident property taxpayers who are qualified vot-

ers of said city or town at a special election called for the purpose by the governing body of said city or town. And said election shall be held as nearly as possible in compliance with the laws with reference to regular municipal elections in said city or town; but said governing authority is hereby empowered by resolution to order said election and prescribe the time and manner of holding the same. Said body shall canvass and determine the result of such election and if a majority of the voters voting upon the question of the adoption of this Act at such election, shall vote to adopt the same, the result of the election shall by said governing body be entered upon their minutes, and thereupon all the terms hereof shall be applicable to and govern such city or town adopting the same; provided, that nothing in this Act shall ever be construed to repeal or modify any of the provisions of Article 1112, of the Revised Civil Statutes of Texas, of 1925.

[Acts 1934, 43rd Leg., 4th C.S., p. 49, ch. 18. Amended by Acts 1937, 45th Leg., 2nd C.S., p. 2008, ch. 74.]

Art. 1118d. Bonds Validated

Sec. 1. All bonds heretofore issued, authorized by ordinance to be issued and/or attempted to be issued under authority of Articles 1111 to 1118, both inclusive, of the Texas Revised Civil Statutes of 1925, as amended by Acts 1933, Forty-third Legislature, Page 320, Chapter 122, for the purpose of improving and extending an existing municipal sewer system by any and all cities operating under charters adopted or amended under the provisions of Article 11, Section 5, of the Constitution of the State of Texas, having a population in excess of one hundred thousand (100,000) inhabitants according to the last preceding United States Census, and which bonds are payable exclusively out of revenues of such sewer system, and are secured only by a pledge of such revenues, and which bonds are to be issued, delivered and sold to the United States of America under existing contracts, are in all respects validated.

Sec. 2. All orders, ordinances and resolutions of the governing bodies of such cities authorizing or attempting to authorize the issuance of such bonds, or any of the same, are in all respects validated.

[Acts 1934, 43rd Leg., 4th C.S., p. 69, ch. 27.]

Art. 1118e. Bonds, Notes and Warrants Validated

Sec. 1. That any provision of any other law to the contrary notwithstanding, all bonds, notes or warrants heretofore issued, or which have been authorized but not yet issued, or which may be hereafter issued under the provisions of Articles 1111 to 1118, inclusive, of the Revised Civil Statutes of Texas for 1925, including all Amendments thereto to aid in financing any undertaking or project for which a loan or grant has been made by the United States through the Federal Emergency Administration of Public Works, are hereby declared to be negotiable instruments and they shall be fully nego-

tiabile within the meaning of and for all the purposes of the Uniform Negotiable Instruments Act of this State.

Sec. 2. Provided, however, that the provisions of this Act shall not be construed as validating any proceedings authorizing the issuance of any such bonds, notes or warrants, or any bonds, notes or warrants issued by virtue thereof where the validity of such proceedings, and bonds, notes or warrants issued thereunder has been contested or attacked in any pending suit or litigation.

[Acts 1935, 44th Leg., 1st C.S., p. 1559, ch. 383.]

Art. 1118f. Validating Revenue Bonds

Sec. 1. That all proceedings heretofore had by the governing bodies of all cities and towns, including home rule cities, in the State of Texas, in the issuance and sale of revenue bonds, notes or warrants issued under the provisions of Articles 1111 to 1118, Revised Civil Statutes of Texas of 1925, as amended, to aid in financing any undertaking, for which a loan or grant has been made by the United States through the Federal Emergency Administrator of Public Works, or any other agency or department of the Government of the United States, are hereby in all things fully validated, confirmed, approved and legalized, and any such bonds, notes or warrants heretofore sold, or heretofore authorized but not yet delivered, are in all things fully validated, confirmed and approved, and such bonds, notes or warrants are hereby declared to be the valid and binding special obligations of such cities or towns payable from sources other than taxation. All orders, resolutions and ordinances authorizing the issuance of any such revenue bonds and setting aside and pledging the revenues of any light system, water system, sewer system or sanitary disposal equipment system, natural gas system, parks or swimming pools, either or all are hereby in all things validated, confirmed and approved, and the fact that any city or town in the issuance and sale of any such obligations or in the pledging of the revenue of any of said systems to the payment of such obligations failed or neglected or lacked the power to do all things necessary to make said obligations legal shall in nowise impair such obligations nor the pledge of such revenues but same are in all things validated, confirmed and approved.

Sec. 2. Provided, however, that the provisions of this Act shall not apply to any such proceedings, or any obligations issued thereunder, the validity of which has been contested or attacked in any pending suit or litigation.

[Acts 1935, 44th Leg., 1st C.S., p. 1562, ch. 385.]

Art. 1118g. Validating Bonds for Public Works

Sec. 1. That all proceedings heretofore had by the governing bodies of all cities and towns, including home rule cities, in the State of Texas in the issuance and sale of bonds, to aid in financing any undertaking for which a loan or grant has been

made by the United States through the Federal Emergency Administrator of Public Works, or any other agency, department or division of the Government of the United States of America are hereby in all things fully validated, confirmed, approved and legalized and all bonds issued thereunder are hereby declared to be the valid and binding obligations of such cities or towns, and all bonds which have been heretofore authorized for said purpose but not yet issued shall, when delivered and paid for, constitute valid and binding obligations of such city or town. All tax levies made by such governing bodies for the purpose of paying the principal of and interest on such bonds, notes or warrants are hereby in all things validated, confirmed, approved and legalized.

Sec. 2. Provided, however, that the provisions of this Act shall not apply to any such proceedings, or obligations issued thereunder, where the validity thereof has been contested or attacked in any suit or pending litigation.

[Acts 1935, 44th Leg., 1st C.S., p. 1564, ch. 386.]

Art. 1118h. Validating Bonds of Cities of Over 15,000 Population

Sec. 1. All bonds heretofore authorized by the necessary vote of the qualified voters of all cities of more than fifteen thousand (15,000) population according to the last preceding Federal Census and all bond elections held in such cities for the purpose of voting such bonds wherein the necessary majority of the voters voted in favor thereof are hereby validated insofar as any irregularities in following the requirements of the provisions of the General Law that such election shall be held not more than thirty (30) days from the time of such election order are concerned; and irregularities in following the requirements of city charters as to time in the calling and holding of such elections shall not in any manner affect the validity of said bonds, but same shall, if otherwise valid, when approved by the Attorney General and registered by the Comptroller of Public Accounts and sold for not less than par and accrued interest, be a valid subsisting indebtedness of said cities.

Sec. 2. Provided, however, that the provisions of this Act shall not apply to any such proceedings or to any bonds issued thereunder, the validity of which has been contested or attacked in any pending suit or litigation, or in any suit or litigation which may be instituted within sixty (60) days after the effective date of this Act.

[Acts 1937, 45th Leg., p. 5, ch. 5.]

Art. 1118i. Validating Bonds of Cities in Counties of Less Than 80,000 and More Than 70,000

In all cases where any city in the State of Texas which operates under the General Laws of Texas and which city is located in any county having a population of less than 80,000 and more than 70,000

according to the last preceding United States Census and is not operating pursuant to a home rule charter and which such city has heretofore and subsequent to the enactment of Chapter 382, Acts of the First Called Session of the Forty-fourth Legislature of Texas, 1935,¹ submitted to the qualified electors of said city the question of the issuance of the bonds of such city pursuant to the provisions of Articles 1111 et seq., of the Revised Civil Statutes of the State of Texas, said bonds to be payable solely from the revenues derived from operation of the city's waterworks system, and where a majority of the qualified voters of said city voting at said election on said proposition has voted in favor of the issuance of such bonds and in favor of pledging the revenues of said system for the payment of such bonds, said election and all proceedings heretofore had in connection with the calling and holding of said election and in connection with the authorization and sale of such bonds are hereby validated, ratified and confirmed, despite any irregularity which may have occurred therein or despite any failure to observe any of the pertinent laws of the State of Texas, and said city is hereby authorized to complete its proceedings for the authorization and delivery of such bonds and to deliver such bonds upon receipt of the purchase price thereof, and such bonds when approved by the Attorney General, registered by the State Comptroller of Public Accounts, sold at not less than par and accrued interest and delivered are hereby declared to be and shall be the valid and legal obligations of said city in accordance with the terms thereof, and shall be paid as to both principal and interest from the revenues of the waterworks system of said city in accordance with the provisions of the proceedings so authorizing the bonds. Provided, however, that the provisions of this Act shall not apply to any proceedings, levies, or to any bonds or warrants issued there under, the validity of which has been contested or attacked in suit or litigation which is pending at the time this Act becomes a law.

[Acts 1937, 45th Leg., p. 14, ch. 13, § 1.]

¹ Article 704.

Art. 1118j. Validating Bonds and Proceedings for Loans or Grants From Federal Government in Cities and Towns of Not Over 3,000 Population

Sec. 1. All proceedings heretofore had by the governing bodies of all cities and towns, having a population of not more than three thousand (3,000), according to the preceding Federal Census, in the issuance and sale of Revenue bonds, notes or warrants issued under the provisions of Articles 1111 to 1118, Revised Civil Statutes of Texas, as amended, to aid in financing any undertaking, for which a loan or grant has been made by the United States through the Public Works Administration, or any other agency or department of the Government of the United States, in which the only objection to the validity of said bonds is that such election was

ordered and notice thereof given under the provisions of Article 704, Revised Civil Statutes of 1925 prior to the amendment of October 1935, are hereby in that respectively¹ validated, confirmed, approved and legalized, and any such bonds, notes or warrants heretofore sold, or heretofore authorized but not yet delivered, are in all things fully validated, confirmed and approved, and such bonds, notes or warrants are hereby declared to be the valid and binding special obligations of such cities and towns of said population payable from sources other than taxation. All orders, resolutions and ordinances authorizing the issuance of any such revenue bonds by said cities and towns of said population, and setting aside and pledging the revenues of any light system, water system, sewer system or sanitary disposal equipment system, either or all are hereby in all things validated, confirmed and approved, and legalized.

Sec. 2. Provided, however, that the provisions of this Act shall not apply to any such proceedings, or obligations issued thereon, where the validity thereof has been contested or attacked in any suit or pending litigation.

[Acts 1937, 45th Leg., p. 595, ch. 298.]

¹ So in enrolled bill; probably should read "respect".

Art. 1118j-1. Validation of Bond Proceedings in Cities or Towns Over 5,000 to Help Finance Improvements for Which Loan or Grant From Federal Government was Made

Sec. 1. All proceedings heretofore had by the governing bodies of all cities and towns in the State of Texas operating under the provisions of the General Laws of Texas and having a population of more than five thousand (5,000), and wherein it has become necessary to supplement funds providing for the erection of certain public improvements for which a loan or grant has been made by any agent or agency of the United States Government, by the issuance and sale of additional bonds to aid in the financing of such certain public improvements, including the orders and notices of elections, the conduct and returns of elections, and the canvassing of such returns of such elections, are hereby in all things fully validated, confirmed, approved, and legalized, including among others, instances wherein there have been irregularities in the giving of notice of elections, notwithstanding the fact that the notice of election was not published on the same day in each of two successive weeks, and all bonds issued thereunder are hereby declared to be the valid and binding obligations of such cities or towns, and all tax levies made by such governing bodies for the purpose of paying the principal of and interest on such bonds are hereby in all things validated, confirmed, approved, and legalized.

Sec. 2. Provided, however, that the provisions of this Act shall not apply to any such proceedings or obligations issued thereunder, where the validity

thereof has been contested or attacked in any suit or pending litigation.

[Acts 1941, 47th Leg., p. 602, ch. 370.]

Art. 1118j-2. Validation of Sewer System Bond Proceedings in Cities and Towns of Not Over 3,000

Sec. 1. All proceedings heretofore had by the governing bodies of all cities and towns having a population of not more than three thousand (3,000), according to the preceding Federal Census, in submitting to the qualified electors, during the year 1941, the question of the issuance of the bonds of any such cities and towns pursuant to the provisions of Articles 1111 to 1118 of the Revised Civil Statutes of Texas, 1925, as amended, said bonds to be payable solely from the revenues derived from the operation of the sanitary sewer system, and where a majority of the qualified voters of any such city or town voting at said election on said proposition has voted in favor of the issuance of any such bonds and in favor of pledging the revenues of said system, or the mortgaging of said system, or by both pledging the revenues and the mortgaging of said system, for the payment of such bonds, said election or elections and all proceedings heretofore had in connection with the calling and holding of said election or elections and the canvassing of the returns thereof, are hereby validated, ratified and confirmed, despite any irregularity which may have occurred therein, and said cities or towns are hereby authorized to complete the proceedings for the authorization, issuance and delivery of such bonds upon receipt of the purchase price thereof, and such bonds when approved by the Attorney General, registered by the State Comptroller of Public Accounts, sold at not less than par and accrued interest and delivered are hereby declared to be and shall be the valid and legal obligations of any such city or town in accordance with the terms thereof, and shall be paid as to both principal and interest from the revenues of such sanitary sewer system in accordance with the provisions of the proceedings so authorizing the bonds.

Sec. 2. Provided, however, that the provisions of this Act shall not apply to any such proceedings, or obligations issued thereon, where the validity thereof has been contested or attacked in any suit or litigation which is pending at the time this Act takes effect.

[Acts 1943, 48th Leg., p. 417, ch. 284.]

Art. 1118k. Validating Bonds in Cities of Over 160,000 Population

All bonds heretofore authorized by the necessary vote of the qualified voters of all cities of more than one hundred sixty thousand (160,000) population according to the last preceding Federal Census and all bond elections held in such cities for the purpose of voting such bonds wherein the necessary majority of the voters voted in favor thereof are hereby validated insofar as any irregularities in following

the requirements of the provisions of the General Law that such election shall be held not more than thirty (30) days from the time of such election order and that notice of such election shall be published on the same day of each of two (2) successive weeks in a newspaper, the date of the first publication to be not less than fourteen (14) days prior to the date set for the election, are concerned; and irregularities in following the requirements of city charters as to time in the calling and holding of such elections shall not in any manner affect the validity of said bonds, but same shall, if otherwise valid, when approved by the Attorney General and registered by the Comptroller of Public Accounts and sold for not less than par and accrued interest, be a valid subsisting indebtedness of said cities.

[Acts 1937, 45th Leg., 1st C.S., p. 1749, ch. 5, § 1.]

Art. 1118L. Validating Bonds and Bond Elections in Cities and Towns of 2601 to 2632 Population

Sec. 1. All bonds heretofore authorized by the necessary vote of the qualified voters of all cities and towns having less than two thousand six hundred thirty-two (2632) population and more than two thousand six hundred one (2601) population according to the last preceding Federal Census, and all elections held in such cities and towns for the purpose of voting such bonds wherein the necessary majority of the voters voted in favor thereof are hereby validated, ratified, confirmed and legalized insofar as any irregularities in following the requirements of the provisions of the general law governing the form of election order, notice, ballot and canvassing of returns of such elections are concerned; and, if such bonds are valid in other respects, when same are approved by the Attorney General and registered by the Comptroller of Public Accounts and sold for not less than par and accrued interest, shall constitute valid and binding obligations of said cities and towns.

Sec. 2. Provided, however, that the provisions of this Act shall not apply to any such proceedings or to any bonds issued thereunder the validity of which is being contested or attacked in any suit pending at the time this Act takes effect.

[Acts 1937, 45th Leg., 1st C.S., p. 1755, ch. 10.]

Art. 1118m. Validating Waterworks Revenue Bond Elections and Bonds in Cities and Towns of 989 to 1,039 in Counties of 98,650 to 98,750

In all instances wherein cities and towns having a population of not more than one thousand and thirty-nine (1,039), and not less than nine hundred and eighty-nine (989), according to the last preceding Federal Census, located in counties having a population of not more than ninety-eight thousand, seven hundred and fifty (98,750) and not less than ninety-eight thousand, six hundred and fifty (98,650), according to the last preceding Federal Census, have heretofore held elections, attempting to comply with

the provisions of Articles 1111 to 1118 of the Revised Civil Statutes of Texas of 1925, as amended, for the issuance of waterworks revenue bonds, and have failed to comply with the requirements as to publication and posting of notice of such election, and where such elections have been held resulting in a vote sufficient under the law to authorize the issuance of said bonds, such elections are hereby validated and the bonds thus authorized, when duly approved by the Attorney General and registered by the Comptroller of Public Accounts of the State of Texas, shall constitute valid and binding special obligations of such cities; provided that the provisions of this Section shall not have the effect of validating any elections or the bonds to be issued pursuant thereto which are in litigation at the time of the passage of this Act, or which may be brought into litigation within ninety (90) days after the effective date of this Act.

[Acts 1939, 46th Leg., Spec.Laws, p. 1004, § 1.]

Art. 1118m-1. Validation of Election Proceedings on Issuance of Bonds for Waterworks in Certain Home-Rule Cities

Sec. 1. In all instances where a home-rule city has heretofore (i) issued and delivered revenue bonds payable from the net revenues of its waterworks and sanitary sewer system and (ii) by ordinance called an election to authorize the issuance of further revenue bonds, having found in the ordinance that the bond election should be called for the purpose of expanding its water system, including bond expenses, engineering, and right-of-way expense, and all other expenses incidental to the expansion of the city's water system; all proceedings relating to the calling of the election and canvass of its returns are hereby validated, ratified, and confirmed, notwithstanding the fact that the purpose for which the bonds were voted was not set forth in the proposition (though elsewhere in the ordinance calling the election) and notwithstanding the fact that the proposition merely provided for the creation of a sinking fund without specifying the net revenue of such utility systems were to be pledged to the payment of the principal of and interest on such revenue bonds.

The bonds may be issued and delivered for the purpose expressed in the ordinance calling the election and may be payable from the net revenue of the waterworks and sanitary sewer system, either or both, which may have been owned by the city at the time of such election. The bonds so issued shall, insofar as such pledged revenues are concerned, be on a parity with or subordinate to the revenue bonds of the city as are outstanding, all in accordance with Chapter 10 of Title 28, Revised Civil Statutes of Texas, 1925.¹

Sec. 2. The provisions of this Act shall not be operative so as to validate any revenue bonds unless (i) a majority of those who participated in the election voted in favor of the issuance of such bonds

and (ii) there is no litigation pending on the effective date of this Act questioning the validity of the election, and (iii) no court of competent jurisdiction has, before the effective date of the Act, declared the election to be invalid.

[Acts 1973, 63rd Leg., p. 142, ch. 73, eff. Aug. 27, 1973.]

¹ Article 1106 et seq.

Art. 1118m-2. Validation of Evidences of Debt for Acquisition of Waterworks Systems

Sec. 1. (a) All bonds, certificates of obligation, warrants, notes, or other evidences of debt of an incorporated city issued to finance the acquisition and purchase of a waterworks system and payable, in whole or in part, by a pledge of the revenues from the operation of the waterworks system are in all respects validated and approved and are declared to be valid and legal special obligations of the city payable and secured in the manner provided in the proceedings relating to their issuance.

(b) Such an obligation is not invalid by reason of a failure to comply with any applicable law requiring the posting or publication of notice of an intention to issue the obligation before its issuance or for failure to make proper presentation of the obligation or the proceedings relating to its issuance for the approval of any state officer, agency, or department. An obligation issued in connection with the acquisition of a waterworks system is not invalid by reason of the status of or business relationship among persons acting for or on behalf of the issuing city or the seller in the acquisition and issuance of obligations.

Sec. 2. This Act does not apply to any matter that on the effective date of this Act:

(1) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court of competent jurisdiction; or

(2) has been held invalid by a final judgment of a court of competent jurisdiction.

[Acts 1983, 68th Leg., p. 4817, ch. 849, eff. June 19, 1983.]

Art. 1118n. Bonds Authorized by Elections During 1938 in Cities or Towns Not Owning Certain Utilities

Sec. 1. All bonds heretofore authorized by the necessary vote of the qualified voters of all cities or towns and all bond elections held in such cities or towns for the purpose of voting such bonds wherein the necessary majority of the voters voted in favor thereof, and all orders, resolutions, and ordinances passed or attempted to be passed by the governing body of such cities or towns as shown by the minutes of such governing body, are hereby validated.

Sec. 2. Provided, however, that this Act shall not apply except as to bonds authorized by elections held during the year 1938 in cities or towns which at

the time of the holding of such election did not own any of the following utilities from which it could derive revenue: water system, sanitary sewer system, electric light system, or natural gas distribution system.

Sec. 3. Provided further, however, that provisions of this Act shall not apply to any such proceedings or any bonds issued thereunder, the validity of which has been contested or attacked in any pending suit or litigation.

[Acts 1939, 46th Leg., p. 698.]

Art. 1118n-1. Validating Bonds for Waterworks and Sewer Systems in Cities Operating Under General Law

Sec. 1. Where any city in this State which operated under the general law and does not have a home-rule charter has heretofore submitted to the qualified electors thereof propositions for the issuance of the bonds of such city for the purpose of constructing a waterworks system and a sewer system, such bonds to be payable only from the net revenues of such waterworks system and sewer system and secured by a joint mortgage on the properties of such systems, and such propositions have been declared to have carried, and such city has through ordinances adopted by its governing body authorized the issuance of such bonds and prescribed the details thereof and has thereafter reduced the amount of bonds to be so issued and has submitted to the qualified electors thereof propositions for the issuance of the bonds of such city payable from ad valorem taxes for the purpose of constructing a waterworks system and a sewer system, the amount of tax bonds to be so issued being equal to the amount of revenue bonds originally authorized and theretofore determined not to be issued, and such propositions have been declared to have carried, all of the proceedings heretofore had by such city, including all proceedings had and acts done in connection with the calling and holding of the election on the revenue bonds, the proceedings of the governing body authorizing the issuance of such bonds, the indenture authorized and executed to secure such bonds, the ordinance authorizing the issuance of such bonds, the proceedings had reducing the amount of the revenue bonds, the supplemental indenture authorized or executed for the purpose of reducing the amount of such issue, and the proceedings had in connection with the calling and holding of the election on the question of the issuance of the ad valorem tax bonds, despite any failure or failures in such proceedings to comply with the provisions of the pertinent statutes, are hereby ratified, validated and confirmed.

Sec. 2. The governing body of each such city is authorized to adopt all proceedings necessary or desirable to complete the issuance of the revenue bonds and the ad valorem tax bonds so authorized, to make such changes as it may consider desirable in the existing proceedings and in the details of the bonds as they have been authorized by the existing

proceedings, and to do everything necessary to the issuance of revenue bonds and ad valorem tax bonds in the amounts so authorized and to secure the revenue bonds by mortgage on the properties of the water and sewer systems, in all respects as provided by the statutes relating to the issuance of such bonds.

Sec. 3. The revenue bonds and ad valorem tax bonds of any such city when delivered and paid for pursuant to such existing proceedings, as such proceedings may hereafter be altered or amended, shall be and are hereby declared to be valid and binding obligations of such city in accordance with the terms thereof.

Sec. 4. All proceedings heretofore had in connection with the incorporation of any such city are hereby validated, ratified and confirmed and every such city is hereby declared to be a legally incorporated and subsisting municipal corporation of the State of Texas operating under the provisions of Title 28 of the Revised Civil Statutes of 1925.¹

Sec. 5. Where any such city has not yet levied taxes on the taxable property in such city, but where the City Tax Assessor has prepared an unrendered roll for any year, using as the basis for such roll the valuation of the taxable property in said city as taken from state, county or school district rolls for such year, and where the governing body of the city has approved such roll and has fixed the percentage basis of assessed valuation to actual valuation, the assessed valuation of taxable property in such city as so determined is hereby declared to be the true and correct assessed valuation of taxable property in such city for such year and such assessment roll is declared to be and is authorized to be used as the basis for the imposition of taxes in such city until the assessed valuation of taxable property in such city for the succeeding year has been determined.

[Acts 1939, 46th Leg., p. 691.]

¹Article 961 et seq.

Art. 1118n-2. Validating Revenue and Ad Valorem Tax Bonds and Proceedings for Waterworks and Sewer Systems in Other Than Home-Rule Cities

Sec. 1. Where any city in this State which operates under the General Law and does not have a home-rule charter has heretofore submitted to the qualified electors thereof propositions for the issuance of the bonds of such city for the purpose of constructing a waterworks system and a sewer system, such bonds to be payable only from the net revenues of such waterworks system and sewer system and secured by a joint mortgage on the properties of such systems, and such propositions have been declared to have carried, and such city has through ordinances adopted by its governing body authorized the issuance of such bonds and prescribed the details thereof and has thereafter reduced the amount of bonds to be so issued and

has submitted to the qualified electors thereof propositions for the issuance of the bonds of such city payable from ad valorem taxes for the purpose of constructing a waterworks system and a sewer system, the amount of tax bonds to be so issued being equal to the amount of revenue bonds originally authorized and theretofore determined not to be issued, and such propositions have been declared to have carried, all of the proceedings heretofore had by such city, including all proceedings had and acts done in connection with the calling and holding of the election on the revenue bonds, the proceedings of the governing body authorizing the issuance of such bonds, the indenture authorized and executed to secure such bonds, the ordinance authorizing the issuance of such bonds, the proceedings had reducing the amount of the revenue bonds, the supplemental indenture authorized or executed for the purpose of reducing the amount of such issue, and the proceedings had in connection with the calling and holding of the election on the question of the issuance of the ad valorem tax bonds, despite any failure or failures in such proceedings to comply with the provisions of the pertinent Statutes, are hereby ratified, validated, and confirmed.

Sec. 2. The governing body of each such city is authorized to adopt all proceedings necessary or desirable to complete the issuance of the revenue bonds and the ad valorem tax bonds so authorized, to make such changes as it may consider desirable in the existing proceedings and in the details of the bonds as they have been authorized by the existing proceedings, and to do everything necessary to the issuance of revenue bonds and ad valorem tax bonds in the amounts so authorized and to secure the revenue bonds by mortgage on the properties of the water and sewer systems, in all respects as provided by the Statutes relating to the issuance of such bonds.

Sec. 3. The revenue bonds and ad valorem tax bonds of any such city when delivered and paid for pursuant to such existing proceedings, as such proceedings may hereafter be altered or amended, shall be and are hereby declared to be valid and binding obligations of such city in accordance with the terms thereof.

Sec. 4. All proceedings heretofore had in connection with the incorporation of any such city are hereby validated, ratified, and confirmed and every such city is hereby declared to be a legally incorporated and subsisting municipal corporation of the State of Texas operating under the provisions of Title 28 of the Revised Civil Statutes of 1925.¹

Sec. 5. Where any such city has not yet levied taxes on the taxable property in such city, but where the City Tax Assessor has prepared an unrendered roll for any year, using as the basis for such roll the valuation of the taxable property in said city as taken from State, county, or school district rolls for such year, and where the governing body of the city has approved such roll and has

fixed the percentage basis of assessed valuation to actual valuation, the assessed valuation of taxable property in such city as so determined is hereby declared to be the true and correct assessed valuation of taxable property in such city for such year and such assessment roll is declared to be and is authorized to be used as the basis for the imposition of taxes in such city until the assessed valuation of taxable property in such city for the succeeding year has been determined. Provided, however, that the provisions of this Act shall not apply to any proceedings, levies, or to any bonds or warrants issued thereunder, the validity of which has been contested or attacked in suit or litigation which is pending at the time this Act becomes a law, or which may be filed within thirty (30) days after this Act becomes a law.

[Acts 1939, 46th Leg., p. 695.]

¹ Article 961 et seq.

Art. 1118n-3. Refunding Bonds, Issuance by Cities Operating Under General Law and Owning Waterworks or Sewer System

Eligible Cities

Sec. 1. This Act shall be applicable to any city or town operating under the General Law relating to cities and towns, and which does not operate under a special or home rule charter, and which owns and operates either its waterworks or its sanitary sewer system, or both, and the principal amount of whose bond and time warrant indebtedness is in an aggregate amount exceeding thirty (30) per cent of the assessed valuation of the property in such city according to the latest approved official tax rolls. Any such city for the purpose of this Act shall be an "eligible" city.

Refunding Bonds Authorized; Prerequisites; Utility Rates

Sec. 2. Any eligible city is authorized to issue refunding bonds to be supported by an ad valorem tax and by a pledge to the payment of the principal and interest thereof, of all or a stipulated part of the net income from the operation of its waterworks system or its sewer system, or both. No such city shall be authorized to exercise the additional powers conferred by this Act unless it obtains a reduction in the principal amount of its indebtedness to the extent of not less than twenty-five (25) per cent. Such city shall not be permitted to deliver such refunding bonds unless and until it shall have obtained consent to such refunding by the holders of at least sixty-six and two-thirds ($66\frac{2}{3}$) per cent of aggregate principal amount of its outstanding indebtedness which sixty-six and two-thirds ($66\frac{2}{3}$) per cent shall include not less than one hundred (100) per cent of the revenue bonds, if any, outstanding against said system or systems, or unless such refinancing plan shall have been made effective in Composition proceedings instituted by such city un-

der Title 11, Chapter 9 of the United States Code and Amendments thereto.¹

Before any income from such utility or utilities shall be used to pay the principal and interest of said refunding bonds the expenses of operation and maintenance shall have first been provided substantially in accordance with the provisions of Article 1113 of the Revised Civil Statutes of Texas, 1925, as amended, which is applicable to the income of encumbered utility systems. When such city issues refunding bonds under the provisions of this law it shall be the duty of the city after making said pledge of such utility income to establish and maintain utility rates, which, together with taxes levied for the payment of such bonds, will be adequate to yield revenues sufficient to operate and maintain said utility system or systems and to fulfill the city's pledge of such income.

¹ 11 U.S.C.A. former § 401 et seq.

Revenue Bonds, Refunding Of

Sec. 3. Such city also shall refund par for par, all of its outstanding revenue bonds which are secured by a pledge of the revenues of either or both of such systems, if any such revenue bonds are outstanding, and bonds issued to refund such revenue bonds may be included in any such refunding issue, authorized by this Act.

Negotiability; Registration; Approval

Sec. 4. The refunding bonds issued under this Act shall be fully negotiable and shall be issued in the same manner as refunding bonds for the purpose of taking up outstanding bonds issued under the provisions of Title 22 and Title 28 of the 1925 Revised Civil Statutes of Texas and amendments thereto.¹ No notice of intention to issue refunding bonds and no election for the issuance of such bonds shall be required. No such refunding bonds shall be registered in the office of the Comptroller and delivered by him unless and until he shall have received and cancelled in lieu thereof bonds or time warrants in the proportion prescribed in the ordinances authorizing the issuance of such refunding bonds, and in accordance with this Act. The procedure prescribed in Articles 709 to 715 of the Revised Civil Statutes of Texas, 1925, in reference to examination and approval of the bonds by the Attorney General shall be applicable to bonds issued under this Act.

¹ Articles 701 et seq. and 961 et seq.

Act as Cumulative; Conflicting Laws

Sec. 5. This Act shall be cumulative of all other laws on the subject. In the event that any provisions of this Act conflict with, or are inconsistent with the provisions of any other law, general or special, the provisions of this Act shall take precedence over such conflicting or inconsistent provisions and shall prevail.

[Acts 1941, 47th Leg., p. 388, ch. 729.]

Art. 1118n-4. Redemption of Outstanding Waterworks Revenue Bonds; Additional Revenue Bonds

Eligible Cities

Sec. 1. This Act shall be applicable to any city having a charter, adopted or amended by a vote of the people, with power to levy an ad valorem tax of Two Dollars and Fifty Cents (\$2.50) on the One Hundred Dollars (\$100) of assessed valuation, which city has outstanding tax-supported indebtedness equal to fifteen per cent (15%) or more of its assessed valuation, and has outstanding bonds payable from its waterworks revenues all of which will become subject to redemption within two (2) years after passage of the ordinance authorizing additional bonds as hereinafter provided. Any such city is hereinafter sometimes called an "eligible city."

Deposit in State Treasury of Amount of Outstanding Waterworks Revenue Bonds

Sec. 2. An eligible city shall have the right to deposit in the office of the State Treasurer of the State of Texas a sum of money equal to the principal amount of its said outstanding and unpaid waterworks revenue bonds plus the amount of interest which will accrue on each of said bonds calculated to the date on which it may be redeemed and the amount of contract premium if any, and concurrently with such deposit shall pay to the State Treasurer for his services and to reimburse him for his expenses in performing his duties under this Act a sum of money equivalent to one-eighth ($\frac{1}{8}$) of one percent (1%) of the principal amount of said bonds and one fourth ($\frac{1}{4}$) of one per cent (1%) of the interest to accrue on all of said bonds, and an additional amount of money sufficient to pay the charges of the bank or trust company at which the principal and interest of said bonds are payable for its services in paying such principal and interest. The State Treasurer may rely on a certificate by such city as to the amount of the charges made by such bank or trust company. At the same time such city shall deliver to the State Treasurer a certified copy of the ordinance authorizing said revenue bonds, or a certified excerpt therefrom, showing clearly the amounts and the date or dates on which interest is due on such bonds, the date when the principal becomes subject to redemption, and the name and address of the bank or trust company at which such principal and interest must be paid. It shall be the duty of the State Treasurer to accept such deposits, payments, and instruments, and safely to keep and use such money for the purposes set forth in this Act and for no other purpose, and no part of such money except that in payment for his services and to reimburse his expenses in performing such services shall be used by or for the State of Texas or for any creditor of the State of Texas, nor shall such money be commingled with any other money.

State Treasurer to Forward Money to Bank Where Bonds are Payable

Sec. 3. It shall be the duty of the State Treasurer not less than fifteen (15) days before such interest is due according to the tenor and effect of said bonds, and the principal becomes redeemable, to forward by registered mail to the bank or trust company where the principal of and interest on such bonds are payable, an amount sufficient to pay such principal and interest and premium if any, and to pay the service charges of such bank or trust company. The State Treasurer shall notify such bank or trust company to forward to him bonds and coupons thus cancelled, and after he shall have made a record of their payment and cancellation shall forward such cancelled bonds and coupons to such city.

Additional Revenue Bonds

Sec. 4. When an eligible city shall have deposited and paid into the office of the State Treasurer the money and shall have done the things required under Section 2 it shall have authority to issue additional revenue bonds, securing them by a pledge of the revenue from the operation of its waterworks system or of its waterworks and sewer systems, in such manner as is authorized by Articles 1111 to 1118 of the Revised Civil Statutes of Texas, 1925, as amended, and for the purposes authorized in said Articles, and for the purpose of providing money to enable the city to comply with Section 2 of this Act. The deposit authorized by Section 1 hereof to be made with the State Treasurer shall be made prior to or concurrently with the sale and delivery of the new bonds authorized by this Act, but all other proceedings relating to the authorization and issuance of such bonds may be had prior to the making of such deposit. No revenue bonds shall be issued under authority of this Section 5 unless they shall have been authorized at an election held in such city in accordance with the provisions of Article 704 of the Revised Civil Statutes of Texas, 1925, as amended by Chapter 382, Acts of the First Called Session of the Forty-fourth Legislature. It is especially provided that regardless of any provisions to the contrary contained in the law under which such new revenue bonds are to be issued, they shall constitute a first charge on the income of the waterworks system or waterworks and sewer systems, after the payment of the expense of maintenance and operation of such system or systems subject only to any payments which must be made to the State Treasurer from such income to prevent any default in principal of or interest on such outstanding revenue bonds, for the benefit of which such deposit shall have been made with the State Treasurer. The right of the holders of said outstanding revenue bonds to have any deficiency paid out of such income shall remain unimpaired.

Additional or Subsequent Waterworks Revenue Bonds

Sec. 5. Regardless of any provisions to the contrary contained in the law or laws under which such new revenue bonds shall be issued, so long as any of said new revenue bonds are outstanding no additional revenue bonds secured by a pledge of the revenues of the system shall be issued thereafter except in accordance with limitations prescribed in the ordinance authorizing the revenue bonds first to be issued by such city pursuant to this Act; but it shall be lawful for such city to authorize and issue additional or subsequent waterworks revenue bonds provided that they are issued in all respects in conformity with and subject to limitations contained in such ordinance.

Withdrawal of Deposits from State Treasury

Sec. 6. After an eligible city has made the deposits and payments required under Section 2, at any time it may withdraw from the State Treasury the amount of money, both principal and interest, deposited on account of any bond by exhibiting to the State Treasurer said bond duly cancelled, whereupon the State Treasurer shall make a proper record of the payment and cancellation of such bond.

Rights of Holders of Bonds to Surrender Bonds

Sec. 7. At any time after an eligible city shall have made the deposits and payments required under Section 2, the holder of any such bond, irrespective of its maturity date, shall have the right to surrender such bond to the State Treasurer and shall receive therefor a sum equivalent to all money then remaining on deposit with the State Treasurer, made on account of such surrendered bond. Whereupon such bond shall be duly cancelled by the State Treasurer, and delivered or forwarded to such city.

Approval of Record and Bonds by Attorney General

Sec. 8. When an eligible city shall have duly authorized the issuance of its revenue bonds, and the record pertaining thereto shall have been presented to the Attorney General of Texas, it shall be the duty of the Attorney General to approve such record and thereafter when such new revenue bonds are presented to him, to approve such bonds subject to the making of the deposit provided in Section 2 hereof. After such record and bonds have been approved by the Attorney General and after such bonds have been registered in the office of the Comptroller of Public Accounts, they shall be held for all purposes to be fully negotiable instruments and shall, according to their tenor and effect, be valid and binding revenue obligations of such city and shall be incontestable for any cause from and after such registration.

Bond of State Treasurer

Sec. 9. The bond or bonds given by the State Treasurer under Article 4368 to secure the faithful execution of the duties of his office (except such

special bonds as may have been given to protect funds of the United States Government) and any and all other bonds which may have been given by the State Treasurer shall be construed as protecting all moneys and securities deposited or placed with the State Treasurer under this Act.

Act Cumulative

Sec. 10. This Act is cumulative of all other Acts on the subject, but to the extent that its provisions are inconsistent or in conflict with the provisions of other laws, the provisions of this Act shall be controlling.

Partial Invalidity

Sec. 11. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

[Acts 1947, 50th Leg., p. 1032, ch. 446.]

Art. 1118n-5. Redemption of Outstanding Revenue Bonds and Issuance of New Bonds**Eligible Cities**

Sec. 1. This Act shall be applicable to any city which has outstanding waterworks or waterworks and sewer systems revenue bonds and which has on hand sufficient money to pay said bonds together with the interest thereon to the date when they become due or optional for prior payment and the contract premium if any. Any such city is hereinafter sometimes called "eligible city".

Refunding Bonds to Pay Outstanding Revenue Bonds

Sec. 1a. To provide sufficient money for the purposes stated in Section 1 of the Act hereby amended, a city is authorized to issue refunding bonds and sell them for cash, in which event a certified copy of the ordinance so providing shall be transmitted to the Comptroller of Public Accounts and he shall register such refunding bonds without cancellation of the underlying bonds and deliver them as provided in the ordinance. Such refunding bonds shall bear interest at a rate not to exceed five per cent (5%) per annum, evidenced by coupons, mature serially in not to exceed forty (40) years and be signed as other city bonds. If the bonds thus to be refunded are secured by a deed of trust or other encumbrance in which a trustee is named, the money for the payment of the underlying bonds, interest, stipulated premium, if any, and payment charges, may, in the discretion of the governing body of the city, be deposited with such trustee. Such refunding bonds and any additional bonds may be combined into a single issue. Refunding bonds and any additional bonds may be secured in any manner

authorized by Article 1111, Revised Civil Statutes, as amended. Such refunding bonds may be issued without an election. Refunding bonds shall not be sold for cash in lieu of being exchanged unless all of the bonds to be paid therefrom become due or optional for redemption within three (3) years from the date of the proposed refunding bonds. If the underlying bonds are optional for redemption within said period of time, the city shall call them in the manner therein provided.

Deposits With State Treasurer

Sec. 2. An eligible city shall have the right to deposit in the office of the State Treasurer of the State of Texas a sum of money equal to the principal amount of its said outstanding and unpaid revenue bonds plus the amount of interest which will accrue on each of said bonds calculated to the date on which it is to become due or on which it may be redeemed and the amount of contract premium if any, and concurrently with such deposit shall pay to the State Treasurer for his services and to reimburse him for his expenses in performing his duties under this Act a sum of money equivalent to one-twentieth ($\frac{1}{20}$) of one (1%) per cent of the principal amount of said bonds and one-eighth ($\frac{1}{8}$) of one (1%) per cent of the interest to accrue on all of said bonds, and an additional amount of money sufficient to pay the charges of the bank or trust company at which the principal and interest of said bonds are payable for its services in paying such principal and interest. The State Treasurer may rely on a certificate by such city as to the amount of the charges made by such bank or trust company. At the same time such city shall deliver to the State Treasurer a certified copy of the ordinance authorizing said revenue bonds, or a certified excerpt therefrom, showing clearly the amounts and the date or dates on which interest is due on such bonds, the date when the principal becomes subject to redemption, and the name and address of the bank or trust company at which such principal and interest must be paid. It shall be the duty of the State Treasurer to accept such deposits, payments, and instruments, and safety to keep and use such money for the purposes set forth in this Act and for no other purpose, and no part of such money except that in payment for his services and to reimburse his expenses in performing such services shall be used by or for the State of Texas or for any creditor of the State of Texas, nor shall such money be commingled with any other money.

Duties of State Treasurer

Sec. 3. It shall be the duty of the State Treasurer not less than fifteen (15) days before such interest is due according to the tenor and effect of said bonds, and the principal becomes redeemable, to forward by registered mail to the bank or trust company where the principal of and interest on such bonds are payable, an amount sufficient to pay such principal and interest, and premium if any, and to pay the service charges of such bank or trust com-

pany. The State Treasurer shall notify such bank or trust company to forward to him bonds and coupons thus cancelled, and after he shall have made a record of their payment and cancellation shall forward such cancelled bonds and coupons to such city.

Issuance of New Bonds

Sec. 4. When an eligible city shall have deposited and paid into the office of the State Treasurer the money and shall have done the things required under Section 2 it shall have authority to issue additional revenue bonds, securing them by a pledge of the revenue from the operation of its waterworks system or of its waterworks and sewer systems, in such manner as is authorized by Articles 1111 to 1118 of the Revised Civil Statutes of Texas, 1925, as amended, and for the purposes authorized in said Articles. The deposit authorized by Section 1 hereof to be made with the State Treasurer shall be made prior to or concurrently with the sale and delivery of the new bonds authorized by this Act, but all other proceedings relating to the authorization and issuance of such bonds may be had prior to the making of such deposit. No revenue bonds shall be issued under authority of this Section 5 unless they shall have been authorized at an election held in such city in accordance with the provisions of Article 704 of the Revised Civil Statutes of Texas, 1925, as amended by Chapter 382, Acts of the First Called Session of the 44th Legislature. It is especially provided that regardless of any provisions to the contrary contained in the law under which such new revenue bonds are to be issued, they shall constitute a first charge on the income of the waterworks system or waterworks and sewer systems, after the payment of the expense of maintenance and operation of such system or systems subject only to any payments which must be made to the State Treasurer from such income to prevent any default in principal of or interest on such outstanding revenue bonds, for the benefit of which such deposit shall have been made with the State Treasurer. The right of the holders of said outstanding revenue bonds to have any deficiency paid out of such income shall remain unimpaired.

Subsequent Issuance of Additional Bonds

Sec. 5. Regardless of any provisions to the contrary contained in the law or laws under which such new revenue bonds shall be issued, so long as any of said new revenue bonds are outstanding no additional revenue bonds secured by a pledge of the revenues of the system shall be issued thereafter except in accordance with limitations prescribed in the ordinance authorizing the revenue bonds first to be issued by such city pursuant to this Act; but it shall be lawful for such city to authorize and issue additional or subsequent waterworks revenue bonds provided that they are issued in all respects in conformity with and subject to limitations contained in such ordinance.

Withdrawal of Deposits

Sec. 6. After an eligible city has made the deposits and payments required under Section 2, at any time it may withdraw from the State Treasury the amount of money, both principal and interest, deposited on account of any bond by exhibiting to the State Treasurer said bond duly cancelled, whereupon the State Treasurer shall make a proper record of the payment and cancellation of such bond.

Surrender, Payment and Cancellation of Bonds

Sec. 7. At any time after an eligible city shall have made the deposits and payments required under Section 2, the holder of any such bond, irrespective of its maturity date, shall have the right to surrender such bond to the State Treasurer and shall receive therefor a sum equivalent to all money then remaining on deposit with the State Treasurer, made on account of such surrendered bond. Whereupon such bond shall be duly cancelled by the State Treasurer, and delivered or forwarded to such city.

Approval of Record and Bonds; Registration

Sec. 8. When an eligible city shall have duly authorized the issuance of its revenue bonds, and the record pertaining thereto shall have been presented to the Attorney General of Texas, it shall be the duty of the Attorney General to approve such record, and thereafter when such new revenue bonds are presented to him, to approve such bonds subject to the making of the deposit provided in Section 2 hereof. After such record and bonds have been approved by the Attorney General and after such bonds have been registered in the office of the Comptroller of Public Accounts, they shall be held for all purposes to be fully negotiable instruments and shall, according to their tenor and effect, be valid and binding revenue obligations of such city and shall be incontestable for any cause from and after such registration.

Bonds of State Treasurer

Sec. 9. The bond or bonds given by the State Treasurer under Article 4368 to secure the faithful execution of the duties of his office (except such special bonds as may have been given to protect funds of the United States Government) and any and all other bonds which may have been given by the State Treasurer, shall be construed as protecting all moneys and securities deposited or placed with the State Treasurer under this Act.

Act Cumulative

Sec. 10. This Act is cumulative¹ of all other Acts on the subject, but to the extent that its provisions are inconsistent or in conflict with the provisions of other laws, the provisions of this Act shall be controlling.

¹ So in enrolled bill; probably should read "cumulative".

Partial Invalidity

Sec. 11. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

[Acts 1949, 51st Leg., p. 1003, ch. 541. Amended by Acts 1955, 54th Leg., p. 972, § 1.]

Art. 1118n-6. Validating; Bonds, Bond Elections, and Proceedings for Utility Systems in any City or Town; Home-Rule City Elections for Disposition of City Owned Plant, Utility or Business

Sec. 1. All bonds heretofore authorized by any incorporated city, town or village which pledge the revenues of water, sewer, electric, or gas system, or the revenues of parking meters, auditorium or auditoriums, swimming pool or pools, or any combination of the revenues of such systems or sources, and any and all proceedings pertaining to the authorization and issuance thereof, are hereby validated, ratified, approved and confirmed notwithstanding any lack of statutory or general authority of such city, town or village or the governing body thereof to authorize such bonds and make such pledge of revenue or revenues, and notwithstanding the fact that the proposition as submitted to the voters might have been defective or insufficient or the fact that the election might not have been ordered and held in all respects in accordance with the provisions of the statutes or General Laws, and irrespective of the sufficiency or existence of the pledge of the revenues in the voted proposition; and such bonds, when approved by the Attorney General and registered by the Comptroller of Public Accounts of the State of Texas, and sold and delivered, shall be binding, legal, valid and enforceable obligations against the revenues so encumbered, and the bonds shall be uncontestable. Provided, however, that this Act shall apply only to such bonds as were authorized at an election or elections wherein a majority of the qualified property taxpaying voters who had duly rendered their property for taxation voted in favor of the issuance thereof.

Sec. 1-A. All elections heretofore called or held in any home rule city prior to the effective date of this Act, for the purpose of authorizing the lease, sale, or other disposition of any city owned plant, utility or business or any part thereof in attempted compliance with Article 1112 or Article 1268, Revised Civil Statutes of Texas, 1925, as amended, are hereby validated, ratified, confirmed and approved notwithstanding the fact that the proposition submitted to the voters might have been defective or insufficient, or the fact that the election might not have been ordered and held in all respects in accordance with the provisions of the Home Rule Charter

of such city or the General Laws of this state, including those hereinabove particularly mentioned. Provided, however, that this Act shall only apply to those instances in which the lease, sale or other disposition of any city owned plant, utility or business, or any part thereof, were authorized at an election wherein a majority of the qualified voters of such city had voted in favor thereof.

Sec. 2. This Act shall not be construed as validating any such proceedings or bonds issued or to be issued, the validity of which is contested or under attack in any suit or litigation pending at the time this Act becomes effective, if such suit or litigation is ultimately determined against the validity of the proceedings.

[Acts 1955, 54th Leg., p. 600, ch. 206.]

Art. 1118n-7. Redemption and Refunding of Outstanding Waterworks Revenue Bonds; Additional Revenue Bonds

Eligible Cities

Sec. 1. Any city, including any city operating under a Home Rule Charter, having outstanding water revenue bonds payable from the net revenues of its waterworks system, the net revenues of which system for each of the two (2) fiscal years next preceding the date when it avails itself of this law are equal to two hundred per cent (200%) of the requirements for the payments of interest on and principal of such outstanding revenue bonds for the year when such requirements are the greatest shall, under the provisions of this Act, be considered hereinafter as an "Eligible City."

Negotiable Tax-Supported General Obligation Bonds, Issuance; Tax Levy to Pay

Sec. 2. An Eligible City, through its governing body may, for the express purpose of providing funds for the refunding or redemption of its outstanding water revenue bonds payable from the revenues of its waterworks system, issue negotiable tax-supported general obligation bonds, pledging therefor the full faith and credit of such city, in an aggregate amount not greater than the aggregate principal amount of such outstanding water revenue bonds, and the total interest thereon accrued to the final date of redemption of each such outstanding water revenue bond; provided, however, that if such Eligible City shall issue such negotiable tax-supported general obligation bonds under the authority of this Act, it shall make provision for the payment of such bonds by annual levies of ad valorem property taxes to pay the interest thereon and to provide a sinking fund to pay them at maturity; and provided, further, that no such bonds shall be issued under the authority of this Act unless the issuance thereof, and the levy of annual ad valorem property taxes to provide for the payment of the interest thereon and to create a sinking fund with which to pay them at maturity, shall have been authorized at an election called and conducted under

the provisions of Chapter I, Title 22 of the Revised Civil Statutes of Texas, 1925, and laws amendatory thereof and supplementary thereto,¹ which shall govern the issuance of all such bonds under the authority herein given.

¹ Article 701 et seq.

Subrogation to Rights of Holders of Water Revenue Bonds Refunded

Sec. 3. Any Eligible City, which may provide funds for the refunding or redemption of its outstanding water revenue bonds in the manner prescribed in Section 2 hereof, shall thereupon become subrogated to the rights of the holders of the water revenue bonds refunded with funds thus provided, in so far as payments from the revenues of its waterworks system are concerned, and be entitled to have paid into its general fund from such revenues like amounts as would have been payable on the water revenue bonds thus refunded or redeemed, had the same remained outstanding; but such rights on the part of such Eligible City shall in nowise limit any encumbrance on the properties of its water system securing any other water revenue bonds secured by such encumbrance, nor shall such encumbrance in anywise inure to the benefit of such Eligible City or in anywise be enforceable by it, but shall remain in full force for the sole benefit of the holders of any unpaid water revenue bonds of such city, whose rights to enforce such encumbrance shall remain superior to the rights of such city to payment from the revenues of its water system as hereinabove prescribed; nor shall any of the provisions of this Section of this Act be deemed as affecting the right of any such Eligible City to payments from such revenues from its water system into its general fund as might be provided by the terms of any contract under which its water revenue bonds may be issued, and any such payments shall be in addition to payments hereinabove prescribed in this Section.

Refinancing or Redemption Agreements; Additional Water System Revenue Bonds; Referendum

Sec. 4. An Eligible City may also enter into such agreements with the holders of its outstanding water revenue bonds as may be necessary to effect a refunding or refinancing or redemption of such outstanding bonds, or any part thereof, and further in aid of such refunding or refinancing or redemption, may enter into agreements with such other persons, firms or corporations as may be deemed advisable by any such city. All water system revenue bonds issued pursuant to this Act, other than water system refunding revenue bonds, and an additional amount of new revenue bonds not exceeding the total amount of the then outstanding revenue bonds, shall be sold in accordance with the charter provisions of any such Eligible City. It may issue its water system refunding revenue bonds in the manner authorized by Chapter 250, Acts, 1949, Fifty-first Legislature, as amended by Chapter 23, Acts, 1951, Fifty-second Legislature,¹ and with or

without an election, as such City shall determine. Such City may, from time to time, issue additional water system revenue bonds for the purpose of extending or improving said water system or for the purpose of acquiring privately or publicly owned water systems or water system facilities situated in or adjacent to such city, or for the purpose of acquiring an additional water supply by purchase or construction or by contribution to the construction of a reservoir by the Federal Government or any agency thereof and, except as otherwise provided in this Act, such bonds shall be issued in accordance with the provisions of Articles 1111 to 1118 of the Revised Civil Statutes of Texas, as amended, and said additional bonds, when issued, shall be on a parity and of equal dignity with any water system refunding bonds issued by such city and shall be secured by a first lien on and pledge of the net revenues of said system, and, in the discretion of such city, may be further secured by a first mortgage on the physical properties constituting said system; provided, however, that in the event that all of said outstanding water revenue bonds cannot be obtained for refunding or redemption, then such new revenue bonds and any refunding bonds which may be authorized and issued hereunder shall constitute a first charge on the income and properties of the water system of said city, subject only to any payments which must be made from such income as required by the provisions of Sections 5, 6, 7 and 12, of this Act; provided, however, that before any additional water system revenue bonds, as herein authorized, are issued, they shall be authorized by a majority vote of the duly qualified taxpaying voters of such an Eligible City at an election ordered and held for that purpose, which election shall be ordered and held in the same manner as required by law for holding elections to authorize the issuance of tax-supported bonds. The right of the holders of any outstanding water revenue bonds not so refunded to have any deficiency paid out of such income shall remain unimpaired.

¹ Article 1111b.

Deposit in State Treasury of Outstanding Water System Revenue Bonds

Sec. 5. An Eligible City shall have the right to deposit in the office of the State Treasurer of the State of Texas a sum of money equal to the principal amount of its outstanding and unpaid water system revenue bonds that cannot be obtained for refunding or redemption plus the amount of interest which will accrue on each of said bonds calculated to the date on which it is to become due or the date on which it is to become optional for prior redemption, or on which it may be redeemed, and the contract premium, if any, and, concurrently with such deposit, shall pay to the State Treasurer for his services and to reimburse him for his expenses in performing his duties under this Act a sum of money equivalent to one-eighth ($\frac{1}{8}$) of one per cent (1%) of the principal amount of said bonds, and one-fourth ($\frac{1}{4}$) of one per cent (1%) of the interest to

accrue on all said bonds, and an additional amount of money sufficient to pay the charges of the bank or trust company at which the principal and interest on said bonds are payable for its services in paying such principal and interest. The State Treasurer may rely on a certificate by such city as to the amount of the charges made by such bank or trust company. At the same time, such city shall deliver to the State Treasurer a certified copy of the ordinance authorizing such water system revenue bonds, or a certified excerpt therefrom, showing clearly the amounts and the date or dates on which interest is due on such bonds, the date when the principal matures, and the name and address of the bank or trust company at which such principal and interest must be paid. It shall be the duty of the State Treasurer to accept such deposits, payments and instruments, and safely to keep and use such money for the purposes set forth in this Act, and for no other purpose, and no part of such money, except that in payment for his services and to reimburse his expenses in performing such services, shall be used by or for the State of Texas, or for any creditor of the State of Texas, nor shall such money be commingled with any other money.

State Treasurer's Duties

Sec. 6 It shall be the duty of the State Treasurer not less than fifteen (15) days before such interest is due according to the tenor and effect of said bonds, and the principal becomes due, to forward by registered mail to the bank or trust company where the principal of and interest on such bonds are payable, an amount sufficient to pay such principal and interest, and to pay the service charges of such bank or trust company. The State Treasurer shall notify such bank or trust company to forward to him bonds and coupons thus canceled, and after he shall have made a record of their payment and cancellation shall forward such canceled bonds and coupons to such city. When an Eligible City shall have deposited and paid into the office of the State Treasurer the money and shall have done the things required under Section 3 it shall have authority to issue additional revenue bonds and refunding bonds as permitted in Section 2 hereof.

Rights of Holders to Surrender Bonds

Sec. 7. At any time after an Eligible City shall have made the deposits and payments required under Section 5 of this Act, the holder of any such bond, irrespective of its maturity date, shall have the right to surrender such bond to the State Treasurer and shall receive therefor a sum equivalent to all money then remaining on deposit with the State Treasurer, made on account of such surrendered bond; whereupon such bond shall be duly canceled by the State Treasurer and delivered or forwarded to such city.

Subsequent Issuance of Additional Revenue Bonds

Sec. 8. Regardless of any provisions to the contrary contained in the law or laws under which such refunding bonds and new revenue bonds shall be issued, so long as any of said bonds are outstanding no additional revenue bonds secured by a pledge of the revenues of the system shall be issued thereafter except in accordance with limitations prescribed in the ordinance or deed of trust authorizing and securing the revenue bonds first to be issued by such city pursuant to this Act; but it shall be lawful for such city to authorize and issue additional or subsequent revenue bonds provided that they are issued in all respects in conformity with and subject to limitations contained in such ordinance or deed of trust.

Withdrawal of Deposits From State Treasury

Sec. 9. After an Eligible City has made the deposits and payments required under Section 5, at any time it may withdraw from the State Treasury the amount of money, both principal and interest, deposited on account of any bond by exhibiting to the State Treasurer said bond duly canceled, whereupon the State Treasurer shall make a proper record of the payment and cancellation of such bond.

Approval of Record and Bonds by Attorney General; Registration; Incontestability

Sec. 10. When an Eligible City shall have authorized the issuance of its revenue bonds, and the record pertaining thereto shall have been presented to the Attorney General of Texas, it shall be the duty of the Attorney General to approve such record and thereafter when such new revenue bonds are presented to him, to approve such bonds subject to the making of the deposit provided in Section 5 hereof. After such record and bonds have been approved by the Attorney General and after such bonds have been registered in the office of the Comptroller of Public Accounts, they shall be held for all purposes to be fully negotiable instruments and shall, according to their tenor and effect, be valid and binding revenue obligations of such city and shall be incontestable for any cause from and after such registration.

Bond of State Treasurer

Sec. 11. The bond or bonds given by the State Treasurer under Article 4368 to secure the faithful execution of the duties of his office (except such special bonds as may have been given to protect funds of the United States Government) and any and all other bonds which may have been given by the State Treasurer shall be construed as protecting all moneys and securities deposited or placed with the State Treasurer under this Act.

Cancellation of Bonds; Validation of Issuance and Sale of Canceled Bonds

Sec. 12. Whenever an Eligible City has purchased, from the holders thereof, any of its outstanding water system revenue bonds with money taken from its water system revenue bond interest and sinking fund, or from its Waterworks Bond and Interest Redemption Account, and whenever such bonds have been thereby canceled through error or otherwise, and whenever the governing body of any such city has adopted an ordinance authorizing the issuance or sale of any such canceled bonds, the proceedings authorizing the issuance or sale of such canceled bonds are hereby validated and confirmed, and any such canceled bonds shall constitute valid and legally binding obligations of any such city in accordance with their terms, and each such Eligible City is authorized to do all things necessary to refund or redeem any such canceled bonds, under the authority of this Act.

Act Cumulative

Sec. 13. This Act is cumulative of all other Acts on the subject, but to the extent that its provisions are inconsistent or in conflict with the provisions of other laws, or the provisions of the Charter of any Eligible City, the provisions of this Act shall be controlling. Chapter 541, Acts, 1949, Fifty-first Legislature,¹ shall remain unimpaired by the provisions of this Act.

¹ Article 1118n-5.

Partial Invalidity

Sec. 14. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

[Acts 1955, 54th Leg., p. 854, ch. 320.]

Art. 1118n-8. Refunding Bonds, Issuance by Certain Cities Operating Under General Law and Owning Waterworks, Natural Gas and Sewer Systems.**Eligible City**

Sec. 1. This Act shall be applicable to cities operating under general law, which own and operate waterworks, natural gas and sanitary sewer systems, and whose outstanding tax bond indebtedness, including accrued and unpaid interest thereon, exists in an aggregate amount of not less than twenty per cent (20%) of the assessed valuation of the property in such city according to the latest approved official tax rolls. Any such city for the purposes of this Act shall be an "eligible" city.

**Refunding Bonds Authorized; Powers of
Governing Body; Definition**

Sec. 2. Any eligible city is authorized to issue refunding bonds for the purpose of taking up all or any part of its outstanding indebtedness, regardless of whether such indebtedness is in its original form or has been funded, or refunded, in whole or in part, such refunding bonds to bear interest at a rate or rates to be determined by the governing body of said city, not exceeding the average rate or rates of interest borne by the indebtedness to be refunded, and no election shall be required as a condition precedent to the issuance of the said refunding securities. The governing body of such eligible city, in addition to the levying of a tax to pay the principal and interest of said refunding bonds, is authorized to pledge to the payment of such principal and interest, a designated annual amount or a designated proportion of the net revenues from the operation of any one or more of the utility systems owned and operated by said city, which pledge shall remain in full force and effect so long as any part of the principal or interest of said refunding bonds is outstanding and unpaid. For the purposes of this Act the expression "net revenues" shall mean the gross revenues of such system or systems after the payment of the reasonable and necessary expenses of operation, maintenance, and collection of income and the payment of interest on and principal of any and all bonds theretofore issued, the payment of which is secured by a pledge of the revenues of any or all of said systems. When such city issues refunding bonds under the provisions of this law it shall be the duty of the city, after making said pledge of such utility revenues, to establish and maintain said utility systems and to fulfill the city's pledge of said utility revenues.

**Amount of Bond Issue; Procedure for
Issuance; Registration**

Sec. 3. The refunding bonds authorized in this Act may be issued in an amount not exceeding the combined amount of outstanding principal, matured interest coupons, and accrued interest on said original securities and shall mature at such time or times as the governing body may prescribe. The procedure for the issuance of said refunding bonds shall be that which is prescribed in the statutes for the issuance of refunding bonds to take up outstanding bonds.

Such refunding bonds shall be registered by the Comptroller of Public Accounts in exchange for and upon cancellation of such original indebtedness after they shall have been approved by the Attorney General, and when so registered shall have all of the elements of protections of bonds approved by the Attorney General of Texas under the provisions of Articles 709 to 715, both inclusive, of the Revised Civil Statutes of 1925.

Negotiability

Sec. 4. Refunding Bonds issued under this Act shall be fully negotiable coupon bonds payable to bearer, constituting general obligations of the issuing city, and the holders thereof shall succeed to all the privileges of the holders of the indebtedness constituting the basis of the refunding bonds except as modified and changed by the express terms of the proceedings employed in the refunding operation.

Act as Cumulative; Conflicting Laws

Sec. 5. This law shall be cumulative of all other laws on the subject. In the event that any provisions of this Act conflict with, or are inconsistent with, the provisions of any other law, general or special, or with the provision of the charter of any such eligible city, the provisions of this Act shall take precedence over such conflicting or inconsistent provisions and shall prevail.

[Acts 1957, 55th Leg., p. 1373, ch. 468.]

Art. 1118n-9. Validating City Tax Bonds for Waterworks and Sewage Systems

Sec. 1. All proceedings in connection with any tax bonds heretofore favorably voted in any city, including any Home Rule City, for the purpose of constructing, improving and extending the waterworks and sewage systems of such city, including the acquisition of property necessary therefor, are hereby in all things validated and said bonds may be issued and delivered by the governing body of any such city for the purpose or purposes so voted and in the manner provided by Chapter 1, Title 22, Revised Civil Statutes of Texas, 1925, as amended,¹ regardless of whether or not any such bonds so voted were submitted in only one proposition and regardless of the wording of the language appearing on the ballots concerning any proposition so submitted.

Sec. 2. Provided, however, that the provisions of this Act shall not apply to any such proceedings, or any obligations issued thereunder, the validity of which has been contested or attacked in any pending suit or litigation.

[Acts 1961, 57th Leg., p. 714, ch. 337.]

¹ Article 701 et seq.

Art. 1118n-10. Refunding Outstanding Waterworks and Sewer Revenue Bonds; Additional Refunding Bonds

Eligible City

Sec. 1. This Act shall be applicable to any city which has outstanding bonds secured by a pledge of net revenue of its sanitary sewer system and other bonds secured by a lien on its waterworks system and the revenues therefrom, and does not have the right to issue additional equal lien bonds payable from its waterworks revenues. As used herein

"Eligible City" means a city to which this Act is applicable.

**Refunding Bonds Secured by Pledge of Revenues;
Issuance; Interest; Deposits in State Treasury**

Sec. 2. An Eligible City is authorized to issue bonds, without the necessity of an election, for the purpose of refunding outstanding waterworks revenue bonds and sewer revenue bonds into an issue of refunding bonds which will be secured by and payable from a pledge of revenues of both the waterworks system and the sewer system. Such refunding bonds shall bear a rate of interest specified by the governing body of the City, but not to exceed six per cent (6%) per annum, and mature serially or otherwise in not to exceed forty (40) years. All or any part of such refunding bonds may, in lieu of being exchanged by the Comptroller of Public Accounts for outstanding bonds, be sold for cash, in which event, there shall be deposited with the State Treasurer an amount of money sufficient to pay the unexchanged portion thereof plus interest to maturity on bonds which are not optional for redemption prior to maturity, and to the option date on bonds which are optional. There shall also be deposited with the State Treasurer the additional amount required by Chapter 541, Acts of the Fifty-first Legislature as amended.¹ The State Treasurer shall hold and disburse such funds as provided in Chapter 541 except that he is not required to transmit money to the Trustee or the bank of payment until one business day before each interest payment date on the bonds being refunded.

¹ Article 1118n-5.

Elections Authorizing Bond Issue

Sec. 3. If, prior to such refunding, an Eligible City has had elections authorizing the issuance of bonds to be secured by a pledge of waterworks revenues and other bonds secured by sewer revenues, or either, such bonds may, after the issuance of such refunding bonds, be issued and secured by a pledge of net revenues of both the waterworks system and sewer system without the necessity of an additional election.

**Additional Revenue Bonds; Ordinances; Junior
Lien Bonds**

Sec. 4. An Eligible City may issue additional revenue bonds which will be on a parity with previously issued and outstanding revenue bonds at any time under the conditions specified in the ordinance or ordinances which authorized the issuance of the then outstanding bonds. Articles 1111 to 1118, both inclusive, Revised Civil Statutes of 1925, as amended, shall be applicable to bonds issued under this law, except as otherwise provided herein. An Eligible City may issue junior lien bonds unless prohibited by the ordinance authorizing outstanding bonds.

**Approval of Bonds by Attorney General;
Incontestability**

Sec. 5. All bonds issued under this Act shall be submitted to the Attorney General of Texas for his approval, and when approved by him, shall be registered by the Comptroller of Public Accounts of the State of Texas, and thereafter such bonds shall be incontestable.

[Acts 1963, 58th Leg., p. 321, ch. 119.]

**Art. 1118n-11. Refunding Certain Outstanding
Interest Bearing Obligations**

Issuer Defined

Sec. 1. The term "issuer," as used in this Act shall mean and include any city in the State of Texas which owns the water, sewer and electric utility systems serving such city and which operates all such utilities as a combined system and has issued and has outstanding revenue bonds payable from the revenues of such combined system.

**Issuing Refunding Bonds; Security; Election;
Maturity and Interest; Negotiability**

Sec. 2. Any issuer, by resolution, ordinance, order or other action of its governing body is authorized to issue refunding bonds to refund any outstanding interest bearing obligations, including but not limited to bonds, notes, warrants, certificates of obligation and certificates of indebtedness, and interest coupons appertaining thereto, heretofore or hereafter issued by or for or on behalf of said issuer, which obligations have stated maturity dates or are callable prior to maturity not more than 10 years after the date of delivery of such refunding bonds. One or more outstanding issues, and any part of one or more outstanding issues of obligations, and interest coupons appertaining thereto, may be refunded hereunder; provided that obligations will not be refunded hereunder by issuers unless such refunding results in the ability of the issuer to issue additional interest bearing obligations that could not have been issued but for such refunding due at least in part to provisions in the obligations being refunded or resolutions, ordinances or orders pertaining to such obligations being refunded which would have required a record of earnings or income in excess of that available to the issuer, and would have thus prevented the issuance of such additional interest bearing obligations; provided that when part of one or more of such issues is being refunded, the issuer must demonstrate to the satisfaction of the Attorney General of the State of Texas, prior to his approval of the refunding bonds as hereinafter required, that adequate pledged resources are estimated to be available, based on then current conditions, to provide for the payment when due of the unrefunded part of such issue or issues. Such refunding bonds may be secured by liens on, and made payable from, the same source as the obligations being refunded thereby, or may be secured by liens on, and payable

from, taxes, revenues, property, any other or different source, or any combination of such sources, to the extent the issuer is otherwise authorized by the Texas Constitution or any statute to pledge, dedicate, or use any such source for the payment or security of any kind or type of interest bearing obligation; and the refunding bonds may be issued in combination with refunding bonds issued under other laws, new bonds, and with provision for the subsequent issuance of additional parity bonds, or subordinate lien bonds, under such terms or conditions and with such security, as may be set forth in the proceedings authorizing the issuance of said refunding bonds, all as determined within the discretion of the issuer; provided, however, that no such bonds shall be issued contrary to the provisions of the Texas Constitution. All refunding bonds issued pursuant to this Act may be issued without any election in connection with the issuance thereof or the creation of any encumbrance in connection therewith; except that if the Texas Constitution would require an election or vote to permit any procedure, action, or matter pertaining to such refunding bonds, then an election to authorize any such procedure, action, or matter shall be held substantially in accordance with Chapter 1, Title 22, Revised Civil Statutes of Texas, 1925, as amended,¹ to the extent practicable, applicable, and appropriate. Said bonds may be issued to mature serially or otherwise in not to exceed 50 years from their date, and may be issued to bear interest at any rate or rates within the discretion of the issuer. Said bonds and any interest coupons appurtenant thereto, shall be negotiable instruments within the meaning of the Uniform Commercial Code (except that such bonds may be made registrable as to principal alone or as to both principal and interest), and may be made redeemable prior to maturity, and may be issued in such form, denominations, and manner, and under such terms, conditions, and details, and may be executed, as provided by the issuer in the proceedings authorizing the issuance of said refunding bonds.

¹ Article 701 et seq.

**Bonds Payable from Water, Sewer, and Electric
Utility Revenues**

Sec. 2A. (a) This section applies only to refunding bonds payable solely from the net revenues of the issuer's combined water, sewer, and electric utility systems.

(b) The requirements of Section 2 of this Act that the obligations to be refunded must have stated maturity dates or be callable prior to maturity not more than 10 years from the date of delivery of the refunding bonds and that the refunding must enable the issuer to issue additional obligations it could not otherwise have issued do not apply to the issuance of refunding bonds covered by this section.

(c) The requirement in Section 4 of this Act that the refunding bonds be sold for not less than par

value is not applicable to refunding bonds covered by this section.

(d) As to refunding bonds covered by this section, if obligations to be refunded are not callable at the time of refunding but will be subject to redemption before maturity, the issuer may provide in the refunding proceedings for redeeming those obligations before maturity, and if it does so, the issuer need deposit with the State Treasurer under this Act no more than is necessary to provide for payment of the principal and interest on those obligations as they are redeemed.

**Submission of Bonds and Proceedings to Attorney
General; Approval and Registration;
Incontestability; Registration**

Sec. 3. All bonds permitted to be issued under this Act, and the appropriate proceedings authorizing their issuance, shall be submitted to the Attorney General of the State of Texas for examination. If he finds that such bonds have been authorized in accordance with this Act, he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas; and after such approval and registration, such bonds shall be incontestable in any court, or other forum, for any reason, and shall be valid and binding obligations in accordance with their terms for all purposes. Such bonds shall be registered by the comptroller of public accounts after they are approved by the attorney general, without any surrender, exchange, or cancellation of the obligations being refunded.

Sale for Cash; Redemption

Sec. 4. The refunding bonds authorized by this Act shall be sold for cash in such manner and at such price (not less than par and accrued interest to date of delivery) as determined within the discretion of the governing body of the issuer; and may be sold in such principal amounts as are necessary to provide all or any part of the money required to pay the principal of an interest on any obligations being refunded, as the same mature and come due, or to provide all or any part of the money required to redeem any obligations being refunded, prior to maturity, on the date or dates upon which said obligations have been called for such redemption, including principal, any required premium, the interest to accrue on said obligations to said redemption date or dates, together with an amount sufficient to pay all expenses related to the issuance of the refunding bonds and the expenses of paying the obligations being refunded under this Act. If any of the obligations being refunded through the sale of refunding bonds under this Act are subject to redemption prior to maturity, they shall be duly called for such redemption on a date or dates upon which they are so redeemable, in accordance with the terms thereof, and the proceedings pertaining to such call, and any notice of redemption required in connection therewith, shall be submitted to the at-

torney general along with the proceedings authorizing the issuance of said refunding bonds. However, if the notice of redemption in connection with any such obligations being refunded is required by the terms thereof to be given or published at some future time after the date of the refunding bonds, such obligations shall not be considered as being then subject to redemption prior to maturity for the purposes of this Act, and in calculating the amount required to be deposited with the state treasurer under this Act, such amount shall be made sufficient to provide for the payment of the principal of and interest on said obligations being refunded as the same mature and come due, without being redeemed prior to maturity.

Investment of Proceeds

Sec. 5. The issuer may immediately invest all or any required part of the proceeds from the sale of the refunding bonds, and any other necessary available funds, in direct obligations of, or obligations the interest on and principal of which are unconditionally guaranteed by the United States of America, or in obligations which, in the opinion of the Attorney General of the United States of America, are general obligations of the United States of America and backed by its full faith and credit, which will mature, bear interest, and be payable, at such times and in such amounts as will provide and produce, without any reinvestment, the money (together with any uninvested money) required for the payment of the principal of and interest on the obligations being refunded, as the same mature and come due, and for the payment of the redemption price of any obligations being refunded and redeemed prior to maturity, on the date or dates upon which said obligations being refunded have been called for redemption, plus the additional amount required to pay the service charges of the place or places of payment of said obligations for paying and redeeming same.

Deposits With Treasurer; Certification of Deposit Adequacy; Duties of Treasurer

Sec. 6. (a) The issuer shall immediately deposit with the state treasurer (1) the proceeds from the sale of the refunding bonds, to the extent such proceeds are not invested, and (2) all of said investments, and (3) an additional amount, if necessary, which shall be sufficient together with such other deposits to pay the principal of and interest on the obligations being refunded, to pay the state treasurer for his services and to reimburse him for his expenses in performing his duties under this Act, equal to one-twentieth of one percent of the principal or par amount of the obligations being refunded, and one-eighth of one percent of the interest to accrue thereon (but not to exceed a total of \$2,000 in connection with each issue of refunding bonds issued hereunder), plus an additional amount of money sufficient to pay the service charges of the place or places of payment of said obligations for paying and redeeming same. The treasurer shall

certify to the issuer as to the adequacy of the investments (and money) deposited, giving due regard to the dates the principal and interest on the investments are scheduled to mature and come due. In calculating the adequacy of said investments required to be so deposited, the state treasurer may rely on receiving both the principal and the interest scheduled to mature and come due on said investments in accordance with their terms, respectively, and the amount which otherwise would be required to be so deposited, if no interest were scheduled to come due thereon, may be reduced accordingly. It shall be the duty of the state treasurer to accept said deposits of investments and to collect promptly, when due and payable, all principal of and interest on said investments, but he shall not reinvest the same. It is further provided that the aforesaid investments shall be made in such manner that the proceeds therefrom, without any reinvestment, will be available for deposit, and shall be deposited, by the state treasurer, in the place or places of payment, in current available funds, in the required amounts, not later than one business day before each scheduled maturity date, due date, or redemption date, respectively, of said obligations being refunded. The state treasurer may rely on a certificate by the secretary or the chief clerical officer of the governing body of the issuer as to the amount of such service charges of the place or places of payment.

(b) It shall be the duty of the state treasurer, in his official capacity of public office, to accept and keep safely all deposits of money and investments made with him under this Act, and all proceeds from said investments; and no part of such deposits of money and investments, or proceeds therefrom, (excepting the amount paid to him for his services and expenses) shall be used by or for the benefit of the State of Texas, or for the benefit of any creditor of the State of Texas, and shall not be commingled with the General Fund of the state, or any other special funds or accounts held by the state treasurer. Each such deposit of money and investments, and proceeds therefrom, (excepting the amount paid to him for his services and expenses) shall be kept and maintained separate and apart from all other money and investments, and shall be kept and held, in escrow, and in trust, by the state treasurer, and shall be charged with an irrevocable first lien and pledge in favor of the holders of the obligations to be paid therefrom, and said deposits of money and investments, and proceeds therefrom, shall be used only for the purposes provided in this Act. Each such deposit of money and investments, and proceeds therefrom, shall be regarded as public funds, and legal title thereto shall be in the state treasurer, in his official capacity as trustee, until paid out as herein provided, but equitable title thereto shall be in the issuer, until so paid out. The writ of mandamus, and all other legal remedies, shall be available to any bondholder, the issuer or any other party at interest to require the state treasurer to perform his functions and duties under this Act. The surety

bond or bonds given by the state treasurer in connection with the proper performance of his duties of office (excepting any special bonds given to protect funds of the United States government) shall protect and be construed as protecting all said deposits of money and investments, and proceeds therefrom. The state treasurer shall not in any way invest or reinvest any money deposited with him or received by him from any investment under this Act. In the event that any surplus funds should remain on hand with the state treasurer in connection with any deposit of money or investments, after he has finally performed all of his duties relating thereto under this Act, such surplus shall be returned to the issuer.

(c) When there is more than one place of payment for any such obligations being refunded, the state treasurer shall make all of the deposits required to be made by him under this Act at the one of said places of payment having the largest capital and surplus and located in the State of Texas, and if none of such places of payment is located in the State of Texas, then at the place of payment having the largest capital and surplus; and it shall be the duty of such place of payment, and the state treasurer shall so instruct it, to make the required current funds available, to the extent necessary, at the other place or places of payment, to pay or redeem said obligations under presentment therefor.

Alternative Place of Deposit; Duties of Places of Payment

Sec. 7. It is further provided, however, that in the alternative to making the deposit of said investments (together with any uninvested money) with the state treasurer, the issuer shall have the option of making such deposit with any place of payment for the obligations being refunded, if said place of payment is a bank or trust company located in the State of Texas, has trust powers, and is a member of the Federal Reserve System. In such case, such place of payment shall perform all applicable and pertinent functions and duties provided in this Act for the state treasurer, and shall be substituted hereunder for the state treasurer to the extent appropriate and practical, except as otherwise provided by this section. The deposits of such investments and money shall be held for safekeeping, in escrow, and in trust for and charged with an irrevocable first lien and pledge in favor of and for the benefit of the holders of the obligations being refunded, all pursuant to an appropriate trust or escrow agreement between the issuer and the place of payment, upon such further terms and conditions, and for such consideration as may be agreeable to the parties thereto. Further, all deposits of money with any such place of payment shall constitute public funds and shall be secured at all times by a pledge of direct obligations of the United States of America, obligations the payment of principal of and interest on which are unconditionally guaranteed by the United States of America, or

obligations which, in the opinion of the Attorney General of the United States of America, are general obligations of the United States of America and backed by its full faith and credit. When there is more than one place of payment for any such obligations being refunded it shall be the duty of such place of payment, with which such deposit is made, to make the required current funds available, to the extent necessary, at the other place or places of payment to pay or redeem said obligations under presentment therefor.

Discharge and Final Payment or Redemption of Obligations; Subordination to Refunded Obligations

Sec. 8. When the initial deposit of investments (and any uninvested money) is made with the state treasurer or with a place of payment under this Act, such deposit shall constitute the making of firm banking and financial arrangements for the discharge and final payment or redemption of the obligations being refunded, and although such obligations being refunded shall continue to be obligations of the issuer, automatically they shall become obligations of the issuer secured solely by and payable solely from such deposit and the proceeds therefrom; and upon the making of such deposit, all previous encumbrances existing in connection with said obligations being refunded (whether in connection with taxes, revenues, real and personal property or any other source of security or payment) automatically shall terminate and be finally discharged and released, as a matter of law, and said encumbrances shall be of no further force or effect; and although said obligations being so refunded will remain outstanding, they shall be regarded as being outstanding only for the purpose of receiving the funds provided by the issuer for their payment or redemption under this Act, and they shall not be regarded as being outstanding in ascertaining the power of the issuer to issue bonds, or in calculating any limitations in connection therewith, or for any other purpose. It is further provided, however, notwithstanding the foregoing language of this section, that the issuer may, in the alternative to the foregoing language of this section, provide in the proceedings authorizing the issuance of such refunding bonds that such refunding bonds shall be subordinate to the obligations being refunded, but only in the manner and to the extent provided in said authorizing proceedings; and, except for any such specific provisions to the contrary in said authorizing proceedings, the foregoing language of this section shall be fully applicable.

Rights of Holders of Obligations

Sec. 9. The holder or holders of any such obligations being refunded shall never have the right to demand or receive payment thereof prior to the scheduled date or dates of the maturities, due dates, or redemption date or dates, respectively, of said obligations being refunded, and said holder or holders shall not be paid therefor prior to such date or dates, unless the issuer shall have specifically and

affirmatively provided for and authorized the earlier payment of said obligations in the proceedings authorizing said refunding bonds.

**Bonds as Legal and Authorized Investments;
Security for Deposits**

Sec. 10. All bonds issued pursuant to this Act shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

**Cumulative and Prevailing Effects of Act; Use
of Other Laws**

Sec. 11. This Act shall be cumulative of all other laws on the subject, but this act shall be wholly sufficient authority within itself for the issuance of the bonds and the performance of the other acts and procedures authorized hereby, without reference to any other laws or any restrictions or limitations contained therein, except as herein specifically provided; and when any bonds are being issued under this Act, then to the extent of any conflict or inconsistency between any provisions of this Act and any provisions of any other law or charter, the provisions of this Act shall prevail and control; provided, however, that any issuer shall have the right to use the provisions of any other laws, not in conflict with the provisions hereof, to the extent convenient or necessary to carry out any power or authority, express or implied, granted by this Act.

Severability

Sec. 12. In case any one or more of the sections, provisions, clauses, or words of this Act, or the application thereof to any situation or circumstance, shall for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other sections, provisions, clauses, or words of this Act, or the application thereof to any other situation or circumstance, and it is intended that this Act shall be severable and shall be construed and applied as if any such invalid or unconstitutional section, provision, clause, or word had not been included herein.

[Acts 1973, 63rd Leg., p. 1724, ch. 627, eff. Aug. 27, 1973. Amended by Acts 1977, 65th Leg., p. 1284, ch. 504, § 1, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 1707, ch. 703, § 1, eff. June 13, 1979.]

The 1977 Act provides in § 2 as follows:

"If any provision of this Act or the application thereof to any person or circumstance is declared invalid, such invalidity shall not affect any other provision or application of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared severable."

**Art. 1118n-12. Refunding Certain Bonds, and
Other Obligations of Cities, Towns,
and Villages**

Definitions

Sec. 1. (a) The term "Issuer," as used in this Act, shall mean each city, town, and village in the state which at any time has outstanding bonds or other obligations which are secured solely by a pledge of the net revenues of, or by a pledge of the net revenues of and a mortgage on, its electric light and power system or its electric light and power system and gas system.

(b) The term "Board," as used in this Act, shall mean the city council, city commission, board of commissioners, board of aldermen, or other group which is the governing body of an issuer.

**Authority to Issue Refunding Bonds; Security; New
Bonds; Maturity; Negotiability; Conversion;
Election not Required**

Sec. 2. The board of any issuer is authorized to issue refunding bonds to refund all or any part of any outstanding bonds or other interest bearing obligations secured solely by a pledge of the net revenues of, or by a pledge of the net revenues of and a mortgage on, the issuer's electric light and power system or its electric light and power system and gas system, and any interest coupons appertaining thereto. One or more outstanding issues and any part of one or more outstanding issues of bonds or other interest bearing obligations, and any interest coupons appertaining thereto, may be refunded under this Act; provided that when part of one or more of these issues is being refunded, the board must demonstrate to the satisfaction of the attorney general, prior to his approval of the bonds as required in this Act, that adequate pledged resources are estimated to be available, based on then current conditions, to provide for the payment, when due, of the unrefunded part of the issue or issues. The refunding bonds, and the interest and redemption premium, if any, may be secured by first or subordinate liens on and pledges of, and made payable from, the same source as the obligations being refunded and may be secured by first or subordinate liens on, and pledges of, and made payable from, any other revenues, income, or property, and other, different, or additional source or resources, of the board or the issuer, or any combination of those sources or resources, except any taxes, all within the sole discretion of and in the manner provided by the board; and the refunding bonds additionally may be secured by mortgages, deeds of trust, trust indentures, trust agreements, or other instruments evidencing liens on any real, personal, or mixed property; and the refunding bonds may be issued in combination with new bonds, and with

provision for the subsequent issuance of additional parity bonds, or subordinate lien bonds, under the terms or conditions and with the security, set forth in the proceedings authorizing the issuance of the refunding bonds, all as determined within the discretion of the board; provided, however, that no bonds shall be issued contrary to the provisions of the Texas Constitution. If and when the board desires to issue refunding bonds in combination with new bonds for any purpose or purposes for which the issuer is then authorized by any law or home rule charter provision to issue revenue bonds or other interest bearing obligations, the new bonds may be issued for any purpose or purposes under the provisions of, and be secured and payable as provided in, this Act, and the provisions of this Act shall be fully applicable thereto without regard to any other requirements, in the manner provided by the board in the proceedings authorizing the bonds. All bonds issued under the provisions of this Act may be issued to mature serially or otherwise in not to exceed 50 years from their date, and may be issued to bear interest at any rate or rates, all within the discretion of the board. The bonds and any interest coupons appurtenant thereto, are negotiable instruments within the meaning of the Uniform Commercial Code, except that the bonds and the interest thereon may be made payable to a named payee or made registrable as to principal alone or as to both principal and interest, and may be payable at any place or places, and may be made redeemable prior to maturity, may provide for capitalized interest during construction and thereafter, capitalized operating and maintenance expenses, and capitalized reserve and contingency funds, and may be issued in the form, denominations, and manner, and under the terms, conditions, and details, and may be executed, as provided by the board in the proceedings authorizing the issuance of the bonds. The board may provide and covenant for the conversion of any form of bond into any other form or forms of bond, and for reconversion of bonds into any other form. The board may provide procedures for the replacement of lost, stolen, destroyed, or mutilated bonds or interest coupons in the manner prescribed by the board in the proceedings authorizing the issuance of the bonds. If the duty of replacement, conversion, or reconversion of bonds is imposed upon a corporate trustee under a trust agreement or trust indenture, or upon a place of payment (paying agent) for the bonds, the replacement, converted, or reconverted bond need not be re-approved by the attorney general or reregistered by the comptroller of public accounts as provided in Section 3 of this Act. Otherwise, all replacement, converted, or reconverted bonds must be so approved and registered as provided in Section 3 of this Act, in accordance with the procedures established in the proceedings authorizing the issuance of the bonds. All bonds issued under the provisions of this Act may be issued without any election or referendum in connection with their issuance or the

creation of any encumbrance in connection with their issuance.

**Approval by Attorney General; Registration;
Incontestability**

Sec. 3. All bonds permitted to be issued under the provisions of this Act, and the appropriate and applicable proceedings authorizing the issuance, shall be submitted to the attorney general for examination. If he finds that the bonds have been authorized in accordance with this Act, he shall approve them, and then they shall be registered by the comptroller of public accounts; and after the approval and registration, the bonds shall be incontestable in any court, or other forum, for any reason, and shall be valid and binding obligations in accordance with their terms for all purposes.

Bonds as Legal and Authorized Investments

Sec. 4. All bonds issued under the provisions of this Act are investment securities governed by Chapter 8, Uniform Commercial Code, and are legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, and trustees, and for the sinking funds of cities, towns, villages, school districts, and other political subdivisions or public agencies of the state. The bonds also are eligible to secure deposits of any public funds of the state or any political subdivision or public agency of the state, and are lawful and sufficient security for the deposits to the extent of their market value, when accompanied by any unmatured coupons attached to the bonds.

Exchanges

Sec. 5. The refunding bonds authorized by this Act may be issued in exchange for, and upon surrender and cancellation of, any obligations being refunded, and in that case, the comptroller of public accounts shall register the refunding bonds and deliver them to the holder or holders of the obligations being refunded, in accordance with the provisions of the proceedings authorizing the refunding bonds, and any exchange may be made in one or in several installment deliveries. However, instead of issuing the refunding bonds to be exchanged for any obligations being refunded, the board shall be authorized, in its discretion, to issue refunding bonds to be sold for cash in principal amounts necessary to provide all or any part of the money required to pay the principal of and interest on any obligations being refunded, as they mature and come due, and to provide all or any part of the money required to redeem any obligations being refunded, prior to maturity, on any future date or dates upon which the obligations have been called for such redemption, within the discretion of the board, including principal, any required redemption premium, and the interest to accrue on the obligations to the redemption date or dates, together with an amount sufficient to pay all expenses related to the issuance of the bonds and the expenses of

paying the obligations being refunded under this Act; and also to provide any amounts deemed necessary or required by the board to fund or provide for deposits into any debt service reserve funds, interest and sinking funds, or other funds created in the proceedings authorizing the bonds, and to provide amounts to pay interest on all bonds issued under the provisions of this Act for the period prescribed by the board, and to provide any other amounts deemed required by the board. All bonds issued under the provisions of this Act, excepting any exchange refunding bonds, may be sold for cash in the manner, under the procedures, at public or private sale, and at the price or prices, as shall be determined solely within the discretion of the board. If any of the obligations being refunded through the sale of refunding bonds under this Act are subject to redemption prior to maturity, they may, at the option and within the discretion of the board, be called for redemption on any future date or dates upon which they are redeemable, within the discretion of the board, and the proceedings pertaining to the call shall be submitted to the attorney general along with the proceedings authorizing the issuance of the refunding bonds. When the board has authorized any of the refunding bonds and any new bonds in combination with the refunding bonds to be sold for cash under the provisions of this Act, the refunding bonds and any new bonds in combination with the refunding bonds shall be registered by the comptroller of public accounts after they are approved by the attorney general, without any surrender, exchange, or cancellation of any obligations being refunded.

Deposit of Proceeds with State Treasurer; Duties

Sec. 6. When any refunding bonds issued under the provisions of this Act are sold and delivered to the purchaser, the board immediately shall have deposited with the state treasurer, from the proceeds of the sale, and any other funds available for that purpose, the amount which will be required to pay the principal of and interest on the obligations being refunded as they mature and come due, and the amount which will be required to redeem prior to maturity any obligations being refunded, on the date or dates upon which these obligations have been called for redemption, including principal, any required redemption premium, and the interest to accrue on those obligations to the redemption date or dates, together with an additional amount to pay the state treasurer for his services and to reimburse him for his expenses in performing his duties under this Act, equal to one-twentieth of one percent of the principal or par amount of the obligations being refunded, and one-eighth of one percent of the interest to accrue thereon, but not to exceed a total of \$1,000 in connection with each issue of refunding bonds issued under this Act, plus an additional amount of money sufficient to pay the service charges of the place or places of payment of the obligations for paying and redeeming them. The state treasurer may rely on a certificate or other

instrument or document which shall be filed with him by the issuer showing clearly the date or dates upon which the principal matures and interest comes due on the obligations being refunded, and the amounts thereof, and the date or dates, if any, on which the obligations have been called for redemption prior to maturity, together with the redemption price, and the place or places of payment of the obligations being refunded, and the charges to be made by the place or places of payment for paying and redeeming the obligations. It shall be the duty of the state treasurer to make the appropriate required part of the deposits available at the place or places of payment, in current and immediately available funds, on or before, but not later than, each maturity date, due date, or redemption date, respectively, of the obligations being refunded, in order to pay the required amounts on each date, plus the service charges of the place or places of payment.

Investment of Proceeds

Sec. 7. It is provided, however, that instead of depositing money with the state treasurer as required by Section 6 of this Act, except for the money to be paid to him for his services and expenses, which in all events shall be deposited in cash, the board may, at its option, unless the board determines, in its sole discretion, that money is required to be deposited, immediately invest all or any part of the proceeds from the sale of the refunding bonds, and any other necessary available funds, in direct obligations of the United States of America, or in obligations the payment of the principal of and interest on which are unconditionally guaranteed by the United States of America, or in obligations which, in the opinion of the Attorney General of the United States of America, are general obligations of the United States of America and backed by its full faith and credit, which investments will mature, and bear interest payable, at such times and in such amounts as will provide, without any reinvestment, not less than the amount of money, in addition to any money initially deposited for that purpose, required for the payment of the principal of and interest on the obligations being refunded, as they mature and come due, and for the payment of the redemption price of any obligations being refunded and redeemed prior to maturity, on the date or dates on which the obligations being refunded have been called for redemption, including principal, any required redemption premium, and the interest to accrue on the obligations to the redemption date or dates, together with the additional amount required to pay the service charges of the place or places of payment of the obligations for paying and redeeming them. The board shall deposit all of the investments immediately with the state treasurer. In calculating the amount of the investments required to be so deposited, the issuer and the state treasurer shall rely on receiving both the principal and interest, if any, scheduled to mature and accrue or come due on the investments, to

the extent that the principal and interest are scheduled to mature and accrue or come due prior to the date or dates of the maturities, due dates, or redemption date or dates, respectively, of the obligations being refunded; and the amount which otherwise would be required to be deposited, if no interest or increase were scheduled to accrue or come due, may, at the option of the board, be reduced accordingly. It shall be the duty of the state treasurer to accept the deposits of investments and to collect promptly, when due and payable, all principal of and interest on the investments, but he shall not reinvest them. It is further provided that the aforesaid investments shall be made in a manner that the proceeds from them, without any reinvestment, will be available for deposit, and shall be deposited, by the state treasurer, in the place or places of payment, in current and immediately available funds, in the required amounts, on or before, and not later than, each maturity date, due date, or redemption date, respectively, of the obligations being refunded.

Duties of Treasurer as to Handling and Safekeeping of Proceeds

Sec. 8. It shall be the duty of the state treasurer, ex officio, in his official capacity of public office, to accept and keep safely all deposits of money and investments made under this Act, and all proceeds from said investments; but no part of such deposits of money and investments, or proceeds therefrom, excepting the amount paid to him for his services and expenses, shall constitute a part of the state treasury, or be used by or for the state or for the benefit of any creditor of the state, and shall not be commingled with the general revenue fund of the state or any other special funds or accounts held by the state treasurer. The state treasurer shall keep and maintain each such deposit of money and investments, and proceeds from them, excepting the amount paid to him for his services and expenses, separate and apart from all other deposits, money, funds, accounts, and investments, and each such deposit of money and investments, and proceeds from them, shall be kept and held in escrow and in trust by the state treasurer, for and on behalf of, and charged with an irrevocable first lien and pledge in favor of, the holders of the obligations to be paid the deposits, and the deposits of money and investments, and proceeds from them, shall be used only for the purposes provided in this Act. Each deposit of money and investments, and proceeds from them shall be public funds, and legal title shall be in the state treasurer, in his official capacity as trustee, until paid out as provided in this Act, but equitable title shall be in the issuer, until paid out. The writ of mandamus and all other legal and equitable remedies shall be available to any bondholder, the issuer, or any other party at interest to require the state treasurer to perform his functions and duties under this Act. The surety bond or bonds given by the state treasurer in connection with the proper performance of his duties of office,

excepting any special bonds given to protect funds of the United States shall protect and be construed as protecting all the deposits of money and investments, and proceeds from them. The state treasurer shall not in any way invest or reinvest any money deposited with him or received by him from investments deposited with him under this Act. In the event that any surplus funds should be on hand with the state treasurer in connection with any deposit of money or investments, or proceeds from them, the surplus shall be returned to the issuer.

Place of Payment

Sec. 9. If there is more than one place of payment for any obligations being refunded under this Act, the state treasurer shall make all deposits required under this Act at the place of payment located in the state, if there is one, or if there is more than one place of payment located in the state, or if no place of payment is located in the state, then at the one of the places of payment having the largest capital and surplus. It shall be the statutory duty of the place of payment, and the state treasurer shall instruct it, to make the appropriate financial arrangements so that the necessary required current funds will be available, to the extent necessary, at the other places of payment, to pay or redeem the obligations when due; provided that this section shall not apply in the event the board proceeds under Section 10 of this Act.

Alternative Place of Deposit

Sec. 10. It is further provided, however, that in the alternative to making the deposit of money or investments with the state treasurer in connection with refunding bonds issued and sold under this Act, and notwithstanding any provisions of this Act to the contrary, the board shall have the option of making the deposit of money or investments with any place of payment (paying agent), wherever located, for the obligations being refunded, or, at the option of the board, with any trustee under any trust indenture, trust agreement, deed of trust, or other instrument, securing the obligations being refunded. In that case the place of payment or trustee shall, to the extent practicable, substantially perform the applicable and pertinent functions and duties provided in this Act for the state treasurer, to the extent appropriate and practical, and the place of payment or trustee shall be substituted for the state treasurer under this Act to the extent appropriate and practical, except as otherwise provided by this section. Such deposits of money and investments shall be held for safekeeping, in escrow, in trust for, and charged with an irrevocable first lien and pledge in favor of, and for the benefit of, the holders of the obligations being refunded, and the issuer and the place of payment or trustee, may execute an appropriate trust or escrow agreement on the terms and conditions, and for the consideration agreeable to the parties to the agreement. The agreement may provide that any deposits of money may be invested in direct obligations of

the United States of America, or obligations the payment of principal of and interest on which are unconditionally guaranteed by the United States of America, or obligations which, in the opinion of the Attorney General of the United States of America, are general obligations of the United States of America and backed by its full faith and credit, or may be placed in interest bearing time deposits secured at all times by an equal amount in market value of any of the federal obligations named above. The agreement further shall provide for deposits with the place or places of payment (paying agent or agents) to pay or redeem the obligations being refunded when due, and may provide that at any time the amount of money and investments held in escrow exceeds the amount required for purposes of this Act, the excess shall be transferred and delivered to the issuer, or as directed by the board, to be used for any lawful purpose, including the payment of revenue bonds issued pursuant to this Act or otherwise, all at the option of the board.

Rights of Holders of Obligations

Sec. 11. The holder or holders of any obligations being refunded by any refunding bonds sold pursuant to this Act shall never have the right to demand or receive payment of them prior to the scheduled date or dates of the maturities, due dates, or redemption date or dates, respectively, of the obligations being refunded, and the holder or holders shall not be paid for them prior to the date or dates, unless the board specifically and affirmatively provided for and authorized the earlier payment of the obligations in the proceedings authorizing the refunding bonds.

Discharge and Final Payment or Redemption of Obligations; Subordination to Refunded Obligations

Sec. 12. When the initial deposit of money or investments is made with the state treasurer or with a place of payment (paying agent) or trustee in accordance with this Act for any obligations being refunded under this Act, the deposit shall constitute the making of firm banking and financial arrangements for the discharge and final payment or redemption of the obligations being refunded, and although the obligations being refunded continue to be obligations of the issuer, automatically they become obligations of the issuer secured solely by and payable solely from the deposit and the proceeds from them; and on making the deposit, all previous encumbrances, including all liens, pledges, mortgages, deeds of trust, trust indentures, or trust agreements, existing in connection with the obligations being refunded, whether in connection with revenues, real, personal, and mixed property, or any other source of security or payment, automatically terminate and are finally discharged and released, as a matter of law, and the encumbrances shall be of no further force or effect; and although the obligations being refunded will remain outstanding, they shall be regarded as being outstanding only for the purpose of receiving the funds provided by

the issuer for their payment or redemption under this Act, and they shall not be regarded as being outstanding in ascertaining the power of the issuer to issue bonds, or in calculating any limitations in connection therewith, or for any other purpose. It is further provided, however, notwithstanding the foregoing provisions of this section, that the board may, in the alternative to the foregoing provisions of this section, provide in the proceedings authorizing the issuance of the refunding bonds that the refunding bonds are subordinate to the obligations being refunded, but only in the manner and to the extent provided in the authorizing proceedings; and, except for any specific provisions to the contrary in the authorizing proceedings, the foregoing provisions of this section are fully applicable.

Cumulative and Prevailing Effects of Act; Use of Other Laws

Sec. 13. This Act shall be cumulative of all other laws on the subject, but this Act shall be wholly sufficient authority within itself for the issuance of the bonds and the performance of the other acts and procedures authorized hereby, without reference to any other laws, or home rule charter provisions, or any restrictions or limitations contained therein; and to the extent of any conflict or inconsistency between any provision of this Act and any provision of any other law, including any law passed at the current session of the legislature, or any home rule charter provision, the provisions of this Act shall prevail and control; provided, however, that the board shall have the right to use the provisions of any other laws or home rule charter provisions not in conflict with the provisions of this Act, to the extent convenient or necessary to carry out any power or authority, express or implied, granted by this Act. This Act shall be liberally construed so as to permit the accomplishment of the purposes of this Act.

[Acts 1977, 65th Leg., p. 1632, ch. 642, §§ 1 to 13, eff. Aug. 29, 1977. Amended by Acts 1981, 67th Leg., p. 120, ch. 58, §§ 1, 2, eff. Aug. 31, 1981.]

Art. 1118o-1. Validating Acts and Proceedings of Cities in Borrowing Money From Federal Agencies to Repair or Extend Dam for Waterworks System

In all cases where any city or town in this State has borrowed money from The Reconstruction Finance Corporation or any other agency of the United States Government, for the purpose of making repairs and extensions, or either, to a dam comprising a part of the waterworks system of said city or town, which the city or town has agreed to repay out of the revenues of said waterworks system, all acts performed by the city officials and all proceedings had by the governing bodies of such cities or towns in connection therewith are hereby validated, and all money so borrowed by such city or town together with the interest thereon at the rate stipulated in such proceedings is hereby declared to be a legal obligation of such city or town, payable out of

the revenues of its waterworks system. The fact that a vacancy existed in the office of Mayor during all or any part of such proceedings, or the fact that other revenue obligations were then and are now outstanding against such system shall not affect the obligations and proceedings hereby validated.

[Acts 1939, 46th Leg., p. 694, § 1.]

Art. 1118p. Refunding Bonds in Counties of 525,000 or More; Payment From Water or Sewer Revenues

Issuance of New Revenue Bonds; Franchise to Foreclosure Purchaser

Sec. 1. This Act shall apply only in counties that have a population of five hundred and twenty-five thousand (525,000) or more, according to the last Federal Census. Any city or town that has issued bonds, warrants, notes, or other obligations payable from the revenues of the water systems and/or sewer systems and/or sewage disposal plants of such city or town, all or a portion of which bonds, warrants, notes, or other obligations are outstanding, may issue new bonds of such city or town payable from the net revenues of the water systems and/or sewer systems and/or sewage disposal plants of such city or town for the purpose of refunding such outstanding bonds, warrants, notes, or other obligations and for the purpose of further building, improving, enlarging, extending, and/or repairing such systems, or any one of them, and may pledge the net revenues thereof to pay the interest on and principal of such refunding and further construction bonds, and in the discretion of the governing body of such city or town, may mortgage and encumber the physical properties of such system or systems, as the case may be, for that purpose, and grant a franchise to the purchaser under foreclosure to operate such system or systems, as the case may be, for a period of not exceeding twenty (20) years after purchase, subject to all the laws regulating the same then in force.

Designation; Maturity; Interest

Sec. 2. Such new bonds may be called _____ Refunding and Further Construction Bonds, and may be made to mature serially or otherwise as the governing body of such city or town may direct not more than thirty (30) years from their date, and may bear interest at not exceeding five (5) per cent per annum; provided such new bonds shall not bear a higher rate of interest than the bonds, warrants, notes, or other obligations that are refunded thereby.

Election

Sec. 3. Before the bonds herein authorized are issued, they shall be authorized by a majority vote of the duly qualified property taxpaying voters of such city or town at an election ordered and held for that purpose, which election shall be ordered and held in the same manner as required by law for

holding elections to authorize the issuance of tax supported bonds.

Approval by Attorney General; Registration

Sec. 4. Such bonds and the record authorizing the same shall be submitted to the Attorney General of Texas and approved by him, substantially the same as is required in the issuance of tax supported bonds. When such bonds shall have been approved by the Attorney General, they shall be turned over to the Comptroller of the State of Texas and by him registered in the following order:

First, the portion of such new bonds equal in principal amount to the outstanding bonds, warrants, notes, and other obligations that are being refunded thereby, shall be registered only upon surrender and cancellation of such outstanding bonds, warrants, notes, and other obligations that are being refunded thereby, until all of such outstanding bonds, warrants, notes, and other obligations shall have been surrendered and cancelled.

Second, after all such outstanding revenue bonds, warrants, notes, and other obligations of such city or town shall have been surrendered and cancelled, and an equal amount of such new bonds registered and delivered in lieu thereof, then the balance of such new bonds shall be registered by the Comptroller and delivered to the Mayor of such city or town, or upon his order, and may be sold by the governing body of such city or town and the proceeds thereof expended in further building, improving, enlarging, extending, and/or repairing such system or systems, as the case may be.

Act as Cumulative; Repeal of Conflicting Laws Only

Sec. 5. This Act is cumulative, and in addition to all other statutes authorizing the issuance of revenue bonds of cities and towns, and is intended to repeal only such laws and parts of laws as are in conflict herewith.

Repeal

Sec. 6. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict, and particularly that expression contained in Article 1113, Revised Civil Statutes of Texas which reads, "No part of the income of any such system shall ever be used to pay any other debt, expense or obligation of such city or town, until the indebtedness so secured shall have been finally paid," is hereby specially repealed.

[Acts 1941, 47th Leg., p. 421, ch. 251.]

Art. 1118q. Hydro-Electric Generating Facilities, Acquisition of

Sec. 1. Any city in Texas which owns an electric distribution system, whether or not such city also owns facilities for the generation of electricity, may acquire by purchase, and improve, maintain and operate any privately owned facilities for the generation of hydro-electric power having an installed

capacity of not less than two thousand (2,000) kilowatts, which may exist within five (5) miles of the boundary of such city, including all lands, flowage rights and water rights and related generating and transmission equipment and lines, and for the purpose of paying the cost of such acquisition and improvement may issue the bonds of such city pursuant to the provisions of Articles 1111 to 1118, inclusive, Revised Civil Statutes of Texas, as such Articles now exist or may be hereafter amended, which bonds representing purchase money shall be fully negotiable for all purposes. For the purpose of the issuance and payment of such bonds the hydro-electric generating facilities so acquired may be regarded as an independent electric system which, including the revenues thereof, may be pledged to the payment of such bonds without any pledge of the other electric facilities of such city or the revenues derived therefrom. Such acquisition may be effected through the purchase of such facilities or through the issuance of the bonds in exchange for such facilities, provided the same shall have been first authorized at an election held in accordance with the provisions of Article 1112 of the Revised Civil Statutes as amended.

Any city which shall so acquire hydro-electric generating facilities hereunder shall carry out the provisions of all contracts in existence at the time of such acquisition pursuant to which electric current generated by such facilities has been contracted to be sold, except as to any such contract which may be cancelled by voluntary agreement of the city and the party or parties entitled to purchase such electric current thereunder. Subject to the rights of the parties to any such existing contracts, any such city shall take for distribution by its distribution system such part of the output of the generating facilities so acquired as may be needed for that purpose, and may in the proceedings for the authorization of the bonds enter into such covenants for the use of and payment for such electric current from the revenues derived from the re-sale thereof as it may consider proper. Any electric current generated by such facilities which is not used by the city for distribution by its system to its consumers may be sold by the city to other purchasers and any such city is hereby empowered to enter into such short or long term contracts for such sale as it may deem advisable.

Sec. 2. The invalidity or ineffectiveness of any one or more provisions contained herein shall not affect the validity or enforceability of the remaining provisions hereof.

[Acts 1949, 51st Leg., p. 383, ch. 203.]

Art. 1118q-1. Contracts With Conservation and Reclamation Districts for Hydroelectric Power or Energy

Authority to Contract

Sec. 1. Any incorporated city, town, or village, including any home-rule city, in this state may

agree or contract with any conservation and reclamation district created under Article XVI, Section 59, of the Texas Constitution for the supply and purchase of hydroelectric power or energy. The agreement or contract shall be on the terms and conditions and for a period as the parties may agree. The agreement or contract constitutes a valid and binding obligation of the city, town, or village and is enforceable in accordance with its terms and provisions. If the agreement or contract so provides, the city, town, or village is obligated to pay for the hydroelectric power or energy irrespective of whether the hydroelectric power or energy is produced or delivered to the city, town, or village. Furthermore, the agreement or contract may include provisions for the acquiring, constructing, and equipping of generation and transmission facilities to supply the hydroelectric power and energy to be supplied and purchased under the agreement or contract; provisions with respect to financing the costs and expenses of the generation and transmission facilities; and provisions that the agreement or contract shall continue in force and effect while any obligations specified in the agreement or contract, including refunding obligations, remain outstanding. These provisions are as may be provided and specified in the agreement or contract between the parties.

Additional Provisions

Sec. 2. Amounts required to be paid by the city, town, or village to the district under the agreement or contract shall, if so provided in the agreement or contract, constitute an operating expense of the electric system, or combined utility system of which the electric system constitutes a part, of the city, town, or village in the same manner and effect as other operating and maintenance expenses of the electric system, or combined utility system, as provided by Article 1113, Revised Statutes.

Validation of Contract

Sec. 3. An agreement or contract executed before the effective date of this Act by and between a city, town, or village and a conservation and reclamation district that obligates the city, town, or village in the manner authorized by Section 1 of this Act is validated, ratified, and confirmed and constitutes a lawfully incurred obligation on the part of the city, town, or village and is subject to the other provisions of this Act.

Other Laws

Sec. 4. The powers and authority granted by this Act are in addition to any powers and authority granted to cities, towns, and villages under the laws of this state and constitute additional public purposes of the cities, towns, and villages. This Act is wholly sufficient authority for the performance or effectuation of an agreement or contract entered into under this Act notwithstanding any express or implied limitations on the powers, authority, or pur-

poses of cities, towns, or villages under any other general or special law, charter provision, or ordinance.

[Acts 1983, 68th Leg., p. 3813, ch. 589, eff. June 19, 1983.]

Art. 1118r. Electric Light and Power Systems; Validation of Bonds

All revenue bonds issued by any city or town of five thousand inhabitants, or less, for the purpose of acquiring an electric light and power system for said city or town, which bonds were duly sold and delivered to the purchasers thereof at a price of not less than par and accrued interest, and the proceeds of which bonds were duly expended in the acquisition of such electric light and power system, are hereby in all things ratified, validated and confirmed, and such bonds shall constitute legal, binding and valid special obligations of said city or town and shall be payable in the manner provided in the ordinance authorizing their issuance.

[Acts 1951, 52nd Leg., p. 285, ch. 167, § 1.]

Art. 1118s. Revenue Bonds for Sewage Disposal Facilities; Cities Serving Territory Outside Boundaries

Sec. 1. This Act shall be applicable to any city which owns a sewer system and disposal plant serving territory, other cities, and military establishments outside the corporate boundaries thereof.

Sec. 2. For the purpose of purchasing or constructing additional sewage disposal facilities, any city to which this Act is applicable is hereby authorized to issue its negotiable bonds, and to secure the payment of such bonds by pledging the net revenues to be derived from sewer service rendered outside the corporate limits of the city. Such bonds may be additionally secured by a pledge of all or part of the net revenues to be derived from sewer service to be rendered within the city. In the issuance of bonds secured only by the net revenues from sewer service rendered outside of the boundaries of the city, the ordinance authorizing the issuance of the bonds may specify what items of expense or portions thereof shall be deducted in arriving at the net revenues, or may prescribe any other formula for that purpose deemed appropriate by the governing body. In the issuance of such bonds, the city may reserve the right to issue additional bonds to the extent and subject to the conditions to be stated in the ordinance authorizing the bonds.

Sec. 3. Any city to which this Act is applicable is authorized to enter into contracts with other cities, persons, corporations and the United States Government to furnish sewer service, and such other cities are authorized to enter into such contracts. Such contracts which have heretofore been entered into and which have not been questioned in litigation pending at the time this Act becomes effective, are hereby validated.

Sec. 4. Whenever a city issues bonds under this Act, it shall be the duty of the governing body thereof to fix rates for service in an amount to pay the maintenance and operation expense and sufficient to pay the bonds as they are scheduled to mature and the interest as it accrues, and to establish and maintain the funds as provided in the ordinance authorizing the bonds; provided, however, that where the consideration to be paid for sewer service is fixed by contract, such consideration shall not be increased during the term of the contract except as provided therein or by agreement of both parties.

Sec. 5. Articles 1111 to 1118, inclusive, and Chapter 1, Title 22, Revised Civil Statutes of 1925, as amended,¹ shall be applicable to the issuance of bonds under this Act, except as otherwise provided in this Act, but no election shall be required for their issuance. When such bonds are approved by the Attorney General, they shall be incontestable.

[Acts 1951, 52nd Leg., p. 578, ch. 336.]

¹ Article 701 et seq.

Art. 1118t. Additional Revenue Bonds; Issuance Without Election

Sec. 1. Any incorporated city or town, including any home rule city, which now has or shall hereafter have outstanding revenue bonds issued under Articles 1111 to 1118, inclusive, Revised Civil Statutes of Texas, 1925, as amended, or other similar statutes, for the purpose of acquiring its electric and gas systems or to refund bonds issued for such purpose, shall have the power to issue additional revenue bonds for the sole purpose of extending and improving said systems and payable from the net revenues of said systems on a parity with said outstanding bonds, in the manner and to the extent authorized by law and by the ordinances or trust indentures authorizing such outstanding acquisition bonds or refunding bonds, without holding any election on the issuance thereof, regardless of other statutory or charter provisions to the contrary; provided thirty (30) days notice of intention to issue such bonds shall be given. Said notice shall be given as provided in the "Bond and Warrant Law of 1931," as amended,¹ except that the first publication shall be at least thirty (30) days prior to the date set for authorizing the bonds and that said notice shall contain a description by name and amount outstanding of any bonds or other indebtedness payable from the net revenues of such systems. Unless said notice is given as prescribed by the terms of this Section 1, said notice will be null and void and of no effect, and another notice as provided herein shall be given prior to the authorization of bonds covered by this Act.

Sec. 2. If a petition is filed in accordance with the provisions of said law, the election shall be ordered and held (on the issuance of said bonds) in accordance with said law; provided, however, that the question whether said bonds shall be issued may be submitted in a single proposition and without the

necessity of designating the amount of bond proceeds to be expended on each system.

Sec. 3. If any word, phrase, clause, sentence, or part of this Act shall be held by any court of competent jurisdiction to be invalid, it shall not affect any other word, phrase, clause, sentence, or part of this Act.

[Acts 1953, 53rd Leg., p. 43, ch. 35.]

¹ Article 2368a.

Art. 1118u. Additional Revenue Bonds; Waterworks, Sewers and Swimming Pool

Sec. 1. This Act shall be applicable to any city which has heretofore issued bonds payable from and secured by a pledge of revenues of its waterworks system, sewer system and swimming pool, retaining therein the right to issue additional parity bonds to be payable from and secured by such revenues, and which has held or hereafter holds an election resulting favorably to the issuance of additional bonds to be payable from and secured by a pledge of waterworks system, sewer system and swimming pool revenues.

Sec. 2. Any city to which this Act is applicable is authorized to issue the bonds authorized or to be authorized by such election and to secure them with a pledge of the net revenues of the waterworks and sewer system, and, in the discretion of the governing body of the city, the bonds may be additionally secured by a pledge of the net revenues of the swimming pool. Such bonds, when approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts, shall constitute valid and binding special obligations of such city.

[Acts 1953, 53rd Leg., p. 98, ch. 64. Amended by Acts 1955, 54th Leg., p. 794, ch. 287, § 1.]

Art. 1118v. Refunding Outstanding Revenue Bonds Issued for Certain Utilities or Combination of Utilities

Sec. 1. Any incorporated city or town, including any home rule city, which now has or hereafter may have outstanding revenue bonds payable from and secured by a pledge of revenues from the operation of its electric light and power system, gas system, water system, sewer system, or any combination of two or more of such systems, and other outstanding revenue bonds payable from and secured by a pledge of revenues from the operation of another of any such system or systems, which bonds have been issued in the manner provided by Articles 1111 to 1118, Vernon's Texas Civil Statutes, as amended, or under any similar law, may issue refunding bonds to refund such outstanding bonds and pledge the revenues derived from the operation of all the systems whose revenues are pledged for the payment of the bonds to be refunded (regardless of the fact one or more issues of outstanding bonds to be refunded are payable from the revenues of one or more particular systems, and another issue or issues of such outstanding bonds to be refunded are

payable from the revenues of a different system or systems); provided, however, that no bonds payable from and secured by a pledge of revenues of a particular system or systems shall be refunded under this Act unless all bonds then outstanding which are so payable from the revenues of that system or systems are so refunded. Refunding bonds issued under this Act shall bear interest at the same or lower rate than borne by the bonds refunded unless it is shown mathematically that a saving will result in the total amount of interest to be paid.

Sec. 2. The provisions of this Act shall be cumulative of other laws.

[Acts 1957, 55th Leg., p. 479, ch. 229.]

Art. 1118w. Mass Transportation Systems; Power to Own, Acquire, Construct, Operate, Etc.; Federal Grants and Loans; Revenue Bonds

Power to Own, Hold, Purchase, Construct, Operate, Etc.

Sec. 1. Any city or town, including any Home Rule City operating under Title 28, Revised Civil Statutes of the State of Texas of 1925, as amended¹ (hereinafter referred to as "city" or "such city") shall have power to own, hold, purchase, construct, improve, extend and operate street transportation systems for the carrying of passengers for hire within such city, its suburbs and adjacent areas.

¹ Article 961 et seq.

Mass Transportation Services

Sec. 1a. Any such city or town shall be authorized to accept grants and loans from the United States of America to finance all or a portion of the cost of the acquisition, construction, reconstruction, and improvement of facilities and equipment for use, by operation or lease or otherwise, in mass transportation service in such city, its suburbs and adjacent areas and in coordinating such service with highway and other transportation in such areas. Any such city or town shall be authorized, either individually or in cooperation with agencies of the United States of America, to undertake research, development and demonstration projects for mass transportation systems in such areas and to acquire, construct and reconstruct and improve facilities and equipment for use, by operation or lease or otherwise, in mass transportation service in such areas, on, under, over, along or across public streets and highways and on lands, easements and rights-of-way acquired for such purpose. Any such city or town shall be authorized to issue revenue bonds for such purposes and all of the provisions of the Act amended hereby shall apply to the additional powers and functions herein authorized.

Revenue Bonds or Notes; Power to Issue, Etc.

Sec. 2. Any such city shall have full power to issue bonds and notes from time to time and in such amounts as it shall consider necessary or appropri-

ate for the acquisition, purchase, construction, improvement or extension of such street transportation systems. All such bonds and notes shall be fully negotiable and may be made redeemable before maturity, at the option of the issuing city, at such price or prices and under such terms and conditions as may be fixed by the issuing city in the ordinance authorizing such bonds or notes. Such bonds and notes shall be sold for such price as the governing body of the city shall consider to be for the best interest of such city, provided that no such sale shall be made at a price so low as to require the payment of interest on the money received therefor at a rate of more than six per cent (6%) per annum, computed with relation to the absolute maturity of the bonds or notes in accordance with standard tables of bond values, excluding however, from such computations the amount of any premium to be paid on redemption of any bonds or notes prior to maturity. Subject to the restrictions contained in this Act each such governing board is given complete discretion in fixing the form, conditions and details of such bonds and notes.

**Approval of Obligations by Attorney
General; Incontestability**

Sec. 3. Prior to delivery thereof, all bonds and notes authorized to be issued hereunder and the records relating to their issuance shall be submitted to the Attorney General of Texas for examination and if he finds that they have been issued in accordance with the Constitution and this Act, and that they will be binding special obligations of the city issuing same, he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas, and after such approval and registration they shall be incontestable.

Notice of Bond Issue Ordinance; Petition for Election

Sec. 4. Before passage of an ordinance authorizing the issuance of bonds or notes under this Act, the governing body of such city shall give notice of the time when such ordinance is to be passed. Such notice shall be published in a newspaper of general circulation in such city, in at least two (2) issues thereof, the date of the first publication to be not less than fourteen (14) days prior to the date so fixed for passage of the ordinance. Unless prior to the scheduled time for passing the ordinance a petition is filed with the City Secretary, signed by not less than ten per cent (10%) of the qualified voters of the city who have duly rendered their property for taxation, requesting that an election be held on the question of issuing such bonds or notes, the governing body may proceed in the issuance thereof without an election. If such petition is duly filed, it shall be the duty of the governing body to proceed in the manner prescribed in Chapter I of Title 22 of the Revised Civil Statutes of Texas of 1925,¹ with an election on the question, and such bonds or notes shall not be issued unless a majority of the voters, voting at such election, vote favorably

on the question. The governing body within its discretion may call an election for the issuance of the bonds or notes without awaiting the filing of a petition requesting a referendum election.

¹ Article 701 et seq.

Power to Encumber; Additional Security

Sec. 5. In order to secure the payment of such bonds or notes such cities shall have full power and authority to encumber all or any part of such street transportation systems, the properties thereof, the revenues therefrom, the franchise thereof, and everything pertaining thereto acquired or to be acquired, including but not limited to properties, both real and personal, including motor buses or other vehicles, machinery and other equipment of any nature used in the operation thereof. As additional security for the payment of any such bonds or notes, any such city may, by the terms of the instrument evidencing such encumbrance, grant to the purchaser under the power of sale in such instrument, a franchise to operate any such transportation system, and the properties thereof so purchased, for a term of not over twenty-five (25) years after purchase, subject to all laws regulating same then in force. No such obligation of any such system shall ever be a debt of such city, but solely a charge upon the properties, including the pledged revenues, of the system so encumbered and shall never be reckoned in determining the power of any such city to issue any bonds or notes for any purpose authorized by law. But no such city shall be prohibited from making payment of such bonds or notes out of any other funds which may be lawfully used for the purpose. Any such city shall have full power and authority to encumber separately any item of real estate or personalty, including motor buses or other vehicles, machinery or other equipment of any nature, or to acquire, use, hold, contract for any such property under any lease arrangement, chattel mortgage or conditional sale, including but not limited to transactions commonly known as equipment trust transactions. Nothing herein shall be construed as prohibiting any such city from encumbering any one or more transportation systems for the purpose of purchasing, building, constructing, mortgaging, enlarging, extending, repairing, or reconstructing another one or more of said systems and purchasing necessary property, both real and personal in connection therewith.

**Additional Bond Issues; Extension or Improvement of
System; Lien of Bonds**

Sec. 6. Any city issuing bonds or notes payable from and secured by a pledge of revenue from the operation of a street transportation system and while all or part of such bonds remain outstanding, shall have the power, from time to time, and on one or more occasions to issue bonds or notes for the purpose of extending or improving, or both, any such transportation system, or to acquire another or other such transportation system or systems, and

such bonds or notes shall constitute a lien upon the revenues, in the order of their issuance, inferior to the liens securing the payment of any or all issues and series of bonds or notes previously issued; provided, however, the foregoing provisions shall not be construed to prevent the passage of an ordinance or execution and issuance of any deed of trust, trust indenture, or similar instrument, providing therein for the subsequent issuance of additional bonds or notes on a parity with or of equal dignity with the previously issued revenue bonds or notes, and where any such ordinance, deed of trust, trust indenture or similar instrument may so provide, any such city shall have the power to authorize, issue, and sell additional bonds or notes, from time to time and in different series, payable from the revenues of such transportation system, and the revenues to be derived from such added sources, on a parity with bonds or notes previously issued and secured by liens on such transportation system, on a parity with and of equal dignity with the lien securing bonds or notes previously issued, subject to such conditions as may be contained in the ordinance, deed of trust or trust indenture providing for or securing such issue of original bonds or notes.

Refunding Bonds or Notes

Sec. 7. Refunding bonds or notes may be issued for the purpose of refunding the bonds or notes of a single series or issue or two (2) or more issues or series of bonds or notes and such refunding bonds or notes shall enjoy the same priority of lien on the revenues pledged to their payment as pledged to the bonds or notes refunded, provided that when two (2) or more series or issues of bonds or notes are refunded in a single issue of refunding bonds or notes the lien of all such refunding bonds or notes shall be equal if all of the outstanding bonds or notes of the several series or issues of bonds or notes to be refunded are thus refunded. No refunding bonds or notes shall attain any degree or priority of lien greater than that enjoyed by the series or issues then to be refunded having the highest priority of lien. Such refunding bonds or notes shall bear interest at the same or lower rate than borne by the bonds or notes refunded, unless it is shown mathematically that a saving will result in the total amount of interest to be paid and that the annual principal and interest burden will not be increased so as to infringe upon or impair the rights of the holders of any bonds or notes, if any, enjoying a prior or inferior lien. Any such bonds or notes may be so refunded by the issuance of refunding bonds or notes, either to be exchanged for the bonds or notes being refunded and cancelled, or to be sold, with the proceeds thereof to be used for the redemption and cancellation of the bonds or notes being refunded. Such city may provide in any refunding bond or note issue such money as may be needed for paying any call premium and for payment of interest to the date fixed for calling for redemption the outstanding bonds or notes.

Operating Expenses as First Lien on Income; Priorities of Liens; Rates

Sec. 8. Whenever the revenues of any street transportation system shall be encumbered under this law, the expense of operation and maintenance, including all salaries, labor, materials, interest, repairs, and extensions necessary to render efficient service and every proper item of expense shall always be a first lien and charge against such revenues. Provided, that only such extensions, as in the judgment of the governing body of such city, are necessary to keep the system in operation and render adequate service to such city and the inhabitants thereof, or such as might be necessary to meet some condition which would otherwise impair the original securities shall be a charge prior to any existing lien. The fares charged for transportation of passengers by any transportation system may be based on a zone system of determining fares or other fare classification determined by such city to be reasonable. There shall be charged and collected for such service a sufficient rate to pay all operating, maintenance, depreciation, replacement charges (and to provide for extensions to the extent permitted and limited hereby) and to provide and maintain in the manner and at the times prescribed in such ordinances, deeds of trust and indentures, money sufficient for debt service and reserves for the security and orderly payment of such bonds or notes, unless otherwise deemed necessary by the governing body of the city in order to maintain the level and quality of service desired. Except as may be otherwise permitted under the ordinance authorizing or the deed of trust or indenture securing the bonds or notes, no part of the revenues of any such system shall ever be used to pay any other debt, expense, or obligation of such city, except that any such city may receive payments from any such system in lieu of ad valorem taxes previously paid by the owners of an acquired system until the indebtedness so secured shall have been finally paid.

Obligations as Legal Investments

Sec. 9. All such bonds and notes shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, saving and loan associations and insurance companies. Such bonds and notes shall be eligible to secure the deposit of any and all public funds of the State of Texas and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas, and such bonds and notes shall be lawful and sufficient security for said deposits to the extent of the principal amount thereof, or their value on the market, whichever is the lesser, when accompanied by all unmaturing coupons appurtenant thereto.

Records and Accounts; Annual Reports; Penalties

Sec. 10. It shall be the duty of the mayor of such city to install and maintain or cause to be installed and maintained, a complete system of records and accounts showing the revenues collected and showing separately the amount either expended or set aside for operation, salaries, labor, materials, repairs, maintenance, depreciation, replacements, extensions, and for debt service as to such bonds or notes. It shall likewise be the duty of the superintendent or manager of such system to file with the mayor of such city, not later than February 1st, a detailed report of the operations for the year ending January 1st preceding, showing the total sums of money collected and the balance due, as well as the total disbursements made and the amounts remaining unpaid as the result of operation of such system during such calendar year. Failure or refusal on the part of the mayor to install and maintain, or cause to be installed and maintained, such system or records and accounts within ninety (90) days after the completion of such system, or on the part of such superintendent or manager, to file or cause to be filed such report, shall constitute a misdemeanor and, on conviction thereof, such mayor or superintendent or manager shall be subject to a fine of not less than One Hundred Dollars (\$100) nor more than One Thousand Dollars (\$1,000); and any taxpayer or holder of such indebtedness residing within such city shall have the right, by appropriate civil action in the District Court of the County in which such city is located, to enforce the provisions of this Act.

Management; Lease of System

Sec. 11. During the time any such system is encumbered either as to its revenues or as to both its physical properties and revenues, or whether or not such system is encumbered during any period established by ordinance of the governing body of such city, the management and control of such system may by the terms of the instrument evidencing such encumbrance or by the terms of such ordinance, be placed with the governing body of such city, or may be placed with a board of trustees to be named in such instrument or such ordinance, consisting of not less than three (3) nor more than nine (9) members, one (1) of whom shall be the mayor of such city. The compensation of such trustees shall be fixed by such instrument or such ordinance, but shall never exceed two per cent (2%) of the gross receipts of such system in any one (1) year. The terms of office of such board of trustees, their powers and duties, the manner of exercising same, the election of their successors, and all matters pertaining to their organization and duties may be specified in such instrument or such ordinance. In all matters where such instrument or such ordinance is silent, the laws and rules controlling the governing body, of such city shall govern said board of trustees so far as applicable. The governing body of any such city or any board of trustees in

whose management and control any such system may be placed, with the approval of the governing body of such city, evidenced by adoption of a resolution, in lieu of operating any such system, shall have power and authority to enter into any lease or other contractual arrangement for the operation of same by any privately owned and operated corporation in consideration of such rentals either guaranteed or contingent, based on revenues or gross profits or net profits, or any other basis of compensation, which may be determined to be reasonable by such governing body or such board as the case may be; providing however, that any such lease or contractual arrangement between such city and private corporation, shall be preceded by a public notice and request for the submission of bids in the manner required by law for the taking of bids for public construction contracts, and said city shall accept the best bid submitted, taking into consideration the rental to be paid, the experience and financial responsibility of the corporations submitting such bids.

[Acts 1957, 55th Leg., p. 1471, ch. 505. Amended by Acts 1969, 61st Leg., p. 1876, ch. 630, § 1, eff. June 11, 1969; Acts 1973, 63rd Leg., p. 1234, ch. 446, § 1, eff. Aug. 27, 1973; Acts 1973, 53rd Leg., p. 302, ch. 141, eff. May, 21, 1973. Acts 1975, 64th Leg., p. 1187, ch. 445, § 1, eff. June 19, 1975; Acts 1977, 65th Leg., p. 803, ch. 298, § 1, eff. May 28, 1977; Acts 1979, 66th Leg., p. 198, ch. 108, § 1, eff. May 9, 1979.]

Art. 1118x. Metropolitan Rapid Transit Authorities**Findings**

Sec. 1. The legislature finds that:

(a) A dominant part of the state's population is located in its rapidly expanding metropolitan areas which generally cross the boundary lines of local jurisdictions and often extend into two or more counties;

(b) The concentration of population in such areas is accompanied by a corresponding concentration of motor vehicles which are generally powered by internal combustion engines that emit pollutants into the air, which emissions result in increasing dangers to the public health and welfare, including damage to and deterioration of property as well as harm to persons, and hazards to air and ground transportation;

(c) Such concentration of motor vehicles places an undue burden on existing streets, freeways and other traffic ways, resulting in serious vehicular traffic congestion that retards mobility of persons and property and adversely affects the health and welfare of the citizens and the economic life of the areas;

(d) The proliferation of the use of motor vehicles for passenger transportation in such areas is caused in substantial part by the absence or inefficiency and high cost of mass transit services available to the citizens of such areas, and it is in the public

interest to encourage and provide for efficient and economical local mass rapid transit systems in such areas for the benefit and convenience of the people and for the purpose of improving the quality of the ambient air therein and reducing vehicular traffic congestion; and

(e) The inalienable right of all natural persons to use the air for natural purposes does not vest in any person the right to pollute the air by artificial means, but such artificial use is subject to regulation and control by the state.

Definitions

Sec. 2. The following words and terms, wherever used and referred to in this Act, have the following respective meanings, unless a different meaning clearly appears from the context:

(a) "Metropolitan area" means any area within the State of Texas having a population density of not less than 250 persons per square mile and containing not less than 51 percent of the incorporated territory comprising a city having a population of at least 230,000 inhabitants according to the last preceding or any future federal census, and in which there may be situated other incorporated cities, towns and villages and the suburban areas and environs thereof; provided, however, that bi-county metropolitan areas as subsequently defined herein, are not included or in any way affected by this Act.

(b) "Principal city" means the city of largest population in a metropolitan area.

(c) "Authority" means a rapid transit authority created pursuant to the provisions of this Act.

(d) "Board" means the governing body of an authority.

(e) "Mass transit" means transportation of passengers and hand carried packages and/or baggage of said passengers by means of motorbus, trolley coach, street railway, rail, suspended overhead rail, elevated railways, subways, or any other surface, overhead or underground transportation (except taxicabs), or by any combination of the foregoing.

(f) "System" means all real and personal property of every kind and nature whatsoever, owned or held at any time by an authority for mass transit purposes, including (without limiting the generality of the foregoing), land, interests in land, buildings, structures, rights-of-way, easements, franchises, rail lines, bus lines, stations, platforms, terminals, rolling stock, garages, shops, equipment and facilities (including vehicle parking areas and facilities and other facilities necessary or convenient for the beneficial use and access of persons and vehicles to stations, terminals, yards, cars, and buses), control houses, signals and land, facilities and equipment for the protection and environmental enhancement of all such facilities.

(g) "Motor vehicle" means a vehicle self-propelled on two or more wheels by an internal combustion

engine or motor over roadways other than fixed rails and tracks.

Creation of Rapid Transit Authority

Sec. 3. (a) The governing body of a principal city in a metropolitan area may, on its own motion, shall, as provided in Subsection (b) of this section, and shall, upon being presented with a petition so requesting signed by not less than 5,000 qualified voters residing within such metropolitan area, institute proceedings to create a rapid transit authority in the manner prescribed in this section.

(b) Such governing body shall by ordinance or resolution fix a time before December 31, 1985, and a place for holding a public hearing on the question of creating an authority. The governing body also shall by ordinance or resolution, after receipt of a petition as provided in Subsection (a) of this section, and may, on its own motion, fix a time and place for holding a public hearing on a proposal to create an authority. The ordinance or resolution shall define the boundaries of the area proposed to be included in such authority. The initial territory included in an authority shall be all the territory included in the county in which the major portion of the principal city is situated, plus any additional territory that is an adjacent county and is included in the ordinance or resolution.

(c) Notice of the time and place of such public hearing, including a description of the area proposed to be included in such authority, shall be published once a week for two consecutive weeks in a newspaper of general circulation in such metropolitan area, the first publication to be not less than 15 days prior to the date fixed for such hearing. The governing body of any principal city shall furnish to the Texas Mass Transportation Commission or any successor thereof, a copy of the notice described herein.

(d) The governing body of the principal city shall conduct said hearing at the time and place specified in such notice, and may continue such hearing from day to day and from time to time until completed. Any interested person may appear and offer evidence for or against the creation of the proposed authority, and may present evidence as to whether or not the creation of such proposed authority and the construction and operation of a mass transit system in such metropolitan area (1) would be of benefit to persons and property situated within the boundaries of the proposed authority, (2) would be of public utility, and (3) would be in the public interest, as well as any other facts bearing upon the creation of such an authority and the construction and operation of such system.

(e) If, after hearing the evidence adduced at such hearing, the governing body of the principal city finds that the creation of such an authority, and the operation of such a system, would be of benefit to persons and property situated within the boundaries of the proposed authority, would be of public utility,

and would be in the public interest, such governing body shall adopt an ordinance creating the authority and prescribing the territory to be included, but the actual territory included in the authority is subject to the results of the election provided for in this Act. The authority shall bear a name to be designated in the ordinance creating the authority and when so created and confirmed at an election held for that purpose, shall have and may exercise the powers authorized by this Act.

(f) After such hearing by the governing body of the principal city, it shall submit the proposed plan to the governor's interagency transportation council for their review and comment.

Transit Authority Board

Sec. 4. (a)(1) Until such time as the composition of the board is changed in accordance with other provisions of this Act, the management, control, and operation of an authority and its properties shall be vested in a board composed of five members, who shall be appointed by the governing body of the principal city and shall serve for a term of two years.

(2) In metropolitan areas where the principal city's population exceeds 1,200,000 according to the last preceding federal census or any federal census hereafter, the management, control, and operation of an authority and its properties shall be vested in a board composed of seven members, five of whom shall be appointed by the mayor of the principal city subject to confirmation by the governing body of the principal city, one of whom shall be appointed by the commissioners court of the county of the principal city, and one of whom shall be appointed jointly by the mayors of all incorporated municipalities within the county of the principal city except the principal city. Each member shall serve a term of two years. Upon confirmation, the board's composition shall remain the same except to the extent that it conflicts with the requirements of Section 6B of this Act. Until a confirmation and tax election are held, the principal city shall fund the board for purposes of research and planning.

(b) All vacancies on the board, whether by death or resignation shall be filled for the remainder of the term in the manner provided for the original appointment. On expiration of the terms of office of the members of the board, all or any may be reappointed or another person may be appointed to replace a member for the succeeding term.

(c) Each member of the board shall be reimbursed for his necessary and reasonable expenses incurred in the discharge of his duties. Each member of a board in a metropolitan area in which the principal city's population exceeds 600,000, according to the most recent federal census, is entitled to \$50 for each meeting of the board attended, not to exceed five meetings in a calendar month. The principal city shall pay, from taxes or other funds, the sums provided by this subsection for attendance

at meetings held before the authority has received any revenues, and shall reimburse members for necessary and reasonable expenses incurred by the members or the board prior to receipt of revenues by the authority, but the authority, after receiving revenues, shall reimburse the principal city for all payments and reimbursements made as provided in this subsection.

(d) The members of the board, who shall be resident citizens and qualified voters of the authority, shall elect from among their number a chairman, a vice-chairman and a secretary, except that if the board is constituted in the manner provided in Subsection (c) of Section 6B of this Act, the chairman shall be selected as specified in that subsection. The board may appoint such assistant secretaries, either members or nonmembers of the board, as it deems necessary. The secretary and assistant secretaries shall, in addition to keeping the permanent records of all proceedings and transactions of the authority, perform such other duties as may be assigned to them by the board. No member of the board or officer of the authority shall be pecuniarily interested or benefitted, directly or indirectly, in any contract or agreement to which the authority is a party.

(e)(1) Any member of the board may be removed from office by a majority vote of the remaining members of the board for inefficiency, neglect of duty or malfeasance in office; provided, however, that the board shall furnish to such member a statement in writing of the nature of the charges as grounds for such removal, and the member, before the 11th day after receipt of the statement may request a hearing before the board and opportunity to be heard in person or through counsel. After any such hearing, if the board by a majority vote finds that the charges are true, it shall confirm its decision to remove the member.

(2) In addition to the method of removal of board members provided by Subsection (e)(1) of this section, board members of an authority whose principal city has a population of more than 1,200,000, according to the most recent federal census, are subject to removal by the recall procedure provided by subsection (e)(2).

(i) The qualified voters of the authority by petition may require that an election be held to determine whether a member of the board is to be removed from office. A petition is valid if it states that it is intended to require an election in the authority on the question of removing an identified board member, if it is signed by qualified voters equal in number to at least 10 percent of the number of registered voters of the authority according to the most recent official list of registered voters, if the signatures are collected within a period of 90 days prior to the date on which the petition is presented to the board, and if it is submitted to the board before the first day of the final six months of the term of the member whose removal is sought.

(ii) After receiving a petition, the board shall submit it to the secretary of state, who, not later than the 10th day after the day he or she receives the petition, shall determine whether or not the petition is valid and shall notify the board of the finding. If the secretary of state fails to act within the time allowed, the petition is treated as if it had been found valid.

(iii) If the board receives notice from the secretary of state that the petition is valid or if the secretary of state has failed to act within the time allowed, the board shall order that an election be held in the authority on a date not fewer than 25 nor more than 35 days after the last day on which the petition could have been approved or disapproved. A state law requiring local elections to be held on a specified date does not apply to the election unless a specified date falls within the time permitted by this section. At the election, the ballots shall be prepared to permit voting for or against the proposition: "The removal of (name of officer) from the rapid transit authority board by recall."

(iv) If a majority of the qualified voters voting on the question in the election favor the proposition, the member is removed, and the office immediately becomes vacant. The appointing authority that appointed the member removed by recall shall fill the vacancy not later than the 30th day after the day of removal.

(v) A member removed by recall is not eligible for reappointment to fill the vacancy and is not eligible for appointment to any other position on the board for a length of time after the day of removal equal to the length of a normal term of a member of the board.

(f) The board shall hold at least one regular meeting during each month for the purpose of transacting the business of the authority. Upon written notice, the chairman or the general manager may call special meetings as may be necessary. The board, when organized, shall by resolution spread upon the minutes, set the time, place and day of the regular meetings, and shall likewise adopt rules and regulations and such bylaws as it may deem necessary for the conduct of its official meetings. A majority of the members shall constitute a quorum of the board for the purpose of conducting its business and exercising its powers and action may be taken by the authority upon a vote of a majority of the board members present unless the bylaws require a larger number for a particular action.

(g) The board shall notice and hold its meetings pursuant to Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), except that the board shall have notices of its meetings posted on a bulletin board located at a place convenient to the public at its administrative offices and a bulletin board located at a place convenient to the public at

the county courthouse of the most populous county in which the principal city is located.

Confirmation and Tax Election

Sec. 5. (a) After the original board is organized, at such time as it deems implementation of the authority to be feasible, it shall call a confirmation and tax election in accordance with the provisions of this section.

(b) Before ordering an election the board shall by order entered in its minutes determine the nature and rate of any tax that it desires to levy.

(c) Before ordering an election, the board shall notify the commissioners court of each county included in whole or part within the initial territory of the authority of its intention to do so. Within 30 days after receipt of the notice, each commissioners court by order shall create not more than five designated election areas in the unincorporated portion of the appropriate county. Each designated election area's outer boundaries, to the extent practicable, shall coincide with a boundary of a county voting precinct so that insofar as practicable no county voting precinct is divided between two different designated election areas. The total area of all designated election areas shall include all of the unincorporated area within the initial territory of the authority.

(d) When the board orders a confirmation and tax election, it shall submit to the qualified voters within the authority the following proposition:

"Shall the creation of (name of authority) be confirmed and shall the levy of the proposed tax be authorized?"

(e) Except as otherwise provided in this Act, notice of the election shall be given in accordance with the general election laws. The notice of the election shall include a description of the nature and rate of the proposed tax. A copy of the notice of the election and any other election held under the provisions of this Act shall be furnished to the State Department of Highways and Public Transportation or its successor and to the comptroller of public accounts.

(f) The election shall be conducted so that votes are separately tabulated and canvassed and that the result is declared in separate units of election within the authority, as follows:

(1) the portion of the principal city inside the initial limits of the authority plus any incorporated cities or towns which are wholly located within the perimeter of the outer boundary of the principal city constitutes a unit of election;

(2) each designated election area created by a commissioners court constitutes a unit of election;

(3) every other incorporated city or town wholly located within the initial limits of the authority shall constitute a unit of election.

(g) Immediately after the election, the presiding judge of each election precinct shall return the results to the board, which shall canvass the returns and declare the results separately with respect to each unit of election. In those units of election where a majority of the votes cast is in favor of the confirmation of the creation of the authority and the levy of the proposed tax, the authority shall continue to exist and be comprised of those units. In those units of election where a majority of the votes cast is against the confirmation of the creation of the authority and the levy of the proposed tax, the authority shall cease to exist. Unless the vote is favorable in the unit of election which includes the principal city, the authority shall cease to exist in its entirety. If the votes cast are such that the authority will continue to exist, the board shall enter the results on its minutes and adopt an order declaring that the creation of the authority is confirmed and describing the territory which comprises the authority. A certified copy of the order shall be filed with the State Department of Highways and Public Transportation or its successor, and with the comptroller of public accounts, and in the deed records of each county in which the authority is located. The order shall include the date of the election, the proposition voted on, the number of votes cast for and against the proposition in each election unit, and the number of votes by which the proposition was approved in each election unit in which it was approved and shall be accompanied by a map of the authority clearly showing the boundaries of the authority.

(h) If the votes cast at the confirmation and tax election are such that the authority ceases to exist in its entirety, the board shall enter an order so declaring and file a certified copy of the order with the State Department of Highways and Public Transportation or its successor and with the comptroller of public accounts, and the authority shall be dissolved.

(i) The cost of the confirmation and tax election shall be paid by the principal city.

(j) If the election results in the confirmation of an authority, the authority shall, within the limits confirmed, be authorized to function in accordance with the terms of this Act, and the board may levy and collect the proposed tax within those limits.

(k) If the continued existence of an authority is not confirmed by election within three years after the effective date of the ordinance creating the authority, the authority ceases to exist on the expiration of the three years.

Election Contest

Sec. 5A. (a) If the validity of any election held under authority of this Act or the result of the election based on the returns thereof shall be contested, the election contest shall be filed and tried as provided in the Election Code of the State of Texas; provided that the contestant shall notify the comp-

troller of public accounts by United States registered mail or certified mail within 10 days after filing the contest by mailing a copy of such notice of contest to the comptroller showing the style of the contest, the date filed, the case number, and the court in which the same is pending; and provided further that no such contest shall be heard unless the comptroller is timely notified as provided in this subsection.

(b) Upon receipt of a notice of contest, the date upon which such local sales and use tax shall become effective in any authority as a result of the election shall be suspended. When a final judgment shall be entered in the election in the election¹ contest, the presiding officer of the board shall so notify the comptroller by United States registered mail or certified mail and shall enclose a certified copy of the final judgment. If the judgment sustains the validity of the election or the result of the election so that the local sales and use tax status under this Act of the authority is changed, the comptroller shall place in effect the tax in the authority, substituting the notice of final judgment and the date on which it is received for the notice of the result of the election. This section applies only to elections held and election contests filed after the effective date of this Act.

¹ So in enrolled bill.

Effective Date—Local Sales and Use Tax

Sec. 5B. Upon actual receipt by the comptroller of public accounts of notification of adoption of a local sales and use tax containing the information required by Subsection (g) of Section 5, there shall elapse one whole calendar quarter prior to the adoption of a local sales and use tax becoming effective. Thereafter, the adoption shall be effective beginning on the first day of the next calendar quarter following the elapsed calendar quarter.

Powers of the Authority

Sec. 6. (a) The authority, when created and confirmed, shall constitute a public body corporate and politic, exercising public and essential governmental functions, having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this Act, including, but not limited to, the following powers granted in this section.

(b) The authority shall have perpetual succession.

(c) The authority may sue and be sued in all courts of competent jurisdiction and may institute and prosecute suits without giving security for costs and may appeal from a judgment or judgments without giving supersedeas or cost bond.

(d) The authority may acquire by grant, purchase, gift, devise, lease, or otherwise, and may hold, use, sell, lease or dispose of, real and personal property of every kind and nature whatsoever, and licenses, patents, rights and interests necessary, convenient or useful for the full exercise of any of its powers pursuant to the provisions of this Act. Before an

authority acquires an interest in real property for more than \$20,000, the board of the authority shall cause the property to be appraised by two appraisers working independently of each other.

(e) The authority shall have the power to acquire, construct, complete, develop, own, operate and maintain a system or systems within its boundaries, and both within and without the boundaries of incorporated cities, towns and villages and political subdivisions, and for such purposes shall have the right to use the streets, alleys, roads, highways and other public ways and to relocate, raise, reroute, change the grade of, and alter the construction of, any street, alley, highway, road, railroad, electric lines and facilities, telegraph and telephone properties and facilities, pipelines and facilities, conduits and facilities, and other properties, whether publicly or privately owned, as necessary or useful in the construction, reconstruction, repair, maintenance and operation of the system, or to cause each and all of said things to be done at the authority's sole expense. The authority shall not proceed with any action to change, alter or damage the property or facilities of the state, its municipal corporations, agencies or political subdivisions or of owners rendering public services, or which shall disrupt such services being provided by others, or to otherwise inconvenience the owners of such property or facilities, without having first obtained the written consent of such owners or unless the authority shall have first obtained the right to take such action under its power of eminent domain as herein specified. In the event the owners of such property or facilities desire to handle any such relocation, raising, change in the grade of, or alteration in the construction of such property or facilities with their own forces, or to cause the same to be done by contractors of their own choosing, the authority shall have the power to enter into agreements with such owners providing for the necessary relocations, changes or alterations of such property or facilities by the owners and/or such contractors and the reimbursement by the authority to such owners of the costs incurred by such owners in making such relocations, changes or alterations and/or in causing the same to be accomplished by such contractors.

(f) In the event the authority, in exercising any of the powers conferred by this Act, makes necessary the relocation, adjustment, raising, lowering, rerouting or changing the grade of or altering the construction of any street, alley, highway, overpass, underpass, or road, any railroad track, bridge or other facilities or properties, any electric lines, conduits or other facilities or properties, any telephone or telegraph lines, conduits or other facilities or properties, any gas transmission or distribution pipes, pipelines, mains or other facilities or properties, any water, sanitary sewer or storm sewer pipes, pipelines, mains or other facilities or properties, any cable television lines, cables, conduits or other facilities or properties, or any other pipelines

and any facilities or properties relating thereto, any and all such relocations, adjustments, raising, lowering, rerouting or changing of grade or altering of construction shall be accomplished at the sole cost and expense of the authority, and all damages which may be suffered by the owners of such property or facilities shall be borne by the authority.

(g) The authority shall have the right of eminent domain to acquire lands in fee simple and any interest less than fee simple in, on, under and above lands, including, without limitation, easements, rights-of-way, rights of use of air space or subsurface space, or any combination thereof; provided that such right shall not be exercised in a manner which would unduly interfere with interstate commerce or which would authorize the authority to run its vehicles on railroad tracks which are used to transport property.

(h) Eminent domain proceedings brought by the authority shall be governed by the provisions of Title 52, Eminent Domain, Revised Civil Statutes of Texas, 1925, as they now exist or hereafter may be amended,¹ insofar as such provisions are not inconsistent with this Act. Proceedings for the exercise of the power of eminent domain shall be commenced by the adoption by the board of a resolution declaring the public necessity for the acquisition by the authority of the property or interest therein described in the resolution, and that such acquisition is necessary and proper for the construction, extension, improvement or development of the system and is in the public interest. The resolution of the authority shall be conclusive evidence of the public necessity of such proposed acquisition and that such real or personal property or interest therein is necessary for public use. At least 30 days before adopting a resolution under this subsection, however, a board shall hold a public hearing on the question of acquisition of the property or interest for which eminent domain proceedings are being considered. The board shall hold the hearing at a place convenient to residents of the area in which the property is located. The board shall cause notice of the hearing to be published in a newspaper of general circulation in the county in which the property is located at least once each week for two weeks before the date of the hearing.

(i) The authority shall have the power to enter into agreements with any other public utility, private utility, communication system, common carrier, or transportation system for the joint use of their respective facilities, installations and properties of whatever kind and character within the authority and to establish through routes, joint fares or transfer of passengers.

(j) The authority shall establish and maintain rates, fares, tolls, charges, rents or other compensation for the use of the facilities of the system acquired, constructed, operated or maintained by the authority which shall be reasonable and nondis-

criminary and which, together with receipts from taxes collected by the authority, shall be sufficient to produce revenues adequate:

(1) to pay all expenses necessary to the operation and maintenance of the properties and facilities of the authority;

(2) to pay the interest on and principal of all bonds issued by the authority under this Act which are payable in whole or in part from such revenues, when and as the same shall become due and payable;

(3) to pay all sinking fund and reserve fund payments agreed to be made in respect of any such bonds, and payable out of such taxes and revenues, when and as the same shall become due and payable; and

(4) to fulfill the terms of any agreements made with the holders of such bonds or with any person in their behalf.

(k) It is the intention of this Act that taxes levied and the rates, fares, tolls, charges, rents and other compensation for the use of the facilities of the system shall not be in excess of what may be necessary to fulfill the obligations imposed upon the authority by this Act. Nothing herein shall be construed as depriving the State of Texas of its power to regulate and control such taxes, rates, fares, tolls, charges, rents and other compensation, provided that the State of Texas does hereby pledge to and agree with the purchasers and successive holders of the bonds issued hereunder that the state will not limit or alter the powers hereby vested in the authority to establish and collect such taxes, rates, fares, tolls, charges, rents and other compensation as will produce revenues sufficient to pay the items specified in Subdivisions (1), (2), (3) and (4), Subsection (j) of this subsection, or in any way to impair the rights or remedies of the holders of the bonds, or of any person in their behalf, until the bonds, together with the interest thereon, with interest on unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders and all other obligations of the authority in connection with such bonds, are fully met and discharged.

(l) The authority may make contracts, leases and agreements with, and accept grants and loans from, the United States of America, its departments and agencies, the State of Texas, its agencies, counties, municipalities and political subdivisions, and public or private corporations and persons, and may generally perform all acts necessary for the full exercise of the powers vested in it. The authority may acquire rolling stock or other property under conditional sales contracts, leases, equipment trust certificates, or any other form of contract or trust agreement. Any revenue bond indenture may provide limitations upon the exercise of the powers stated in this section and such limitations shall apply so long as any of the revenue bonds issued pursuant to such indenture are outstanding and unpaid.

(m) The authority may sell, lease, convey or otherwise dispose of any of its rights; interests or properties which are not needed for, or, in the case of leases, which are not inconsistent with, the efficient operation and maintenance of the system. It may sell, lease, or otherwise dispose of, at any time, any surplus materials or personal or real property not needed for its requirements or for the purpose of carrying out its power under this Act.

(n) The authority shall by resolution make all rules and regulations governing the use, operation and maintenance of the system and shall determine all routings and change the same whenever it is deemed advisable by the authority.

(o) The authority shall have power to lease the system or any part thereof to, or contract for the use or operation of the system or any part thereof by, any operator; provided, however, that a lease of the entire system shall be subject to the written consent and approval of the governing body of the principal city.

(p) The acquisition of any land or interest therein pursuant to this Act, the planning, acquisition, establishment, development, construction, improvement, maintenance, equipment, operation, regulation, protection, and policing of the authority's system and facilities, and the exercise of any other powers herein granted an authority, are hereby declared to be public and governmental functions, exercised for a public purpose, and matters of public necessity.

(q) The authority may contract with any city, county, or other political subdivision for the authority to provide public transportation services to any area outside the boundaries of the authority on such terms and conditions as may be agreed to by the parties.

¹ Article 3264 et seq.

Addition of Territory

Sec. 6A. (a) Territory may be added to an authority only according to the provisions of this section.

(b) The governing body of any incorporated city or town located in whole or in part within a county in which the authority is situated may hold an election on the question of whether the city or town shall be annexed to the authority. If a majority of the qualified voters in the city or town votes for annexation, the governing body shall certify the results of the election to the board of the authority, and the city or town shall become a part of the authority, except as provided in Subsection (f) of this section.

(c) The commissioners court of a county in which the authority is situated in whole or in part or that is adjacent to a county in which the authority is situated in whole or in part may hold an election in any one or more of the designated election areas, formed for the election by order of the commission-

ers court, on the question of whether the area in which the election is held shall be annexed to the authority. The boundaries of a designated election area shall coincide, to the extent practicable, with a boundary of a county voting precinct, so that insofar as practicable no county voting precinct is divided. If a majority of the qualified voters in any area where such an election is held votes in favor of annexation, the commissioners court shall certify the results of the election to the board of the authority, and the area shall become a part of the authority, except as provided in Subsection (f) of this section.

(d) If a city or town which is a part of an authority lawfully annexes additional territory which is not a part of the authority, the annexed territory becomes a part of the authority.

(e)(1) At the time territory is added to an authority under the provisions of this section, any tax other than a local sales and use tax which the board of the authority has already been authorized to levy applies to the added territory.

(2) If an authority in which a local sales and use tax has been imposed changes or alters its boundaries, the presiding officer of the board shall forward to the comptroller of public accounts by United States registered mail or certified mail a certified copy of the order adding territory to the authority or of the order canvassing the returns and declaring the result of the election. The order shall reflect the effective date of the tax and shall be accompanied by a map of the authority clearly showing the territory added or detached. Upon receipt of the order and map, the tax imposed by Section 11B of this Act shall be effective in the added territory on the first day of the next succeeding quarter. However, if the comptroller notifies the presiding officer of the board in writing within 10 days after receipt of the order and map that he requires more time, the comptroller shall be entitled to delay implementation one whole calendar quarter. Thereafter, the tax shall be effective in the added territory on the first day of the next calendar quarter following the elapsed quarter.

(f) Territory in which an election is held as provided in Subsections (b) or (c) of this section becomes a part of the authority on the 31st day after the election, if the voters approve the addition as provided in Subsections (b) or (c), and unless the board of the authority notifies the appropriate governing body in writing before that date that the addition, because it is not contiguous to the existing authority, would create a fiscal hardship on the authority.

Composition of the Board

Sec. 6B. (a) If less than 50 percent of that part of the population of the county (the county in which not less than 51 percent of the incorporated area of the principal city is situated) which is outside the corporate limits of the principal city resides within the limits of the authority, the board of the authori-

ty shall consist of the original five members or their successors plus one additional member to be appointed jointly by the mayors of all incorporated municipalities except the principal city within the authority as confirmed, and one other additional member to be appointed by the commissioners court of the county described in this subsection.

(b) If more than 50 percent but less than 75 percent of the population of the county described in Subsection (a) of this section outside the corporate limits of the principal city resides within the limits of the authority, the board of the authority consists of the original five members or their successors, plus two additional members to be appointed jointly by the mayors of all incorporated municipalities, except the principal city, located within the authority, and two other members appointed by the commissioners court of the county. Population figures shall be computed on the basis of the last preceding United States census.

(c) If 75 percent or more of the population of the county described in Subsection (a) of this section outside the corporate limits of the principal city resides within the limits of the authority, the board consists of 11 members, including the original five members or their successors, two additional members appointed jointly by the mayors of all incorporated municipalities except the principal city located within the authority, three other additional members appointed by the commissioners court of the county, and one member, who serves as chairman, who is appointed by the other ten members.

(d) When this Act requires that the mayors of municipalities except the principal city appoint a member of the board, the mayor of the municipality of greatest population among the municipalities shall serve as chairman of an appointment board composed of the mayors of all appropriate municipalities and shall, by notice in writing to all members, call meetings of the appointment board as necessary to make the appointments. Appointments shall be made within 60 days after a position comes into existence or becomes vacant. If the boundaries of the authority at any time include unincorporated areas of a county other than the county described in Subsection (a) of this section, the county judge of the appropriate county is entitled to serve on the appointment board, with powers equal to the other members of the board, as if the unincorporated area of the county were a municipality and the county judge of that county were the mayor of the municipality.

(e) The terms of office of any members of the board appointed after the confirmation and tax election and after the effective date of this Act are four years, except that in order to provide staggered terms, the terms of office of one-half of the first members appointed by an appointing agency after the effective date of this Act, if an even number is to be appointed by an agency, and a bare majority of the first members appointed by the agency, if an

odd number greater than one is to be appointed by an agency, are two years. In addition, the appointing agency may shorten the initial terms to make the expiration dates coincide with those of the previously existing positions. To be eligible for appointment to the board, a person must be a qualified voter residing within the boundaries of the authority. No member of the board may serve more than two consecutive four-year terms.

(f) Vacancies on the board are filled by appointment by the same agency that made the original appointments for the vacant positions. Each member of the board whose term expires shall continue to serve until his successor has been appointed.

(g) In the event the membership of the board must be increased under the provisions of this section, the board as previously constituted may continue to act as the governing board of the authority until the additional members have been appointed and seated.

Station or Terminal Complexes

Sec. 6C. (a) The acquisition of any land or any interest in land pursuant to this Act; the planning, acquisition, establishment, development, construction, improvement, maintenance, equipment, operation, regulation, protection, and policing of the authority's system and facilities; and the exercise of any other powers granted an authority, including without limitation the rights, powers, and authority relating to station or terminal complexes as provided in this section, are declared to be public and governmental functions, exercised for a public purpose, and matters of public necessity for public use and public benefit.

(b) The authority shall have the right, power, and authority to acquire by grant, purchase, gift, devise, lease, or eminent domain proceedings and to own lands in fee simple and any interest less than fee simple in, on, under, and above lands, including, without limitation, easements, rights-of-way, rights of use of air space or subsurface space or any combination thereof, adjacent or accessible to stations and other mass transit facilities, developed or to be developed by the authority, that may be required for or in aid of the development of one or more station or terminal complexes, as part of its mass transit system and may sell, lease, or otherwise transfer the same, or any part thereof, to individuals, corporations, or governmental entities, subject to the restrictions provided in this section.

(c) Any lands or interests in land acquired for a station or terminal complex must be part of or contained within a station or terminal complex designated as part of the system within a comprehensive transit plan approved by resolution of the board. Before a station or terminal complex may be included in the system, the board must find and determine that the proposed station or terminal complex will encourage and provide for efficient and economical mass transit service, will facilitate

access to mass transit service and provide other mass transit purposes, will reduce vehicular congestion and air pollution in the metropolitan area, and is reasonably essential to the successful operation of the system. The board may amend its comprehensive transit plan to include other station or terminal complexes upon making these findings.

(d) Any station or terminal complex shall include adequate provisions for the transfer of passengers between the various modes of transportation available to the complex. A complex may include provisions for commercial, residential, recreational, institutional, and industrial facilities, except that no land or interest in land that is more than 1,500 feet in distance from the center point of the complex or that has not been included in a master plan of development adopted by the board may be acquired for the facilities. Land or an interest in land more than 1,500 feet in distance from the center point of the complex may not be acquired by eminent domain proceedings, and the board shall designate the center point prior to the commencement of eminent domain proceedings. If a proposed station or terminal complex is to be located within the city limits or extraterritorial jurisdiction of a city or town, the governing body of the city or town must approve the location of the complex as to conformity with the comprehensive or general plan of the city or town by motion, resolution, or ordinance duly adopted.

(e) The authority may sell, lease, or otherwise transfer lands or interests in land acquired within a station or terminal complex, and may enter into contracts with respect to it, in accordance with the comprehensive transit plan approved by the board, subject to such covenants, conditions, and restrictions, including covenants running with the land and obligations to commence construction within a specified time, as the board may deem to be in the public interest or necessary to carry out the purposes of this section, all of which shall be incorporated into the instrument transferring or conveying title or right of use. Any lease, sale, or transfer shall be at fair value, taking into account the use designated for the land in the comprehensive transit plan for the system and the restrictions on, and the covenants, conditions, and obligations assumed by, the purchaser, lessee, or transferee. However, if the authority offers the property for sale, the original owner from whom the property was acquired by eminent domain proceedings or through threat of eminent domain proceedings has the first right to repurchase at the price at which it is offered to the public.

(f) No station or mass transit facility may be considered a "station or terminal complex" governed by this section unless it has been designated as such in the comprehensive transit plan pursuant to the specific authority granted by this section.

Withdrawal From an Authority

Sec. 6D. (a) The governing body of an incorporated city or town that is included within the territory of an authority and that has a population more than 90 percent of which resides outside the county in which the majority of the population of the principal city resides may on any date from April 1, 1980, to September 1, 1980, hold an election on the question of whether the city or town shall withdraw from the authority. If a majority of the qualified voters in the city or town voting on the question votes to withdraw from the authority, the governing body shall certify the results of the election to the board of the authority, and the city or town shall withdraw from the authority.

(b) The board shall enter the results on its minutes and adopt an order declaring the withdrawal of the city or town. A certified copy of the order shall be filed with the State Department of Highways and Public Transportation or its successor and the comptroller of public accounts and in the deed records of each county in which the authority is located. The order shall reflect the date of the election, the proposition voted on, the total number of votes cast for and against the proposition in each election unit, the number of votes by which the proposition was approved in each election unit and shall be accompanied by a map of the authority clearly showing the boundaries of the authority.

(c) Upon actual receipt of the comptroller of public accounts of notification of the withdrawal of a city or town, there shall elapse one whole calendar quarter prior to the withdrawal becoming effective. Thereafter, the withdrawal shall be effective beginning on the first day of the next calendar quarter following the elapsed calendar quarter.

Local Government Approval Committee

Sec. 6E. The rates, fares, tolls, charges, rents, and other compensation established by an authority in a metropolitan area whose principal city has a population of less than 1,200,000, according to the most recent federal census, may not take effect until they are approved by a majority vote of a committee composed of:

(a) five members of the city council of the principal city who are chosen for this committee by the members of that body;

(b) three members of the commissioners court of the county that includes the largest portion of the incorporated area of the principal city, who are chosen for this committee by the members of that court; and

(c) three mayors of incorporated municipalities, except the principal city, located within the authority who are chosen for this committee jointly by the mayors of all incorporated municipalities, except the principal city, located within the authority.

Bonds and Notes

Sec. 7. (a) The authority shall have no power to assess, levy or collect any ad valorem taxes on property, nor to issue any bonds or notes secured by ad valorem tax revenues. The authority, however, shall have the full power to issue bonds and notes, from time to time and in such amounts as it shall consider necessary or appropriate, for the acquisition, purchase, construction, reconstruction, repair, equipping, improvement or extension of such rapid transit system or systems and all properties thereof whether real, personal or mixed. All such bonds and notes shall be fully negotiable and may be made redeemable before maturity, at the option of the issuing authority, at such price or prices and under such terms and conditions as may be fixed by the issuing authority in the resolution authorizing such bonds or notes, and may be sold at public or private sale whichever the board may deem more advantageous.

(b) Prior to delivery thereof, all bonds and notes authorized to be issued hereunder and the records relating to their issuance shall be submitted to the Attorney General of Texas for examination, and if he finds that they have been issued in accordance with the constitution and this Act, and that they will be binding obligations of the authority issuing same, he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas, and after such approval and registration and the sale and delivery of the bonds to the purchaser, they shall be incontestable.

(c) In order to secure the payment of such bonds or notes, such authority shall have full power and authority to encumber and pledge all or any part of the revenue realized from any tax which the authority is authorized to levy, and all or any part of the revenues of its rapid transit system or systems, and to mortgage and encumber all or any part of the properties thereof, and everything pertaining thereto acquired or to be acquired and to prescribe the terms and provisions of such bonds and notes in any manner not inconsistent with the provisions of this Act. If not prohibited by the resolution or indenture relating to outstanding bonds or notes, any such authority shall have full power and authority to encumber separately any item or items of real estate or personalty, including motorbuses, transit cars and other vehicles, machinery and other equipment of any nature, and to acquire, use, hold or contract for any such property under any lease arrangement, chattel mortgage or conditional sale, including, but not limited to, transactions commonly known as equipment trust transactions. Nothing herein shall be construed as prohibiting any such authority from encumbering any one or more rapid transit systems for the purpose of purchasing, building, constructing, enlarging, extending, repairing or reconstructing, another one or more of said systems and purchasing necessary property, both real, personal and mixed, in connection therewith.

(d) Refunding bonds or notes may be issued for the purposes and in the manner provided by general law, including, without limitation, Chapter 503, Acts of the 54th Legislature, Regular Session, 1955, as amended (Article 717k, Vernon's Texas Civil Statutes), and Chapter 784, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-3, Vernon's Texas Civil Statutes), as presently enacted or hereafter amended.

(e) Whenever the revenues of any rapid transit system shall be encumbered under this Act, the expense of operation and maintenance, including all salaries, labor, materials and repairs necessary to render efficient service and every proper item of expense shall always be a first lien and charge against such revenues. The fares charged for transportation of passengers by any rapid transit system may be based on a zone system of determining fares or other fare classification determined by such authority to be reasonable.

(f) All such bonds and notes shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations and insurance companies. Such bonds and notes shall be eligible to secure the deposit of any and all public funds of the State of Texas and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas, and such bonds and notes shall be lawful and sufficient security for said deposits to the extent of the principal amount thereof, or their value on the market, whichever is the lesser, when accompanied by all unmaturing coupons appurtenant thereto.

(g) If revenue bonds are to be issued by an authority to acquire any existing transportation system, or any part thereof, and the owner thereof is willing to accept said revenue bonds in lieu of cash, then in that event the revenue bonds may be exchanged for the property or for the stock of a corporation owning the property to be dissolved simultaneously.

(h) Bonds payable solely from revenues may be issued by resolution of the board, but no bonds, except refunding bonds, payable wholly or partially from taxes, may be issued until authorized by a majority vote of the qualified voters of the authority voting in an election called and held for that purpose.

(i) Notwithstanding the provisions of Section 7, the authority, acting by board order or resolution, has the power to issue short-term bonds or notes secured by revenues or taxes for any purpose; provided that the repayment of the bonds or notes must be satisfied out of revenues or taxes received during the period from the date of issuance to the last day of the fiscal year in which the bonds or notes are issued. Any such short-term bonds or notes need not be approved by the Attorney General

of Texas nor registered by the Comptroller of Public Accounts of the State of Texas.

Motor Vehicle Emission Taxes

Sec. 8. (a) Subject to approval at an election, the board of an authority shall be authorized to levy and cause to be collected motor vehicle emission taxes as herein provided. No increase in taxes as originally authorized may be levied unless the increase is approved at an election. Such taxes shall be collected by the county tax assessor-collector of each county, situated in whole or in part within the authority from each motor vehicle owner whose residence is within such county and within the authority. Not later than November 1 of each year, the board shall certify to the county tax assessor-collector of each county situated in whole or in part within the authority's boundaries the rate of tax prescribed for each class of motor vehicles for the ensuing tax year. At the time the owner of a motor vehicle applies each year to the State Highway Department through the county tax assessor-collector of the county in which he resides for the registration of each such vehicle owned or controlled by him for the ensuing or current motor vehicle registration year or unexpired portion thereof, such owner shall pay to the county tax assessor-collector the motor vehicle emission taxes due or to become due to such authority on such motor vehicle for the ensuing or current tax year at the applicable rate prescribed by the board. The county tax assessor-collector shall refuse to issue a registration license for a motor vehicle until the emission tax thereon for the period covered by such registration license has been paid.

(b) The tax year for motor vehicle emission taxes shall consist of calendar quarters, the first quarter to commence on April 1 of each year. Each application so filed during the second quarter, the third quarter, or the fourth quarter shall be accompanied by three-fourths, one-half, or one-quarter, respectively, of the annual tax; and each application for re-registration filed subsequent to June 30th shall be accompanied by an affidavit that such vehicle has not been previously operated within the boundaries of the authority during any quarter of the current tax year, failing which the tax for the entire tax year shall be paid in full.

(c) The authority shall furnish to the tax assessor-collector of each county situated in whole or in part within the boundaries of the authority, motor vehicle emission tax receipts in triplicate each of which shall, when issued, bear a number or other identifying symbol of the motor vehicle for which issued. The tax assessor-collector shall retain one copy and deliver the original to the taxpayer.

(d) Each tax assessor-collector shall receive a uniform fee of 45 cents for each tax receipt issued by him each tax year pursuant to this Act. Such fees shall be used to pay expenses reasonably incurred in collecting such taxes and issuing all tax receipts pursuant hereto.

(e) Each tax assessor-collector shall remit to the authority on or before the 15th day of each month, or at such other intervals of time as may be agreed upon by the authority and each tax assessor-collector, all taxes, penalties and interest collected on behalf of the authority for the preceding calendar month, or other agreed time interval, after deducting the collection fees and mailing charges described in the next preceding paragraph.

Rate of Tax

Sec. 9. Motor vehicles shall be classified by groups based upon the number of cubic inches of cylinder displacement of their motors or engines and the maximum emissions tax which may be levied by any authority shall not exceed the respective annual sums shown in the following table:

Cubic Inches of Cylinder Displacement	Annual Tax Per Vehicle
0-50	\$ 4
51-100	6
101-200	7
201-300	8
301-900	10
901 or more	15

The board of an authority shall each year fix the rate of tax for each group by fixing the percentage (not more than 100) of the foregoing respective maximum rates, which percentage shall apply equally and uniformly to all groups and to all members of each group.

Exempt Vehicles

Sec. 10. The owners of motor vehicles listed below shall be exempt from the payment of emission taxes on such vehicles, as follows:

(a) Those vehicles which are the property of and used exclusively in the service of the United States government, the State of Texas, or any county, city, school district or rapid transit authority thereof.

(b) Those used exclusively for firefighting; and

(c) Those owned by any person, association, corporation or partnership residing within the boundaries of an authority and doing business both within and without or wholly without such boundaries, which motor vehicles are not stationed or customarily kept within the boundaries of the authority and which are not regularly operated within such boundaries. "Regularly operated" means an average of two days per calendar week in a tax year or portion thereof for which such tax accrues. Residents of an authority claiming an exemption under this Subparagraph (c) shall file an affidavit with the county tax assessor-collector specifying the vehicles claimed to be exempted.

Payments and Penalties

Sec. 11. Motor vehicle emission taxes shall be due and payable on February 1 of each year for

which levied and shall become delinquent if not paid by April 1 of such year; provided that taxes on vehicles becoming subject to such taxes after April 1 of any tax year shall be due and payable on the date such taxes accrue and shall become delinquent if not paid within 60 days thereafter.

The following penalties shall be payable on delinquent emission taxes, to wit: During the first month after delinquency, one percent; during the second month, two percent; during the third month, three percent; during the fourth month, four percent; during the fifth month, five percent; and during or after the sixth month, eight percent.

All delinquent emission taxes shall bear interest at the rate of six percent per annum from the date of their delinquency until paid.

Neither the levy, collection nor payment of a motor vehicle emissions tax shall be construed to authorize any act prohibited by law or by any rule or regulation lawfully promulgated.

General Powers of Taxation

Sec. 11A. (a) In addition to or in lieu of the motor vehicle emission taxes provided for in this Act, the board of an authority may levy and collect any kind of tax, other than an ad valorem tax on property, which is not prohibited by the Texas Constitution.

(b) No tax of any kind may be levied and collected by the board until a proposition proposing the tax has first been submitted to and approved by a majority of the qualified electors of an authority voting at an election held by the board for that purpose. A separate proposition must be submitted for each kind of tax proposed, and propositions may be submitted in the alternative with provision for the method of determining the results of the election. Each proposition must include a brief statement of the nature of the proposed tax. The notice of the election must include a statement or description of the basis of or rate at which the tax is proposed to be levied. Any subsequent increase in a tax must also be approved at an election.

(c) Prior to an election to authorize a tax other than motor vehicle emission taxes or a sales and use tax, the board shall adopt a complete tax code and rules and regulations providing for the nature and amount of any tax with provisions for complete administration and enforcement, including the time and manner of payment, exemptions, liens, interest, penalties, discounts for advance payment, refunds for erroneous payment, fees for collection, collection procedures, manner of enforcement, required returns, registration and reports of taxpayers, the duties and responsibilities of tax officers and taxpayers, the delegation to tax officers to make additional rules and regulations and determinations and to obtain records as may be appropriate, and every other provision which may be determined to be desirable, including incorporation of any tax laws and remedies for the administration and enforce-

ment that are available to the state or any political entities under general law.

(d) A tax code and rules and regulations may be amended by the board from time to time after an election approving a tax, but no amendment may increase the amount of a tax unless the increase is approved at an election.

(e) The board of an authority by order may decrease the local sales and use tax rate or may call an election to increase or decrease the local sales and use tax rate. In addition, the qualified voters of an authority by petition may require that an election be held on the question of increasing the tax rate. A petition is valid if it is by qualified voters of the authority equal in number to at least 10 percent of the number of registered voters of the authority according to the most recent official list of registered voters.

(f) After receiving a petition, the board shall submit the petition to the secretary of state for validation. The secretary of state shall rule on the validity of the petition not later than the 30th day after the day he or she receives the petition and shall notify the board of the ruling. If the secretary of state finds the petition valid or fails to act within the time allowed, the board shall call an election. The authority shall pay the costs of determining the validity of a petition, if any, and of the election.

(g) At the election, the ballots shall be prepared to permit voting for or against the following proposition: "The increase (decrease) of the local sales and use tax rate to (percentage)." The increase or decrease in the tax rate shall be effective if it is approved by a majority of the votes cast by voters residing within the boundaries of the territory of the authority at the date of the election. A notice of the election and a certified copy of the order canvassing the election results shall be sent to the State Department of Highways and Public Transportation or its successor and the comptroller of public accounts and shall be filed in the deed records of each county in which the authority is located in the same manner as provided for a confirmation and tax election by Section 5 of this Act.

(h) If there is an increase or decrease in the rate of a local sales and use tax already levied, the new rate takes effect on the first day of the next calendar quarter after actual notification to the comptroller of public accounts. However, if the comptroller notifies the presiding officer of the board in writing within 10 days after receipt of the order that he or she requires more time to implement collection and reporting procedures, the comptroller may delay implementation for one whole calendar quarter. Thereafter, the new tax rate takes effect on the first day of the next calendar quarter following the elapsed quarter.

Local Sales and Use Tax

Sec. 11B. (A) Subject to approval at a tax election in accordance with this Act, the board of an

authority shall be authorized to levy, collect and impose a local sales and use tax for the benefit of the authority, the sales tax portion of which shall not exceed one percent on receipts from the sale of all taxable items within the authority area which are subject to taxation under the provisions of the Limited Sales, Excise and Use Tax Act,¹ as enacted and as heretofore or hereafter amended. The provisions of this section shall be applicable to the levy, imposition and collection of such tax. The permissible rates for a local sales and use tax levied under this Act are:

- (1) one-quarter of one percent;
- (2) one-half of one percent;
- (3) three-quarters of one percent; and
- (4) one percent.

(B)(a) The following words and terms shall have the following respective meanings unless a different meaning clearly appears from the context:

(1) "Authority area" means the geographical limits of the authority.

(2) "Comptroller" means the Comptroller of Public Accounts of Texas.

(3) "Local Sales and Use Tax" means any sales and use tax imposed by a city within the authority area under the Local Sales and Use Tax Act (Article 1066c, Vernon's Texas Civil Statutes).

(b) Every retailer within the authority area shall add the tax imposed by the Limited Sales, Excise and Use Tax Act, any applicable Local Sales and Use Tax and the tax imposed under the authority of this Act to his sale price, and when added, the combined tax shall constitute a part of the price, shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price. The combined taxes on the transaction shall be determined by multiplying the amount of the sale by the total of the combined applicable tax rates. Any fraction of one cent which is less than one-half of one cent of tax shall not be collected. Any fraction of one cent of tax equal to one-half of one cent or more shall be collected by the retailer as a whole cent of tax. Provided, however, that any retailer who can establish to the satisfaction of the comptroller that 50 percent or more of his receipts from the sale of taxable items arise from individual transactions where the total sales price when multiplied by the combined rates of the taxes imposed under the Limited Sales, Excise and Use Tax Act, any applicable Local Sales and Use Tax, and this section equals an amount that is less than one-half of one cent may exclude the receipts from such sales when reporting and paying the tax imposed under this Act, the Limited Sales, Excise and Use Tax Act, and any applicable Local Sales and Use Tax. No retailer shall avail himself of this provision without prior written approval of the comptroller. The comptroller shall grant such approval when he is satisfied

that the retailer qualifies on the basis set forth in this section and when the retailer has submitted satisfactory evidence that he can and will maintain records adequate to substantiate the exclusion herein authorized. Any attempt on the part of any retailer to exercise this provision without prior written approval of the comptroller shall be deemed to be a failure and refusal to pay the taxes imposed by this Act, the Limited Sales, Excise and Use Tax Act and any applicable Local Sales and Use Tax, and the retailer shall be subject to assessment for both taxes, penalties and interest as provided for in this Act, the Limited Sales, Excise and Use Tax Act, and any applicable Local Sales and Use Tax.

(c)(1) In every authority area where the tax authorized by this Act has been adopted pursuant to the provisions of this Act, there is hereby imposed an excise tax on the storage, use or other consumption within such authority area of taxable items purchased, leased, or rented from any retailer on or after the effective date for collection of the sales tax portion of the sales and use tax for storage, use or other consumption in such authority area at the same rate as the sales tax levied under this Act of the sales price of the taxable item or, in the case of leases or rentals, of said lease or rental price. Except as provided in Subparagraph (4) of this paragraph, the use tax imposed by this section is not owed to and may not be collected by, for, or in behalf of an authority if no excise tax on the storage, use, or other consumption of an item of tangible personal property is owed to or collected by the state under the Limited Sales, Excise and Use Tax Act or if the tangible personal property is first stored, used, or consumed within an authority or area that has not adopted the sales and use tax imposed by this section.

(2) In each authority where the tax authorized by this Act has been imposed as provided in this Act, the excise tax imposed under the Limited Sales, Excise and Use Tax Act and any applicable excise tax under the Local Sales and Use Tax Act on the storage, use or other consumption of taxable items and the excise tax imposed by this Act shall be added together to form a combined rate of excise tax which is equal to the sum of the applicable taxes. The tax imposed by this section shall be collected by the comptroller on behalf of and for the benefit of such authority. The formula prescribed in paragraph (b) of this subsection shall be applicable to the collection of the excise tax imposed under this section.

(3) The provisions of the Limited Sales, Excise and Use Tax Act shall be applicable to the collection of the tax imposed by this paragraph (c), provided that in Subchapter D of Chapter 151, Tax Code,² the name of the authority where the sales and use tax authorized by this Act has been adopted shall be substituted for that of the state where the words "this state" are used to designate the taxing authority or to delimit the tax imposed.

(4) If a sale of tangible personal property is consummated within the state but not within an authority that has adopted the taxes imposed by this section and the tangible personal property is shipped directly into or brought by the purchaser or lessee directly into an authority that has adopted the taxes imposed by this section, the tangible personal property is subject to the use tax imposed by the authority under Subparagraph (1) of this paragraph. The use is considered consummated at the location where the item is first stored, used, or otherwise consumed after the intrastate transit has ceased.

(5) If the tangible personal property is shipped from outside this state to a customer within this state, the tangible personal property is subject to the use tax imposed by Subparagraph (1) of this paragraph and not the sales tax imposed by Subsection (A) of this section. The use is consummated at the first point in this state where the property is stored, used, or otherwise consumed after interstate transit has ceased. Tangible personal property delivered to a point in this state is presumed to be for storage, use, or other consumption at that point until the contrary is established.

(6) There are exempted from the sales taxes imposed by this article receipts from any sale of tangible personal property which, pursuant to the contract of sale, is shipped to a point outside the authority area by the retailer by means of:

- (a) facilities operated by the retailer;
- (b) delivery by the retailer to a carrier for shipment to a consignee at such point; or
- (c) delivery by the retailer to a customs broker or forwarding agent for shipment outside the authority.

If the tangible personal property exempted under this subparagraph or under Paragraph (F) of Section 16(f)(2) of Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes), is shipped or delivered directly to a purchaser in another authority that has adopted the taxes imposed under either article, the tangible personal property is subject to the use tax imposed by Subsection (A) of this section.

(d)(1) On and after the effective date of any tax imposed under the provisions of this Act, the comptroller shall perform all functions incident to the administration, collection, enforcement and operation of the tax, and the comptroller shall collect, in addition to the taxes imposed by the Limited Sales, Excise and Use Tax Act, an additional tax under the authority of this Act specified by the authority, but not to exceed one percent on the receipts from the sale at retail or on the sale price or lease or rental price on the storage, use or other consumption of all taxable items within such authority area, which items are subject to the Limited Sales, Excise and Use Tax Act. The tax imposed hereunder and the tax imposed under the Limited Sales, Excise and

Use Tax Act and any applicable Local Sales and Use Tax shall be collected together and reported upon such forms and under such administrative rules and regulations as may be prescribed by the comptroller not inconsistent with the provisions of this Act. On and after the effective date of any proposition to abolish such Local Sales and Use Tax in any authority area, the comptroller shall comply therewith.

(2) The comptroller shall make to the authority substantially the same reports as to taxes within the authority area as are made to cities under Subsections 5(b), (c) and (d) of the Local Sales and Use Tax Act.

(e) The following provisions shall govern the collection by the comptroller of the tax imposed by this Act:

(1) All applicable provisions contained in Title 2, Tax Code,³ shall apply to the collection of the tax imposed by this Act, except as modified in this Act.

(2) The provisions contained in Section 6 of the Local Sales and Use Tax Act shall apply to the levy, imposition and collection of the tax imposed by this Act except as modified herein.

(3) The penalties provided in Title 2, Tax Code, for violation of that title, are hereby made applicable to violations of this Act.

(4) The sales and use tax collected by the comptroller under this Act shall be deposited, held, accounted for and transmitted for the authority as provided in Section 7 of the Local Sales and Use Tax Act.

(f) Each authority's share of all sales and use tax collected under this Act by the comptroller shall be transmitted to the treasurer or the officer performing the functions of such office of such authority by the comptroller payable to the authority periodically as promptly as feasible. Transmittals required under this Act shall be made at least twice in each state fiscal year. Before transmitting such funds, the comptroller shall deduct two percent of the sum collected from each such authority during such period as a charge by the state for its services specified in this Act, and the amounts so deducted shall be deposited by the comptroller in the State Treasury to the credit of the General Revenue Fund of the state. The comptroller is authorized to retain in the suspense account of any authority a portion of the authority's share of the tax collected under this Act. Such balance so retained in the suspense account shall not exceed five percent of the amount remitted to the authority. The comptroller is authorized to make refunds from the suspense account of any authority for overpayments made to such accounts and to redeem dishonored checks and drafts deposited to the credit of the suspense account of such authority. When any authority shall abolish such tax, the comptroller may retain in the suspense account of such authority for a period of one year five percent of the final remittance to each such authority at the time of termination of collection of

such tax in such authority to cover possible refunds for overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of such tax in such authority, the comptroller shall remit the balance in such accounts to the authority and close the account.

(g) The comptroller may promulgate reasonable rules and regulations, not inconsistent with the provisions of this Act, to implement the enforcement, administration and collection of the taxes authorized herein.

(h)(1) In any authority where the sales and use tax authorized by this Act has been imposed, if any person is delinquent in the payment of the amount required to be paid by him under this Act or in the event a determination has been made against him for taxes and penalty under this Act, the limitation for bringing suit for the collection of such delinquent tax and penalty shall be the same as that provided by the Limited Sales, Excise and Use Tax Act. Where any person is delinquent in payment of taxes under this Act, the comptroller shall notify the authority to which delinquent taxes are due under this Act by United States registered mail or certified mail and shall send a copy of the notice to the attorney general. The authority, acting through its attorney, may join in any suit brought by the attorney general as a party plaintiff to seek a judgment for the delinquent taxes and penalty due such authority. The notice sent by the comptroller to the authority showing the delinquency of a taxpayer constitutes a certification of the amount owed and is prima facie evidence of the determination of the tax and of the delinquency of the amounts of sales and use tax set forth in the notice.

(2) Where property is seized by the comptroller under the provisions of any law authorizing seizure of the property of a taxpayer who is delinquent in payment of the tax imposed by the Limited Sales, Excise and Use Tax Act, and where such taxpayer is also delinquent in payment of any tax imposed by this Act, the comptroller shall sell sufficient property to pay the delinquent taxes and penalty due any authority under this Act in addition to that required to pay any amount due the state under the Limited Sales, Excise and Use Tax Act and due any city under the Local Sales and Use Tax Act. The proceeds from such sale shall first be applied to all sums due the state, then all sums due any city under the Local Sales and Use Tax Act, and the remainder, if any, shall be applied to all sums due such authority.

(3) An authority that has adopted the tax authorized by this Act may bring suit for the collection of sales, excise, or use taxes imposed by this Act which have been certified as provided in subparagraph (1) of this paragraph and are owed to the authority under this Act if at least 60 days before the filing of the suit, written notice by certified mail

of the tax delinquency and of the intention to file suit is given to the taxpayer, the comptroller, and the attorney general and if neither the comptroller nor the attorney general disapproves the suit by written notice to the authority.

(4) The comptroller or attorney general may disapprove the institution of tax suit by an authority if:

(i) negotiations between the state and the taxpayer are being conducted for the purpose of the collection of delinquent taxes owed to the state and the authority seeking to bring suit;

(ii) the taxpayer owes substantial taxes to the state and there is a reasonable possibility that the taxpayer may be unable to pay the total amount owed in full;

(iii) the state will bring suit against the taxpayer for the collection of all sales, excise and use taxes due under the Limited Sales, Excise and Use Tax Act and this Act; or

(iv) the suit involves a critical legal question relating to the interpretation of state law or a provision of the Texas or United States Constitution in which the state has an overriding interest.

(5) A notice of disapproval to an authority must give the reason for the determination of the comptroller or attorney general. A disapproval is final and not subject to review. An authority, after one year from the date of the disapproval, may proceed again as provided in subparagraph (3) of this paragraph even though the liability of the taxpayer includes taxes for which the authority has previously given notice and the comptroller or attorney general has previously disapproved the suit.

(6) In any suit under this paragraph for the collection of the authority tax, a judgment for or against the taxpayer does not affect any claim against the taxpayer by a city or the state unless the state is a party to the action.

(7) A copy of the final judgment in favor of an authority in a case in which the state is not a party shall be abstracted by the authority and a copy of the judgment together with a copy of the abstract shall be sent to the comptroller. The authority shall collect taxes awarded to it under the judgment as provided by Section 151.608(e), Limited Sales, Excise and Use Tax Act, and is responsible for the renewal of the judgment before the expiration of the 10-year period. If a collection is made by an authority on a judgment, notice of the amount collected shall be sent by certified mail to the comptroller. The comptroller may prescribe a form for the notice to be used by authorities.

¹ Tax Code, § 151.001 et seq.

² Tax Code, § 151.101 et seq.

³ Tax Code, § 101.001 et seq.

Management

Sec. 12. The responsibility for the management, operation and control of the properties belonging to

an authority shall be vested in its board. The board may:

(a) employ all persons, firms, partnerships or corporations deemed necessary by the board for the conduct of the affairs of the authority, including, but not limited to, a general manager, bookkeepers, auditors, engineers, attorneys, financial advisers and operating or management companies, and prescribe the duties, tenure and compensation of each. All employees may be removed by the board;

(b) become a subscriber under the Texas Workmen's Compensation Act with any old-line legal-reserve insurance company authorized to write policies in the State of Texas;

(c) adopt a seal for the authority;

(d) invest funds of the authority in direct or indirect obligations of the United States, the state, or any county, city, school district or other political subdivision of the state; funds of the authority may be placed in certificates of deposit of state or national banks or savings and loan associations within the state provided that they are secured in the manner provided for the security of the funds of counties of the State of Texas; the board, by resolution, may provide that an authorized representative of the authority may invest and reinvest the funds of the authority and provide for money to be withdrawn from the appropriate accounts of the authority for the investments on such terms as the board considers advisable;

(e) fix the fiscal year for the authority;

(f) establish a complete system of accounts for the authority and each year shall have prepared an audit of its affairs by an independent certified public accountant or a firm of independent certified public accountants which shall be open to public inspection; and

(g) designate one or more banks to serve as the depository for the funds of the authority.

All funds of the authority shall be deposited in the depository bank or banks unless otherwise required by orders or resolutions authorizing the issuance of the authority's bonds or notes.

To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for the security of funds of counties of the State of Texas.

The board, by resolution, may authorize a designated representative to supervise the substitution of securities pledged to secure the authority's funds.

Annual Budget

Sec. 12A. Prior to the commencement of a fiscal year, the board shall adopt an annual operating budget which specifies major expenditures by type and amount. Before the board adopts its annual operating budget, it shall conduct a public hearing and shall make the proposed annual operating bud-

et available to the public at least 14 days prior to the hearing. An annual operating budget must be adopted before the authority conducts business in a fiscal year. The authority may not make operating expenditures in excess of the total budgeted operating expenditures for a fiscal year unless the board amends the operating budget by order after public notice and hearing.

Rules and Regulations

Sec. 13. The board may adopt and enforce reasonable rules and regulations:

- (a) to secure and maintain safety and efficiency in the operation and maintenance of its facilities;
- (b) governing the use of the authority's facilities and services by the public and the payment of fares, tolls and charges;
- (c) regulating privileges on any land, easement, right-of-way, rolling stock or other property owned or controlled by the authority; and
- (d) regulating the collection and payment of emission taxes levied by the board.

A condensed substantive statement of the rules and regulations and the penalty for their violation shall be published after adoption once a week for two consecutive weeks in a newspaper with general circulation in the area in which the authority is located, which notice shall advise that breach of the rules and regulations will subject the violator to a penalty and that the full text of the rules and regulations is on file in the principal office of the authority where it may be read by any interested person. Such rules and regulations shall become effective 10 days after the second publication.

The board may set reasonable penalties for the breach of any rule or regulation of the authority which shall not exceed fines of more than \$200 or imprisonment for more than 30 days or both. Such penalties shall be in addition to any other penalties provided by the laws of the state and may be enforced by complaint filed in the appropriate court of jurisdiction in the county in which the authority's principal office is located.

An authority may employ its own peace officers with power to make arrests when necessary to prevent or abate the commission of an offense against the rules and regulations of the authority and against the laws of the state when the offense or threatened offense occurs on any land, easement, right-of-way, rolling stock or other property owned and controlled by the authority and to make arrests in cases of an offense involving injury or detriment to any property owned or controlled by the authority.

Tort Claims

Sec. 13A. Any authority established hereunder shall be within the definition of "unit of government" as defined by the Texas Tort Claims Act, as amended (Article 6252-19, Vernon's Texas Civil

Statutes), and all operations of an authority are deemed to be essential governmental functions and not proprietary functions for all purposes, including the application of the Texas Tort Claims Act.

Contracts for Construction, Goods, or Services

Sec. 14. (a) Contracts for more than \$5,000 for the construction of improvements or the purchase of material, machinery, equipment supplies and all other property except real property, shall be let on competitive bids after notice published once a week for two consecutive weeks, the first publication to be at least 15 days before the date fixed for receiving bids, in a newspaper of general circulation in the area in which the authority is located. The board may adopt rules governing the taking of bids and the awarding of such contracts and providing for the waiver of this requirement in the event of emergency. This subsection does not apply to personal and professional services or to the acquisition of existing transit systems.

(b) The board of an authority may not let a contract (1) that is not subject to competitive bidding requirements, (2) that is for more than \$10,000 and (3) that is for the purchase of real property or for consulting or professional services, unless an announcement that a contract is being considered is posted in a prominent place in the principal office of the authority for at least two weeks before the contract is awarded. This subsection does not apply to the acquisition of existing transit systems.

Exemption of Bicity Metropolitan Areas

Sec. 15. It is specifically provided that there shall not be included within the metropolitan area, as herein defined, any part of the territory situated within a bicounty metropolitan area. For the purpose of this exclusion, a "bicounty metropolitan area" is defined as an area comprised of two continuous counties in each of which is located a city having a population of 350,000 or more according to the last preceding or any future federal census.

County Authority to Contract with Authority

Sec. 15A. A commissioners court may contract with an authority for the authority to provide public transportation services to any unincorporated area outside the boundaries of the authority for a term and on those conditions as are determined to be desirable by the commissioners court and the board. The county may levy and collect taxes or pledge and encumber other receipts or revenues as may be required to make any payments to the authority under the provisions of the contract.

Elections

Sec. 15B. (a) This section governs all elections ordered by the board except elections held under the provisions of Section 5 of this Act.

(b) Notice of an election ordered by the board shall be given by publication once a week for three

consecutive weeks with the first publication in a newspaper with general circulation in the authority at least 21 days before the election.

(c) A resolution calling an election and the notice of the election are sufficient if the date and hours of the election, the voting places within voting precincts for the election, and the propositions to be voted on are specified. The board may define and declare voting precincts, determine the manner of absentee voting, and prescribe the election officers.

(d) As soon as practicable after an election, the board shall canvass the returns of the election and declare the results.

(e) Where not otherwise provided in this section, the general election laws apply.

Right to Enter Land

Sec. 16. Engineers, employees, and representatives of an authority may go on any land within the authority boundaries to make surveys and examine the land with reference to the location of works, improvements, plants, facilities, equipment or appliances and to attend to any business of the authority; provided that two weeks' notice be given to the owners in possession and that if any of the authority's activities cause damage to the land or property, the land or property shall be restored as nearly as possible to the original state at the sole expense of the authority.

Exemptions from Taxes

Sec. 17. The property, revenues and income of the authority and the interest on bonds and notes issued by the authority shall be exempt from all taxes levied or to be levied by the State of Texas, its political subdivisions, counties or municipal corporations.

Eligibility of Excepted Areas for Federal Funds

Sec. 17A. Ratification by referendum of a regional authority under the terms of this Act by less than all incorporated cities within the metropolitan area as defined herein shall not affect in any way the eligibility of such excepted incorporated cities to receive federal transit grants under the National Mass Transportation Assistance Act of 1974,¹ or any subsequent federal statutes.

¹ See 49 U.S.C.A. § 1601b et seq.

Severability Clause

Sec. 18. If any word, phrase, clause, paragraph, sentence, part, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, or provision.

Construction of Act

Sec. 19. This Act shall be liberally construed to carry out the purpose of its adoption. This Act shall be cumulative of other laws on the subject but insofar as the provisions of this Act are inconsistent with the provisions of any other law, the provisions of this Act shall be controlling.

[Acts 1973, 63rd Leg., p. 302, ch. 141, eff. May 21, 1973. Amended by Acts 1975, 64th Leg., p. 2273, ch. 712, §§ 1 to 10, eff. June 21, 1975; Acts 1977, 65th Leg., p. 2168, ch. 863, § 1, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 99, ch. 59, § 7, eff. Aug. 27, 1979; Acts 1979, 66th Leg., p. 1403, ch. 624, §§ 4, 5, eff. June 13, 1979; Acts 1979, 66th Leg., p. 1427, ch. 629, §§ 1 to 15, eff. Sept. 1, 1979; Acts 1979, 66th Leg., p. 1522, ch. 656, § 1, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 1772, ch. 389, §§ 14 to 16, eff. Jan. 1, 1982; Acts 1981, 67th Leg., p. 3197, ch. 838, § 2, eff. Aug. 31, 1981; Acts 1981, 67th Leg., p. 3261, ch. 858, §§ 1 to 4, eff. Aug. 31, 1981; Acts 1983, 68th Leg., p. 3133, ch. 537, § 1, eff. Aug. 29, 1983.]

Section 1 of Acts 1981, 67th Leg., p. 1490, ch. 398, enacted Title 2 of the Tax Code.

Acts 1981, 67th Leg., p. 3263, ch. 858, § 5, provides:

"Section 4 of this Act applies to rates, fares, tolls, charges, rents, and other compensation established on or after the effective date of this Act."

Art. 1118y. Regional Transportation Authorities

Findings

Sec. 1. The legislature finds that:

(1) An increasing proportion of the state's population is located in its rapidly expanding metropolitan areas;

(2) The concentration of population in such areas is accompanied by a corresponding concentration of motor vehicles that emit pollutants into the air and consume great quantities of limited energy resources;

(3) Such concentration of motor vehicles places an undue burden on existing streets, freeways, and other traffic ways, resulting in serious vehicular traffic congestion that retards mobility of persons and property and adversely affects the health and welfare of the citizenry; and

(4) Mobility for all citizens, which must include alternatives to the private passenger motor vehicle, is essential to the continued growth and maintenance of economic vitality of these metropolitan areas.

Definitions

Sec. 2. In this Act, unless the context requires otherwise:

(1) "Authority" means a regional transportation authority created pursuant to this Act.

(2) "County of a principal city" means a county in which the majority of the territory of a principal city is situated.

(3) "Creating entities" means the principal city and/or county of the principal city or any contiguous city as provided in Section 24.

(4) "Executive committee" means the directors of the authority who serve as the governing body of the authority.

(5) "General transportation services" means services that complement the public transportation system, including but not limited to parking garages, special transportation services for the elderly and the handicapped, medical transportation services, assistance in street modifications as necessary to accommodate the public transportation system, and construction of new general aviation facilities or renovation or purchase of existing facilities not served by certificated air carriers in order to relieve air traffic congestion at existing facilities.

(6) "Interim executive committee" means the executive committee selected before the confirmation election for the purpose of guiding the establishment of a permanent authority and creating a service plan.

(7) "Interim subregional board(s)" means the subregional board(s) organized to serve before the holding of the confirmation election.

(8) "Metropolitan area" means a federal standard metropolitan statistical area having a population of more than 500,000, not more than 60 percent of which reside in cities of more than 300,000.

(9) "Population" means the population of a city or area as the context may require, according to the last preceding federal census or if there has been no federal census within the preceding five years, then according to the latest population estimates of the appropriate metropolitan planning organization.

(10) "Principal city" means a city having a population of at least 300,000.

(11) "Public transportation" means the conveyance of passengers and hand-carried packages or baggage of passengers by means of any mode of transportation other than a privately owned vehicle.

(12) "Public transportation system" means all real and personal property owned or held by an authority for public transportation or general transportation service purposes, including but not limited to land, interests in land, buildings, structures, rights-of-way, easements, franchises, rail lines, bus lines, mass transportation facilities, rapid transit facilities, stations, platforms, terminals, rolling stock, garages, shops, equipment and facilities (including vehicle parking areas and facilities and other facilities necessary or convenient for the beneficial use and access of persons and vehicles to public transportation), control houses, signals and land, facilities and equipment for the protection and environmental enhancement of all the facilities.

(13) "Service plan" means an outline of the service that would be provided by the authority to

those units of election confirming the authority in an election.

(14) "Subregion" means a principal city, the county of the principal city, and any city or unit of election included within the boundaries of a subregion by the creating entity of that subregion and which is confirmed at an election.

(15) "Subregional board" means the board created to represent a subregion pursuant to Sections 6 and 7 of this Act.

(16) "Unit of election" means any one of the following:

(A) a principal city;

(B) a designated unincorporated area created by the commissioners court of a county of a principal city;

(C) any other incorporated city located within the territory of an authority.

Creation of a Regional Transportation Authority

Sec. 3. A regional transportation authority to provide public transportation and general transportation services may be created in a metropolitan area. The process for creating an authority must be initiated by one of the following methods:

(1) The governing body of a principal city and/or county of the principal city from each subregion may agree to initiate the process to create an authority on their own motions. The principal city and/or the county of the principal city in each subregion may become the creating entity. If the creating entity in one subregion initiates the process and a creating entity in the other subregion does not initiate the process within 60 days, the first subregion may proceed on its own.

(2) If a petition requesting creation of an authority signed by at least five percent of the registered voters of the creating entity is presented, the creating entity or entities receiving the petitions shall initiate the process for creating the authority. If the creating entity in one subregion initiates the process and a creating entity in the other subregion does not initiate the process within 60 days, the first subregion may proceed on its own. The entity to which a petition is presented has the primary responsibility for initiating the authority within a subregion. The principal city and county of the principal city of either subregion, however, may by mutual agreement share the responsibility or shift it to the other entity.

Initiating Procedure

Sec. 4. (a) The process shall be initiated by a resolution or order of each creating entity containing the following provisions:

(1) a description of the boundaries of the territory proposed to be included in the subregion(s) of the authority;

(2) designation of the time(s) and place(s) agreed upon by the creating entity or entities for holding public hearings on the proposal to create the authority.

(b) The boundaries of the proposed authority shall include all territory in the county or counties of the principal city or cities and any additional territory in adjacent counties having more than 52,000 population that is included in the resolution(s) or order(s). A unit of election that has the majority of its population in a county of a principal city shall be included in the subregion of that principal city for the purposes of the initiating procedure.

(c) Notice of the time and place of the public hearings, including a description of the area proposed to be included in the authority, shall be published once a week for two consecutive weeks in a newspaper of general circulation in each of the county or counties of the principal city or cities, the first publication to be not less than 30 days prior to the date fixed for the hearing. The creating entities shall submit to the State Highways and Public Transportation Commission and the comptroller of public accounts a copy of this notice.

(d) The creating entity or entities shall conduct the hearings at the time and place specified in the notice and may continue the hearings from day to day and from time to time until completed. Any interested person may appear and offer evidence concerning the boundaries and creation of the authority, operation of a regional transportation system, and whether creation of an authority would be of public utility and in the public interest as well as any other facts bearing upon the creation of an authority.

(e) The governing body of each city located within the boundaries of the proposed authority may by resolution confirm the participation of its city in the process established in Sections 5, 6, 7, 8, and 9 of this Act to develop an initial service plan and rate of tax prior to the confirmation election. If a governing body fails to so confirm within 60 days after the process has been initiated by the creating entity or entities, the creating entity or entities and those governing bodies that have so confirmed may proceed on their own without the participation of the nonconfirming governing bodies.

(f) The commissioners court of each county in which unincorporated areas are located within the boundaries of the proposed authority may by order confirm the participation of the unincorporated areas in the process established in Sections 5, 6, 7, 8, and 9 of this Act to develop an initial service plan and rate of tax prior to confirmation election. If a commissioners court fails to so confirm within 60 days after the process has been initiated by the creating entity or entities, the creating entity or entities and those commissioners courts that have so confirmed may proceed on their own without the participation of the nonconfirming commissioners courts.

(g) After hearing the evidence presented at the hearings, but no earlier than 75 days after the process has been initiated by the creating entity or entities, the creating entity or entities shall each adopt the resolution or order designating the name of the authority, listing the names of the cities whose governing bodies and the unincorporated areas whose county commissioners courts have confirmed initial inclusion in the authority, and authorizing appointment of the interim subregional boards and interim executive committee. If one creating entity fails to adopt this resolution or order within 60 days of the action of the other creating entity, the first creating entity may proceed on its own.

(h) After the hearing, the results of the hearing and the boundaries set by the creating entities shall be submitted to the State Highways and Public Transportation Commission and the comptroller of public accounts.

Regional Transportation Authority Executive Committee

Sec. 5. (a) The control and operation of a regional transportation authority and its property shall be vested in an executive committee comprised of 11 members selected as follows:

(1) seven members from the membership of the subregional board in the subregion containing a principal city having a population greater than 800,000; and

(2) four members from the membership of the subregional board in the subregion containing a principal city having a population of less than 800,000.

(b) Before the confirmation election, the subregional boards shall select their representatives to the executive committee from their membership by a vote of the members. After the confirmation election, the subregional boards shall select their representatives in the same manner and those representatives shall serve at the pleasure of the subregional boards with the confirmation of the appointments made each September 1. To remain on the executive committee a person must maintain membership on a subregional board. A vacancy on the executive committee shall be filled in the same manner as original appointments.

(c) Following the confirmation election each member of the subregional board shall be entitled to the sum of \$50 for each meeting of the executive committee or subregional board attended and shall be reimbursed for necessary and reasonable expenses incurred in the discharge of duties.

(d) The members of the executive committee shall elect from among their number a chairman, vice-chairman, and a secretary. The executive committee may appoint such assistant secretaries, either members or nonmembers of the executive committee, as it deems necessary. The secretary and assistant secretary or secretaries shall in addition to keeping the permanent records of all proceedings

and transactions of the authority perform such other duties as may be assigned to them by the executive committee. No member of the executive committee or officer of the authority shall be pecuniarily interested or benefited directly or indirectly in any contract or agreement to which the authority is a party.

(e) The executive committee shall hold at least one regular meeting during each month for the purpose of transacting the business of the authority. Upon written notice, the chairman may call special meetings as may be necessary. The executive committee when organized shall by resolution set the time, place, and day of the regular meetings and shall adopt rules, regulations, and bylaws as it may deem necessary for the conduct of its official meetings. Eight members shall constitute a quorum of the executive committee for the purpose of conducting its business and exercising its powers, and action may be taken by the authority upon a vote of a majority of the executive committee members present unless the bylaws require a larger number for a particular action.

(f) The executive committee shall receive recommendations for the annual budget from each of the subregional boards and shall obtain approval from each subregional board of the final annual budget as it pertains to that board's subregion. The executive committee shall make its proposed annual budget available to the governing bodies of the cities within the authority at least 30 days prior to adoption of the final annual budget.

Subregional Board in a Subregion Having a Principal City With Population in Excess of 800,000

Sec. 6. (a) The subregional board in a subregion having a principal city with population in excess of 800,000 shall be organized in accordance with this section.

(b) The commissioners court of the county of the principal city shall appoint one member.

(c) The remaining members of the subregional board shall be apportioned according to the ratio which the population of each incorporated city bears to the total population of the territory included within the subregion. Any combination of cities aggregating a total population of 60,000 shall be entitled to one member on the interim subregional board. Following the confirmation election, any combination of cities who have voted confirmation of the authority may aggregate a population of at least 60,000 for the purpose of appointing one member to the initial subregional board. In establishing the interim subregional board, if the results of the 1980 federal census are unavailable, the most recent population estimates of the appropriate metropolitan planning organization will be used.

(d) No city will be entitled to appoint more than 65 percent of the board members. If it would be so entitled pursuant to Subsection (c) of this section, it will be limited to 65 percent and the remaining

members will be apportioned among the other cities in the subregion according to the provisions of Subsection (c) of this section.

(e) Prior to 60 days following the date for establishment of the board or restructuring of the board pursuant to Subsection (f) of this section, any two or more cities lacking a specifically designated board member may combine to be treated as a single city for purposes of Subsection (c) of this section, but no combination will be entitled to appoint more than one member of the board.

(f) Every five years as of the first day of September following the date the census data or population estimates become available, or when a city or an unincorporated area withdraws from or joins in the authority, the board shall be restructured pursuant to Subsections (c) and (h) of this section, if warranted by the withdrawal or addition of cities or unincorporated areas, or by population changes or changes in combinations established pursuant to Subsection (e) of this section.

(g) The members of the board shall serve at the pleasure of the governing body of each appointing governmental entity. The governing body shall confirm its board appointment to begin terms on the first day of September each year.

(h) The total number of members comprising the board shall be governed by the total population of the territory included in the subregion. Specifically, the board size shall be determined by the following formula:

Total Population in Subregion	Total Members on Subregional Board
Less than 1,000,000	15
1,000,000 to 1,400,000	21
1,400,000 plus	25

(i) Should a city be entitled to more than one board member, the governing body may appoint a number of members less than those allocated, who will be entitled to the same number of votes as the number of members allocated, but a member so appointed shall not cast divided votes.

(j) Sixty-five percent of the members constitutes a quorum for the purpose of conducting business and actions may be taken upon a majority vote of the members present so long as there is a quorum.

Subregional Board in a Subregion Having a Principal City with Population Less than 800,000

Sec. 7. (a) The subregional board in a subregion having a principal city with population less than 800,000 shall be organized in accordance with this section.

(b) The interim subregional board shall be comprised of nine members appointed as follows:

(1) four members appointed by the governing body of the principal city;

(2) four members appointed by the commissioners court of the county of the principal city; and

(3) one member appointed by the governing body of a city having a population in excess of 100,000.

(c) The permanent subregional board shall be comprised of nine members appointed as follows:

(1) If the entire county of the principal city is confirmed as all or part of the authority, the permanent subregional board shall be appointed in the same manner as the interim subregional board.

(2) If less than the entire county of the principal city is confirmed as all or part of the authority the permanent subregional board shall be appointed as follows:

(A) The commissioners court of the county of the principal city shall appoint at least one member to represent the unincorporated areas and incorporated cities of the county which are not otherwise represented on the subregional board.

(B) The remaining members shall be apportioned to the incorporated cities confirmed as all or part of the subregion according to the ratio which the population of each unit of election bears to the total population of the area confirmed as the subregion. Units of election which fail to receive at least one member shall be aggregated with the county to determine population represented by the county, and appropriate additional members, if any, shall be so apportioned to the county. Units of election which are entitled to one or more members shall have the number of members rounded to the nearest whole number to determine actual apportionment.

(d) Six members of the subregional board shall constitute a quorum of the board for the purpose of conducting business and action may be taken by a majority vote of the members present so long as there is a quorum.

Membership, Terms, Meetings, and Responsibilities of Subregional Boards

Sec. 8. (a) Members of subregional boards must be registered voters residing within the boundaries of the authority. They shall serve at the pleasure of the appointing local governing bodies. Reaffirmation of the appointments will be required each September 1. Vacancies shall be filled in the same manner as original appointments.

(b) A subregional board shall elect from among its membership a chairman, vice-chairman, and secretary. The board may appoint such assistant secretaries, either members or nonmembers of the board, as it deems necessary. The secretary and assistant secretary or secretaries shall in addition to keeping the permanent records of all proceedings and transactions of the board perform such other duties as may be assigned to them by the board. No member of a subregional board shall be pecuniarily interested or benefited directly or indirectly in

any contract or agreement to which the authority is a party.

(c) A subregional board when organized shall by resolution set the time, place, and day of the regular meetings and shall likewise adopt rules and regulations and such bylaws as it may deem necessary for the conduct of its official meetings and special meetings called by written notice of the chairman or vice-chairman.

(d) The subregional boards shall:

(1) develop, recommend, and approve the annual budget for the appropriate subregion and shall make recommendations for the overall budget; and

(2) make recommendations to the executive committee for operation of services provided by the authority.

Confirmation Election

Sec. 9. (a) After the interim executive committee has organized, it shall develop a service plan and a rate of tax that it desires to levy. After the interim executive committee approves a service plan and a rate of tax that it desires to levy, the governing body of each city acting on behalf of the city and the commissioners court in the county of each unincorporated area acting on behalf of the unincorporated area may by resolution or order approve the service plan and rate of tax. If any governing body or commissioners court fails to so approve within 45 days after the interim executive committee has approved a service plan and rate of tax, the city or the unincorporated area upon whose behalf the governing body or commissioners court acts shall not participate in the service plan nor in a confirmation election that shall be called by the interim executive committee in accordance with the provisions of this section; provided, however, that if the governing body of the principal city of a subregion does not approve the service plan and rate of tax, the interim executive committee shall not call a confirmation election in that subregion.

(b) Not earlier than 60 days after the interim executive committee has approved a service plan and rate of tax, the interim executive committee shall:

(1) finally approve a service plan and rate of tax after modifying its approved service plan and rate of tax only to reflect the nonparticipation of certain cities or unincorporated areas in the service plan; and

(2) notify the commissioners court of each county included in whole or in part within the initial boundaries of the authority of its intention to call a confirmation election. Within 30 days after receipt of the notice, each commissioners court by order shall create not more than five designated units of election in the unincorporated portion of the appropriate county. Each designated unit of election shall have outer boundaries, to the extent practicable, that coincide with a boundary of a county

voting precinct so that insofar as practicable no county voting precinct is divided between two different designated election areas.

(c) When the executive committee orders a confirmation election, it shall submit to the qualified voters of cities and unincorporated areas participating in the election within the authority the following proposition:

"Shall the creation of (name of authority) be confirmed and shall the levy of the proposed tax, not to exceed (rate), be authorized?"

(d) Except as otherwise provided in this Act, notice of the election shall be given in accordance with the general election laws. The notice of the election shall include a description of the nature and rate of the proposed tax. A copy of the notice of the election and any other election held pursuant to this Act shall be furnished to the State Highways and Public Transportation Commission and the comptroller of public accounts.

(e) The election shall be conducted so that votes are separately tabulated and canvassed in each participating unit of election within the authority.

(f) Immediately after the election, the presiding judge of each election precinct shall return the results to the executive committee, which shall canvass the returns and declare the results separately with respect to each unit of election. In those units of election where a majority of the votes cast is in favor of the confirmation of the creation of the authority and the levy of the proposed tax, the authority shall continue to exist; except that unless the vote is favorable in the unit of election which includes the principal city, or in contiguous units of election where the population when aggregated in all the units exceeds 300,000, the authority shall cease to exist in that subregion. If the votes cast are such that the authority will continue to exist in either or both subregions, the executive committee shall enter the results on its minutes and adopt an order declaring that the creation of the authority is confirmed and describing the territory which comprises the authority. All units of election approving the authority and proposed tax shall be included in the authority if their subregion is included, unless the executive committee of the authority notifies the appropriate governing body in writing that it is excepted from the authority and proposed tax because it is not contiguous to the existing authority and would create a fiscal hardship on the authority. A certified copy of the order adopted by the executive committee shall be filed with the State Highways and Public Transportation Commission and the comptroller of public accounts. The order shall reflect the date of the election, the proposition voted on, the total number of votes cast for and against the proposition in each unit of election, and the number of votes by which the proposition was approved in each election unit and shall be accompanied by a map of the authority clearly showing the boundaries of the authority.

(g) If the votes cast are such that the authority ceases to exist in its entirety, the executive committee shall enter an order so declaring and file a certified copy of the order with the State Highways and Public Transportation Commission and the comptroller of public accounts, and the authority shall be dissolved.

(h) The cost of the confirmation election shall be paid by the creating entity or entities.

(i) If the election results in the confirmation of an authority, the authority shall, within the limits confirmed, be authorized to function in accordance with the terms of this Act, and the executive committee may levy and collect the proposed tax within those limits. In no event shall the tax authorized under this Act be levied in any unit of election which has failed to confirm the authority.

(j) If the continued existence of an authority is not confirmed by election within three years after the effective date of the resolution(s) or order(s) initiating the process to create the authority, the authority ceases to exist on the expiration of the three years.

(k) For a period of one year following a confirmation election, the governing body of any unit of election may on its own volition or shall, upon receipt of a petition containing signatures of at least 20 percent of the registered voters within that unit of election, call an election and offer the following proposition: "Shall the (name of authority) be dissolved in (unit of election)?" Should the majority of voters voting in the election vote to dissolve the authority within the unit of election, the authority shall cease to exist within the unit of election as of 12:00 midnight on the date of the canvass of the election and all financial obligations of that unit of election will cease to accrue at that time. The financial obligation shall be computed on a per capita basis for the entire year and taxes will continue to be collected until such time as all financial obligations of the unit of election are paid, at which time the taxes collected to support the authority shall cease within that unit of election.

(l) Should the governing body within a unit of election call an election on its own volition or upon petition as provided in Subsection (k) of this section for the purpose of dissolving the authority within the unit of election more than 12 months after the confirmation election, at least 12 months' notice of intent to hold the election must be provided to the executive committee, the State Department of Highways and Public Transportation and the comptroller of public accounts.

Powers of the Authority

Sec. 10. (a) The authority when created and confirmed shall constitute a public body corporate and politic, exercising public and essential governmental functions, having all the powers necessary or convenient to carry out and effectuate the purposes and

provisions of this Act, including but not limited to the following powers granted in this section.

(b) The authority shall have perpetual succession.

(c) The authority may sue and be sued in all courts of competent jurisdiction and may institute and prosecute suits without giving security for costs and may appeal from a judgment or judgments without giving supersedeas or cost bond.

(d) The authority may acquire by grant, purchase, gift, devise, lease, or otherwise and may hold, use, sell, lease, or dispose of real and personal property of every kind and nature whatsoever and licenses, patents, rights, and interests necessary, convenient, or useful for the full exercise of any of its powers pursuant to the provisions of this Act.

(e) The authority shall have the power to acquire, construct, complete, develop, plan, own, operate, and maintain a system or systems within its boundaries and both within and without the boundaries of incorporated cities, towns, and villages and political subdivisions and for such purposes shall have the right to use the streets, alleys, roads, highways, and other public ways and to relocate, raise, reroute, change the grade of, and alter the construction of any street, alley, highway, road, railroad, electric lines and facilities, telegraph and telephone properties and facilities, cable television lines and facilities, pipelines and facilities, conduits and facilities, and other properties, whether publicly or privately owned, as necessary or useful in the construction, reconstruction, repair, maintenance, and operation of the system or to cause each and all of said things to be done at the authority's sole expense. The authority shall not proceed with any action to change, alter, or damage the property or facilities of the state, its municipal corporations, agencies, or political subdivisions or of owners of such property or facilities, without having first obtained the written consent of such owners or unless the authority shall have first obtained the right to take such action under its power of eminent domain as herein specified. In the event the owners of such property or facilities desire to handle any such relocation, raising, change in the grade of, or alteration in the construction of such property or facilities with their own forces or to cause the same to be done by contractors of their own choosing, the authority shall have the power to enter into agreements with such owners providing for the necessary relocations, changes, or alterations of such property or facilities by the owners and/or such contractors and the reimbursement by the authority to such owners of the costs incurred by such owners in making such relocations, changes, or alterations and/or in causing the same to be accomplished by such contractors.

(f) In the event the authority in exercising any of the powers conferred by this Act makes necessary the relocation, adjustment, raising, lowering, rerouting, or changing the grade of or altering the construction of any street, alley, highway, or road; any

railroad track, bridge, or other facilities or properties; any electric lines, conduits, or other facilities or properties; any gas transmission or distribution pipes, pipelines, mains, or other facilities or properties; any water, sanitary sewer, or storm sewer pipes, pipelines, mains, or other facilities or properties; any telegraph and telephone lines or other facilities or properties; any cable television lines, cables, conduits, or other facilities or properties; or any other pipelines and any facilities or properties relating thereto, any and all such relocations, adjustments, raising, lowering, rerouting, or changing of grade or altering of construction shall be accomplished at the sole cost and expense of the authority, and all damages which may be suffered by the owners of such property or facilities shall be borne by the authority.

(g) The authority shall have the right of eminent domain to acquire lands in fee simple and any interest less than fee simple in, on, under, and above lands, including, without limitation, easements, rights-of-way, rights of use of air space or subsurface space, or any combination thereof; provided that this right shall not be exercised without the approval of each proposed acquisition in a city by the governing body of that city and the approval of each proposed acquisition in an unincorporated area by the commissioners court of the county of that unincorporated area; and provided further that such right shall not be exercised in a manner which would unduly impair the then existing neighborhood character of property surrounding or adjacent to the property sought to be condemned or unduly interfere with interstate commerce or which would authorize the authority to run its vehicles on railroad tracks which are used to transport property.

(h) Eminent domain proceedings brought by the authority shall be governed by the provisions of Title 52, Eminent Domain, Revised Civil Statutes of Texas, 1925, as they now exist or hereafter may be amended,¹ insofar as such provisions are not inconsistent with this Act. Proceedings for the exercise of the power of eminent domain shall be commenced by the adoption by the executive committee of a resolution declaring the public necessity for the acquisition by the authority of the property or interest therein described in the resolution, and that such acquisition is necessary and proper for the construction, extension, improvement, or development of the system and is in the public interest. The resolution of the authority and the approval of the resolution by the appropriate governing body or commissioners court shall be conclusive evidence of the public necessity of such proposed acquisition and that such real or personal property or interest therein is necessary for public use.

(i) The authority shall have the power to enter into agreements with any other public utility, private utility, communication system, common carrier, or transportation system for the joint use of their respective facilities, installations and properties

within the authority and to establish through routes, joint fares, or transfer of passengers.

(j) The authority shall establish and maintain rates, fares, tolls, charges, rents, or other compensation for the use of the facilities of the system acquired, constructed, operated, or maintained by the authority which shall be reasonable and nondiscriminatory and which together with grants and receipts from taxes collected by the authority shall be sufficient to produce revenues adequate:

(1) to pay all expenses necessary to the operation and maintenance of the properties and facilities of the authority;

(2) to pay the interest on and principal of all bonds issued by the authority under this Act which are payable in whole or in part from such revenues, when and as the same shall become due and payable;

(3) to pay all sinking fund and reserve fund payments agreed to be made in respect of any such bonds, and payable out of such taxes and revenues, when and as the same shall become due and payable; and

(4) to fulfill the terms of any agreements made with the holders of such bonds or with any person in their behalf.

(k) It is the intention of this Act that taxes levied and the rates, fares, tolls, charges, rents, and other compensation for the use of the facilities of the system shall not be in excess of what may be necessary to fulfill the obligations imposed upon the authority by this Act. Nothing herein shall be construed as depriving the State of Texas of its power to regulate and control such taxes, rates, fares, tolls, charges, rents, and other compensation; provided that the State of Texas does hereby pledge to and agree with the purchasers and successive holders of the bonds issued hereunder that the state will not limit or alter the powers hereby vested in the authority to establish and collect such taxes, rates, fares, tolls, charges, rents, and other compensation as will produce revenues sufficient to pay the items specified in Subdivisions (1), (2), (3), and (4), Subsection (j) of this section or in any way to impair the rights or remedies of the holders of the bonds or of any person in their behalf until the bonds, together with the interest thereon, with interest on unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders and all other obligations of the authority in connection with such bonds are fully met and discharged.

(l) The authority may make contracts, leases, and agreements with and accept grants and loans from the United States of America, its departments and agencies, the State of Texas, its agencies, counties, municipalities, and political subdivisions, and public or private corporations and persons and may generally perform all acts necessary for the full exercise of the powers vested in it. The authority may

acquire rolling stock or other property under conditional sales contracts, leases, equipment trust certificates, or any other form of contract or trust agreement. Any revenue bond indenture may provide limitations upon the exercise of the powers stated in this section and such limitations shall apply so long as any of the revenue bonds issued pursuant to such indenture are outstanding and unpaid.

(m) The authority may sell, lease, convey, or otherwise dispose of any of its rights, interests, or properties which are not needed for or, in the case of leases, which are not inconsistent with the efficient operation and maintenance of the system. It may sell, lease, or otherwise dispose of at any time any surplus materials or personal or real property not needed for its requirements or for the purpose of carrying out its power under this Act.

(n) The authority shall by resolution make all rules and regulations governing the use, operation, and maintenance of the system and shall determine all routings and change the same whenever it is deemed advisable. The authority shall encourage to the maximum extent feasible the participation of private enterprise.

(o) The authority shall have the power to lease the system or any part thereof to or contract for the use or operation of the system or any part thereof by any operator.

(p) The acquisition of any land or interest therein pursuant to this Act, the planning, acquisition, establishment, development, construction, improvement, maintenance, equipment, operation, regulation, protection, and policing of the authority's system and facilities, and the exercise of any other powers herein granted an authority are hereby declared to be public and governmental functions, exercised for a public purpose, and matters of public necessity.

(q) The authority may contract with any city, county, or other political subdivision for the authority to provide public transportation services to any area outside the boundaries of the authority on such terms and conditions as may be agreed to by the parties.

(r) The authority shall have the power to acquire, construct, complete, develop, plan, own, operate, and maintain a public transportation system and general transportation services within its boundaries and both within and without the boundaries of incorporated cities, towns, and villages and political subdivisions. The powers of the authority may be approved all or in part by referenda proposed by the executive committee. These powers as they relate to a public transportation system and general transportation services are identical to those outlined in other subsections of this section.

(s) The executive committee of the authority may establish a security force and provide for the employment of security personnel. The executive committee may commission any employee of the securi-

ty force established under this Act as a peace officer if he is certified as qualified to be a peace officer by the Commission on Law Enforcement Officer Standards and Education. Any person commissioned as a peace officer under this Act shall give an oath and such bond for the faithful performance of his duties as the executive committee may require. The bond shall be approved by the executive committee and made payable to the authority. It shall be filed with the executive committee. Any peace officer commissioned under this Act shall be vested with all the rights, privileges, obligations, and duties of any other peace officer in this state while he is on the property under the control of the authority or in the actual course and scope of his employment.

(t) Any and all law enforcement police powers granted pursuant to this section shall be subordinate to the law enforcement police power of an incorporated city wherein the power is attempted to be exercised.

¹ Article 3264 et seq. (generally repealed; see, now, Property Code, § 21.001 et seq.).

Authorities Consisting of One Subregion Governed by Subregional Board Created in Section 6; Changes in Service Plan; Procedure

Sec. 10A. (a) After the confirmation election in an authority consisting of one subregion governed by an executive committee comprised of the subregional board created in Section 6, the executive committee shall implement the service plan as finally approved by the interim executive committee. No change may be made in the service plan unless the executive committee follows the procedures provided in this section.

(b) For the purposes of this section "major change in the service plan" means:

(1) one or more of the following changes in the provisions of the service plan for a fixed guideway system:

(A) a change in the location of the right-of-way;

(B) a change in the width of the right-of-way if a width is stated in the service plan or the establishment of a width if no width is stated;

(C) a change in grade separation if a grade separation is stated in the service plan or the establishment of a grade separation if no grade separation is stated;

(D) a change that moves the location of a station; or

(E) a change causing the vertical alignment of a guideway to be redefined between the classification of aerial, at-grade, or subgrade if a vertical alignment is stated in the service plan or the establishment of a vertical alignment if no vertical alignment is stated; or

(2) a change that moves the location, as specified in the service plan, of one of the following facilities:

(A) a parking lot;

(B) a maintenance facility; or

(C) an off-street transfer center; or

(3) the addition of a facility listed in Subsection (b)(1) or (2) or the addition of a route for a fixed guideway system.

(c) Before approving a major change in the service plan, the executive committee shall cause written notice of a public hearing on the proposed change to be sent to:

(1) all owners of real property lying within 400 feet of the proposed boundary of the right-of-way or the proposed boundary of property on which the facility is to be located; and

(2) the governing body of each city and county in which the changed or additional right-of-way or facility is to be located.

(d) The measurement of the 400 feet includes streets and alleys.

(e) The notice must be given not less than 20 days before the date of the hearing by depositing the notice properly addressed and postage paid in the United States mail to each governing body and to the property owners as indicated on the last approved city or county tax roll.

(f) After a public hearing, the executive committee may approve a major change in the service plan by a favorable vote of two-thirds of the members present. Other changes in the service plan may be approved by a majority vote of the members present at a meeting without the notice described in Subsection (c) and without a public hearing.

(g) After approval of a major change in the service plan, the executive committee shall give notice that the change has been approved to:

(1) the governing body of each county in which the changed or additional right-of-way or facility is to be located if the change is located in an unincorporated area; and

(2) the governing body of each city in which the changed or additional right-of-way or facility is to be located.

(h) If a major change in the service plan includes the addition of a fixed guideway route, including a route to be added pursuant to an agreement provided for in Section 10(i) of this Act, the governing bodies of each city through which the route would pass, must approve the route before the executive committee may add the route to the service plan.

(i) If there is a conflict between this section and Section 10(n), this section shall control.

Authorities Consisting of One Subregion Governed by Subregional Board Created in Section 6; Fare and Service Changes; Public Hearing

Sec. 10B. (a) For the purposes of this section:

(1) "Transit route" means a route over which a transit vehicle travels which is specifically labelled or numbered for the purpose of picking up or discharging passengers at regularly scheduled stops and intervals.

(2) "Transit route mile" means a distance of one statute mile along a transit route regularly travelled by transit vehicles while available for the general public to carry passengers. The length of a route is the round trip distance traversed in traveling completely over the route and returning to the starting point to begin another circuit of the route. If a route is only defined in one direction, then this one-directional distance is the route length.

(3) "Transit revenue vehicle mile" means a distance of one statute mile travelled while a transit vehicle is available to the general public to carry passengers.

(4) "Service change" means any addition or deletion resulting in the physical realignment of a transit route, or a change in the type of frequency of service provided in a specific, regularly scheduled transit route.

(5) "Experimental service change" means an addition of service to an existing transit route or the establishment of a new transit route.

(b) An authority consisting of one subregion governed by an executive committee comprised of the subregional board created in Section 6 must hold a public hearing when:

- (1) there is a change in any fare;
- (2) there is any change of service of:

(A) 25 percent or more of the number of transit route miles of a transit route; or

(B) 25 percent or more of the number of transit revenue vehicle miles of a transit route computed on a daily basis for the day of the week for which the change is made; or

- (3) a new transit route is established.

(c) A public hearing is not required for:

(1) reduced or free promotional fares which are instituted on a daily basis or periodically within a period of 180 days;

(2) headway adjustments of up to five minutes during peak hour service, and up to 15 minutes during nonpeak hour service;

(3) standard seasonal variations unless the number, timing, or type of standard seasonal variations changes;

(4) an emergency service change in effect for 180 days or less. A public hearing on the emergency change must be held if the emergency change is to be in effect for more than 180 days and if the change meets the test of Subsection (b)(2) or (3). Examples of emergency service changes include but are not limited to those made because of a power failure for a rail or fixed guideway system, the

collapse of a bridge over which bus routes pass, major road or rail construction, inadequate supplies of fuel, or a labor stoppage;

(5) experimental service changes in effect for 180 days or less. The public hearing on an experimental service change is required if the experimental service change remains in effect for more than 180 days and if the change meets the test of Subsection (b)(2) or (3). The hearing may be held prior to the institution of or during the period of the experimental service change and will satisfy the requirement for a final public hearing if the hearing notice required by Subsection (e) states that the experiment may become permanent at the end of the experimental period. If a hearing is not held prior to or during the period of the experimental service change, the service that existed prior to the change must be reinstated at the end of 180 days and a public hearing held in accordance with Subsection (e) before the experimental service may be continued.

(d) If a number of changes on a route in a fiscal year add up to the percentages in Subsection (b), a public hearing must be held before the last change.

(e) When a public hearing is required by this section, the executive committee shall call the public hearing and cause notice of the hearing to be published one time in a newspaper of general circulation within the territory of the authority at least 30 days before the date of the hearing and shall cause notice to be posted in each transit vehicle in service on any transit route affected by the proposed change for a period of at least two weeks within 30 days before the date of the hearing. The notice must contain:

(1) a description of the contemplated service changes, or the fare change, as appropriate;

(2) the time and place of the hearing; and

(3) if a hearing required by Subsection (d) is held, a description of the last change being contemplated and the prior changes that were made.

(f) The public hearing requirement of this section will be satisfied if a fare change or change in service is addressed at a public hearing which is mandated by federal law. The requirements of Subsection (e) must be followed for the hearing.

Addition of Territory

Sec. 11. (a) Territory may be added to an authority only according to the provisions of this section.

(b) The governing body of an incorporated city or town located in whole or in part within a county in which the authority is situated may hold an election on the question of whether the city or town shall be annexed to the authority. If a majority of the qualified voters in the city or town votes for annexation, the governing body shall certify the results of the election to the executive committee of the authority, and the city or town shall become a part of

the authority, except as provided in Subsection (f) of this section. Should a principal city of another subregion or the other subregion choose to join the authority, the procedures outlined in Sections 3 and 4 of this Act shall apply. Following the conduct of an election as directed by Section 9 of this Act, a subregional board will be established according to either Section 6 or Section 7 of this Act. The executive committee existing before the additional subregional board is created will be modified to conform with Section 5 of this Act.

(c) A city of 150,000 to 170,000 according to the last preceding decennial census located in a county with a principal city having a population of less than 800,000 according to the last preceding decennial census may join a separate authority upon otherwise complying with the terms of this Act. In such event thereafter, should a separate authority be established in a county with a principal city of less than 800,000 population according to the last preceding decennial census, any city within such county which has voted to participate with any authority created pursuant to this Act shall have the following options at that time: to remain a part of the earlier created authority, to join the new authority in the county in which the city is located, or to participate with both authorities. Provided that any such city wherein capital improvements have been previously made at its request by an authority must upon its transfer to a different authority or participation with more than one authority continue to honor reimbursement obligations resulting from such improvements.

(d) The commissioners court of a county in which the authority is situated in whole or in part or that is adjacent to a county in which the authority is situated in whole or in part may hold an election for unincorporated areas in any one or more of the designated election areas formed for the election by order of the commissioners court on the question of whether the unincorporated area in which the election is held shall be annexed to the authority. The boundaries of a designated election area shall coincide to the extent practicable with the boundary of a county voting precinct so that insofar as practicable no county voting precinct is divided. If a majority of the qualified voters in any area where such an election is held votes in favor of annexation, the commissioners court shall certify the results of the election to the executive committee of the authority, and the unincorporated area shall become a part of the authority, except as provided in Subsection (f) of this section.

(e) If a city or town which is a part of an authority lawfully annexes additional territory which is not a part of the authority, the annexed territory becomes a part of the authority.

(f)(1) If an authority adds territory or alters its boundaries, the presiding officer of the executive committee shall forward to the comptroller of public accounts by United States registered mail or certi-

fied mail a certified copy of the order adding territory to the authority or of the order canvassing the returns and declaring the result of the election. The order shall reflect the effective date of the tax and shall be accompanied by a map of the authority clearly showing the territory added or detached.

(2) Upon receipt of the order and map, the tax imposed and authorized to be collected under Section 16 of this Act shall be effective in the added territory on the first day of the next succeeding quarter. However, if the comptroller notifies the presiding officer of the executive committee in writing within 10 days after receipt of the order and map that he requires more time, the comptroller shall be entitled to delay implementation one whole calendar quarter. Thereafter the tax shall be effective in the added territory on the first day of the next succeeding calendar quarter following the elapsed quarter.

(g) Territory in which an election is held as provided in Subsection (b) or (d) of this section becomes a part of the authority on the 31st day after the election, if the voters approve the addition as provided in Subsection (b) or (d) of this section, and unless the executive committee of the authority notifies the appropriate governing body in writing before that date that the addition, because it is not contiguous to the existing authority, would create a fiscal hardship on the authority.

(h) Separate subregional authorities created pursuant to this Act may voluntarily merge upon a subsequent agreement between them.

Separate Subregional Authority

Sec. 12. In the event one subregion should establish a regional transportation authority, the remaining subregion may establish a separate regional transportation authority pursuant to this Act. In a separate subregion with a principal city of less than 800,000, the tax rate shall be approved by the commissioners court before confirmation election as provided in Section 9 of this Act.

Composition of the Executive Committee

Sec. 13. If the existence of the authority is confirmed in both subregions, then the executive committee shall be organized as provided in Section 5 of this Act. If a creating entity in only one subregion initiates the process or if the existence of the authority is confirmed in only one subregion or separate subregion, then the board for that subregion shall become the executive committee and governing body of the authority, and members of the executive committee shall be selected in the manner prescribed for selection of the members of the board for the subregion that comprises the authority.

Station or Terminal Complexes

Sec. 14. (a) The acquisition of any land or any interest in land pursuant to this Act; the planning,

acquisition, establishment, development, construction, improvement, maintenance, equipment, operation, regulation, protection, and policing of the authority's system and facilities; and the exercise of any other powers granted an authority, including without limitation the rights, powers, and authority relating to station or terminal complexes as provided in this section, are declared to be public and governmental functions, exercised for a public purpose, and matters of public necessity for public use and public benefit.

(b) The authority shall have the right, power, and authority to acquire by grant, purchase, gift, devise, lease, or eminent domain proceedings and to own lands in fee simple and any interest less than fee simple in, on, under, and above lands, including without limitation easements, rights-of-way, rights of use of air space or subsurface space or any combination thereof adjacent or accessible to stations and other public or general transportation facilities developed or to be developed by the authority that may be required for or in aid of the development of one or more station or terminal complexes, as part of its transportation system and may sell, lease, or otherwise transfer the same or any part thereof to individuals, corporations, or governmental entities, subject to the restrictions provided in this section.

(c) Any lands or interests in land acquired for a station or terminal complex must be part of or contained within a station or terminal complex designated as part of the system within a comprehensive service plan approved by resolution of the executive committee. Before a station or terminal complex may be included in the system, the executive committee must find and determine that the proposed station or terminal complex will encourage and provide for efficient and economical public transportation service, will facilitate access to public transportation service and provide other public transportation purposes, will reduce vehicular congestion and air pollution in the metropolitan area, and is reasonably essential to the successful operation of the system. The executive committee may amend its comprehensive service plan to include other station or terminal complexes upon making these findings.

(d) Any station or terminal complex shall include adequate provisions for the transfer of passengers between the various modes of transportation available to the complex. A complex may include provisions for commercial, residential, recreational, institutional, and industrial facilities, except that no lands or interests in land more than 1,500 feet in distance from the center point of the complex may be acquired for the facilities by eminent domain proceedings, and the executive committee shall designate the center point prior to the commencement of eminent domain proceedings. If a proposed station or terminal complex is to be located within the city limits or extraterritorial jurisdiction of a city or town, the governing body of the city or town must

approve the location of the complex as to conform with the comprehensive or general plan of the city or town by motion, resolution, or ordinance duly adopted.

(e) The authority may sell, lease, or otherwise transfer lands or interests in land acquired within a station or terminal complex and may enter into contracts with respect to it in accordance with the comprehensive service plan approved by the executive committee, subject to such covenants, conditions, and restrictions, including covenants running with the land and obligations to commence construction within a specified time, as the executive committee may deem to be in the public interest or necessary to carry out the purposes of this section, all of which shall be incorporated into the instrument transferring or conveying title or right of use. Any lease, sale, or transfer shall be at fair value taking into account the use designated for the land in the comprehensive service plan for the system and the restrictions on and the covenants, conditions, and obligations assumed by the purchaser, lessee, or transferee. However, if the authority offers the property for sale, the original owner from whom the property was acquired by eminent domain proceedings or through threat of eminent domain proceedings has the first right to repurchase at the price at which it is offered to the public.

(f) No station or public transportation facility may be considered a "station or terminal complex" governed by this section unless it has been designated as such in the comprehensive service plan pursuant to the specific authority granted by this section.

Bonds and Notes

Sec. 15. (a) The authority shall have no power to assess, levy, or collect ad valorem taxes on property, nor to issue any bonds or notes secured by ad valorem tax revenues. The authority, however, shall have the full power to issue bonds and notes from time to time and in such amounts as it shall consider necessary or appropriate for the acquisition, purchase, construction, reconstruction, repair, equipping, improvement, or extension of the transportation system and all properties thereof whether real, personal, or mixed. All such bonds and notes shall be fully negotiable and may be made redeemable before maturity at the option of the issuing authority at such price or prices and under such terms and conditions as may be fixed by the issuing authority in the resolution authorizing such bonds or notes and may be sold at public or private sale whichever the executive committee may deem more advantageous.

(b) Prior to delivery, all bonds and notes authorized to be issued hereunder and the records relating to their issuance shall be submitted to the Attorney General of Texas for examination, and if he finds that they have been issued in accordance with the constitution and this Act and that they will be binding obligations of the authority, he shall approve them, and thereupon they shall be registered

by the Comptroller of Public Accounts of the State of Texas, and after such approval and registration and the sale and delivery of the bonds to the purchaser, they shall be incontestable.

(c) In order to secure the payment of such bonds or notes, such authority shall have full power and authority to encumber and pledge all or any part of the revenue realized from any tax which the authority is authorized to levy and all or any part of the revenues of its transportation system and to mortgage and encumber all or any part of the properties thereof and everything pertaining thereto acquired or to be acquired and to prescribe the terms and provisions of such bonds and notes in any manner not inconsistent with the provisions of this Act. If not prohibited by the resolution or indenture relating to outstanding bonds or notes, any such authority shall have full power and authority to encumber separately any item or items of real estate or personalty, including motorbuses, transit cars and other vehicles, machinery, and other equipment of any nature, and to acquire, use, hold, or contract for any such property under any lease arrangement, chattel mortgage, or conditional sale, including but not limited to transactions commonly known as equipment trust transactions. Nothing herein shall be construed as prohibiting an authority from encumbering any one or more transportation systems for the purpose of purchasing, building, constructing, enlarging, extending, repairing, or reconstructing another one or more of said systems and purchasing necessary property, both real, personal, and mixed, in connection therewith.

(d) Refunding bonds or notes may be issued for the purposes and in the manner provided by general law, including without limitation Chapter 503, Acts of the 54th Legislature, Regular Session, 1955, as amended (Article 717k, Vernon's Texas Civil Statutes), and Chapter 784, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-3, Vernon's Texas Civil Statutes), as presently enacted or hereafter amended.

(e) Whenever the revenues of any public transportation system or general transportation services shall be encumbered under this Act, the expense of operation and maintenance, including all salaries, labor, materials, and repairs necessary to render efficient service and every proper item of expense, shall always be a first lien and charge against such revenues. The fares charged for transportation of passengers by any system may be based upon a zone system of determining fares or other fare classification determined by such authority to be reasonable.

(f) All such bonds and notes shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, and insurance companies. Such bonds and notes shall be eligible to secure the deposit of any and all public funds of the State of Texas and

any and all public funds of cities, towns, villages, counties, school districts, or other political subdivisions of the State of Texas, and such bonds and notes shall be lawful and sufficient security for said deposits to the extent of the principal amount thereof or their value on the market, whichever is the lesser, when accompanied by all unmatured coupons appurtenant thereto.

(g) If revenue bonds are to be issued by an authority to acquire any existing transportation system or any part thereof and the owner thereof is willing to accept said revenue bonds in lieu of cash, then in that event the revenue bonds may be exchanged for the property or for the stock of a corporation owning the property to be dissolved simultaneously.

(h) Bonds payable solely from revenues may be issued by resolution of the executive committee, but no bonds, except refunding bonds, payable wholly or partially from taxes may be issued until authorized by a majority vote of the qualified voters of the authority voting in an election called and held for that purpose.

Local Sales and Use Tax

Sec. 16. (a) Subject to approval at a confirmation election in accordance with this Act, the executive committee is authorized to levy, collect, and impose a local sales and use tax for the benefit of the authority, the sales tax portion of which shall not exceed one percent of receipts from the sale at retail of all taxable items within the authority area which are subject to taxation under the provisions of the Limited Sales, Excise and Use Tax Act, as enacted and as heretofore or hereafter amended.¹ The tax rate may be levied or collected only as a quarter of one percent, a half of one percent, three-quarters of one percent, or one percent. The provisions of this section shall be applicable to the levy, imposition, and collection of the tax.

(b) The following words and terms shall have the following respective meanings unless a different meaning clearly appears from the context:

(1) "Authority area" means the geographical limits of the authority.

(2) "Comptroller" means the Comptroller of Public Accounts of Texas.

(3) "Local sales and use tax" means any sales and use tax imposed by a city within the authority area under the Local Sales and Use Tax Act (Article 1066c, Vernon's Texas Civil Statutes).

(c) The executive committee by filing a certified copy of the order with the comptroller may authorize and direct the comptroller to collect a rate of tax that is lower than the rate approved by the voters at the confirmation election.

(d) The executive committee shall not increase the tax rate above the rate approved by the voters at the confirmation election without first receiving a

majority vote in favor of the increase at an authority-wide election.

(e) Upon actual receipt by the comptroller of notification of adoption, increase, or decrease of a local sales and use tax containing the information required by Subsection (f) of Section 9 of this Act, there shall elapse one whole calendar quarter prior to the adoption, increase, or decrease of a local sales and use tax becoming effective. Thereafter the adoption, increase, or decrease shall be effective beginning on the first day of the next calendar quarter following the elapsed calendar quarter.

(f)(1) Every retailer within the authority area shall add the tax imposed by the Limited Sales, Excise and Use Tax Act, any applicable local sales and use tax, and the tax imposed under the authority of this Act to his sale price, and when added, the combined tax shall constitute a part of the price, shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price. The combined taxes on the transaction shall be determined by multiplying the amount of the sale by the total of the combined applicable tax rates. Any fraction of one cent which is less than one-half of one cent of tax shall not be collected. Any fraction of one cent of tax equal to one-half of one cent or more shall be collected by the retailer as a whole cent of tax. Provided, however, that any retailer who can establish to the satisfaction of the comptroller that 50 percent or more of his receipts from the sale of taxable items arise from individual transactions where the total sales price when multiplied by the combined rates of the taxes imposed under the Limited Sales, Excise and Use Tax Act, any applicable local sales and use tax, and this section equals an amount that is less than one-half of one cent may exclude the receipts from such sales when reporting and paying the tax imposed under this Act, the Limited Sales, Excise and Use Tax Act, and any applicable local sales and use tax. No retailer shall avail himself of this provision without prior written approval of the comptroller. The comptroller shall grant such approval when he is satisfied that the retailer qualifies on the basis set forth in this section and when the retailer has submitted satisfactory evidence that he can and will maintain records adequate to substantiate the exclusion herein authorized. Any attempt on the part of any retailer to exercise this provision without prior written approval of the comptroller shall be deemed to be a failure and refusal to pay the taxes imposed by this Act, the Limited Sales, Excise and Use Tax Act, and any applicable local sales and use tax, and the retailer shall be subject to assessment for both taxes, penalties and interest as provided for in this Act, the Limited Sales, Excise and Use Tax Act, and any applicable local sales and use tax.

(2)(A) In every authority area where the tax authorized by this Act has been adopted pursuant to the provisions of this Act, there is hereby imposed an excise tax on the storage, use, or other consump-

tion within such authority area of taxable items purchased, leased, or rented from any retailer on or after the effective date for collection of the sales tax portion of the sales and use tax for storage, use, or other consumption in such authority area at the same rate as the sales tax levied under this Act of the sales price of the taxable item or, in the case of leases or rentals, of said lease or rental price. Except as provided in Paragraph (D) of this subdivision, the use tax imposed by this section is not owed to and may not be collected by, for, or in behalf of an authority if no excise tax on the storage, use, or other consumption of an item of tangible personal property is owed to or collected by the state under the Limited Sales, Excise and Use Tax Act or if the tangible personal property is first stored, used, or consumed within an authority or area that has not adopted the sales and use tax imposed by this section.

(B) In each authority where the tax authorized by this Act has been imposed as provided in this Act, the excise tax imposed under the Limited Sales, Excise and Use Tax Act and any applicable excise tax under the Local Sales and Use Tax Act on the storage, use, or other consumption of taxable items and the excise tax imposed by this Act shall be added together to form a combined rate of excise tax which is equal to the sum of the applicable taxes. The tax imposed by this section shall be collected by the comptroller on behalf of and for the benefit of such authority. The formula prescribed in Subdivision (1) of this subsection shall be applicable to the collection of the excise tax imposed under this section.

(C) The provisions of the Limited Sales, Excise and Use Tax Act shall be applicable to the collection of the tax imposed by this Subdivision (2), provided that in Subchapter D, Chapter 151, Tax Code,² the name of the authority where the sales and use tax authorized by this Act has been adopted shall be substituted for that of the state where the words "this state" are used to designate the taxing authority or to delimit the tax imposed.

(D) If a sale of tangible personal property is consummated within the state but not within an authority that has adopted the taxes imposed by this section and the tangible personal property is shipped directly into or brought by the purchaser or lessee directly into an authority that has adopted the taxes imposed by this section, the tangible personal property is subject to the use tax imposed by the authority under Paragraph (A) of this subdivision. The use is considered consummated at the location where the item is first stored, used, or otherwise consumed after the intrastate transit has ceased.

(E) If the tangible personal property is shipped from outside this state to a customer within this state, the tangible personal property is subject to the use tax imposed by Paragraph (A) of this subdivision and not the sales tax imposed by Subdivision

(1) of this subsection. The use is consummated at the first point in this state where the property is stored, used, or otherwise consumed after interstate transit has ceased. Tangible personal property delivered to a point in this state is presumed to be for storage, use, or other consumption at that point until the contrary is established.

(F) There are exempted from the sales taxes imposed by this article receipts from any sale of tangible personal property which, pursuant to the contract of sale, is shipped to a point outside the authority area by the retailer by means of:

- (a) facilities operated by the retailer;
- (b) delivery by the retailer to a carrier for shipment to a consignee at such point; or
- (c) delivery by the retailer to a customs broker or forwarding agent for shipment outside the authority.

If the tangible personal property exempted under this paragraph or under Subparagraph (6) of Section 11B(B)(c) of Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 1118x, Vernon's Texas Civil Statutes), is shipped or delivered directly to a purchaser in another authority that has adopted the taxes imposed by either article, the tangible personal property is subject to the use tax imposed by Subdivision (1) of Subsection (f) of this section.

(3)(A) On and after the effective date of any tax imposed under the provisions of this Act, the comptroller shall perform all functions incident to the administration, collection, enforcement, and operation of the tax, and the comptroller shall collect, in addition to the taxes imposed by the Limited Sales, Excise and Use Tax Act, an additional tax under the authority of this Act specified by the authority, but not to exceed one percent on the receipts from the sale at retail or on the sale price or lease or rental price on the storage, use, or other consumption of all taxable items within such authority area, which items are subject to the Limited Sales, Excise and Use Tax Act. The tax imposed hereunder and the tax imposed under the Limited Sales, Excise and Use Tax Act and any applicable local sales and use tax shall be collected together and reported upon such forms and under such administrative rules and regulations as may be prescribed by the comptroller not inconsistent with the provisions of this Act. On and after the effective date of any proposition to abolish such local sales and use tax in any authority area, the comptroller shall comply therewith.

(B) The comptroller shall make to the authority substantially the same reports as to taxes within the authority area as are made to cities under Subsections 5(b), (c), and (d) of the Local Sales and Use Tax Act.

(4) The following provisions shall govern the collection by the comptroller of the tax imposed by this Act:

(A) All applicable provisions contained in Title 2, Tax Code,³ shall apply to the collection of the tax imposed by this Act, except as modified in this Act.

(B) The provisions contained in Section 6 of the Local Sales and Use Tax Act shall apply to the levy, imposition, and collection of the tax imposed by this Act, except as modified herein.

(C) The penalties provided in Title 2, Tax Code, for violations of that Act are hereby made applicable to violations of this Act.

(D) The sales and use tax collected by the comptroller under this Act shall be deposited, held, accounted for, and transmitted for the authority as provided in Section 7 of the Local Sales and Use Tax Act.

(5) The authority's share of all sales and use tax collected under this Act by the comptroller shall be transmitted to the treasurer or the officer performing the functions of such office of such authority by the comptroller payable to the authority periodically as promptly as feasible. Transmittals required under this Act shall be made at least twice in each state fiscal year. Before transmitting such funds, the comptroller shall deduct two percent of the sum collected from the authority during such period as a charge by the state for its services specified in this Act, and the amounts so deducted shall be deposited by the comptroller in the State Treasury to the credit of the General Revenue Fund of the state. The comptroller is authorized to retain in the suspense account of an authority a portion of the authority's share of the tax collected under this Act. Such balance so retained in the suspense account shall not exceed five percent of the amount remitted to the authority. The comptroller is authorized to make refunds from the suspense account of an authority for overpayments made to such accounts and to redeem dishonored checks and drafts deposited to the credit of the suspense account of the authority. When an authority shall abolish such tax, the comptroller may retain in the suspense account of the authority for a period of one year five percent of the final remittance to the authority at the time of termination of collection of such tax in the authority to cover possible refunds for overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of such tax in the authority, the comptroller shall remit the balance in such accounts to the authority and close the account.

(6) The comptroller may promulgate reasonable rules and regulations, not inconsistent with the provisions of this Act, to implement the enforcement, administration, and collection of the taxes authorized herein.

(7)(A) In an authority where the sales and use tax authorized by this Act has been imposed, if any person is delinquent in the payment of the amount required to be paid by him under this Act or in the event a determination has been made against him

for taxes and penalty under this Act, the limitation for bringing suit for the collection of such delinquent tax and penalty shall be the same as that provided by the Limited Sales, Excise and Use Tax Act. Where any person is delinquent in payment of taxes under this Act, the comptroller shall notify the authority to which delinquent taxes are due under this Act by United States registered mail or certified mail and shall send a copy of the notice to the attorney general. The authority, acting through its attorney, may join in any suit brought by the attorney general as a party plaintiff to seek a judgment for the delinquent taxes and penalty due such authority. The notice sent by the comptroller to the authority showing the delinquency of a taxpayer constitutes a certification of the amount owed and is prima facie evidence of the determination of the tax and of the delinquency of the amounts of sales and use tax set forth in the notice.

(B) Where property is seized by the comptroller under the provisions of any law authorizing seizure of the property of a taxpayer who is delinquent in payment of the tax imposed by the Limited Sales, Excise and Use Tax Act and where such taxpayer is also delinquent in payment of any tax imposed by this Act, the comptroller shall sell sufficient property to pay the delinquent taxes and penalty due an authority under this Act in addition to that required to pay any amount due the state under the Limited Sales, Excise and Use Tax Act and due any city under the Local Sales and Use Tax Act. The proceeds from such sale shall first be applied to all sums due the state, then all sums due any city under the Local Sales and Use Tax Act, and the remainder, if any, shall be applied to all sums due the authority.

(C) An authority that has adopted the tax authorized by this Act may bring suit for the collection of sales, excise, or use taxes imposed by this Act which have been certified as provided in Paragraph (A) of this subdivision and are owed to the authority under this Act if at least 60 days before the filing of the suit written notice by certified mail of the tax delinquency and of the intention to file suit is given to the taxpayer, the comptroller, and the attorney general and if neither the comptroller nor the attorney general disapproves the suit by written notice to the authority.

(D) The comptroller or attorney general may disapprove the institution of tax suit by an authority if:

(i) negotiations between the state and the taxpayer are being conducted for the purpose of the collection of delinquent taxes owed to the state and the authority seeking to bring suit;

(ii) the taxpayer owes substantial taxes to the state and there is a reasonable possibility that the taxpayer may be unable to pay the total amount owed in full;

(iii) the state will bring suit against the taxpayer for the collection of all sales, excise, and use taxes

due under the Limited Sales, Excise and Use Tax Act and this Act; or

(iv) the suit involves a critical legal question relating to the interpretation of state law or a provision of the Texas Constitution or the United States Constitution in which the state has an overriding interest.

(E) A notice of disapproval to an authority must give reason for the determination of the comptroller or attorney general. A disapproval is final and not subject to review. An authority, after one year from the date of the disapproval, may proceed again as provided in Paragraph (C) of this subdivision even though the liability of the taxpayer includes taxes for which the authority has previously given notice and the comptroller or attorney general has previously disapproved the suit.

(F) In any suit under this subdivision for the collection of the authority tax, a judgment for or against the taxpayer does not affect any claim against the taxpayer by a city or the state unless the state is a party to the action.

(G) A copy of the final judgment in favor of an authority in a case in which the state is not a party shall be abstracted by the authority and a copy of the judgment together with a copy of the abstract shall be sent to the comptroller. The authority shall collect taxes awarded to it under the judgment as provided by Section 151.608(e), Limited Sales, Excise and Use Tax Act and is responsible for the renewal of the judgment before the expiration of the 10-year period. If a collection is made by an authority on a judgment, notice of the amount collected shall be sent by certified mail to the comptroller. The comptroller may prescribe a form for the notice to be used by an authority.

¹ Tax Code, § 151.001 et seq.

² Tax Code, § 151.101 et seq.

³ Tax Code, § 101.001 et seq.

Differential Tax Rates

Sec. 17. The executive committee by filing a certified copy of the order and a map of the authority clearly showing the boundaries of the subregions with the comptroller may authorize and direct the comptroller to collect a different rate of tax in each subregion as long as neither rate is greater than the rate approved by the voters at the confirmation election. In a subregion with a principal city of less than 800,000, the tax rate shall be approved by the commissioners court before the confirmation election as provided in Section 9 of this Act.

Management

Sec. 18. (a) The responsibility for the operation and control of the properties belonging to an authority shall be vested in its executive committee. The executive committee may:

(1) appoint and prescribe compensation for a general manager who shall employ persons, firms, partnerships, or corporations deemed necessary by the

executive committee for the conduct of the affairs of the authority, including but not limited to bookkeepers, engineers, financial advisers, and operating or management companies and in accordance with executive committee policy, prescribe the duties, tenure, and compensation of each; all employees may be removed by the general manager;

(2) appoint auditors and attorneys and prescribe the duties, tenure, and compensation of each;

(3) become a subscriber under the Texas Workers' Compensation Act with any old-line legal-reserve insurance company authorized to write policies in the State of Texas;

(4) adopt a seal for the authority;

(5) invest funds of the authority in direct or indirect obligations of the United States, the state, or any county, city, school district, or other political subdivision of the state; funds of the authority may be placed in certificates of deposit of state or national banks or savings and loan associations within the state provided that they are secured in the manner provided for the security of the funds of counties of the State of Texas; the executive committee by resolution may provide that an authorized representative of the authority may invest and reinvest the funds of the authority and provide for money to be withdrawn from the appropriate accounts of the authority for the investments on such terms as the executive committee considers advisable;

(6) fix the fiscal year for the authority;

(7) establish a complete system of accounts for the authority and each year shall have prepared an audit of its affairs by an independent certified public accountant or a firm of independent certified public accountants which shall be open to public inspection; and

(8) designate one or more banks to serve as the depository for the funds of the authority.

(b) All funds of the authority shall be deposited in the depository bank or banks unless otherwise required by orders or resolutions authorizing the issuance of the authority's bonds or notes.

(c) To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for the security of funds of counties of the State of Texas.

(d) The executive committee by resolution may authorize a designated representative to supervise the substitution of securities pledged to secure the authority's funds.

Rules and Regulations

Sec. 19. (a) The executive committee may adopt and enforce reasonable rules and regulations:

(1) to secure and maintain safety and efficiency in the operation and maintenance of its facilities;

(2) governing the use of the authority's facilities and services by the public and the payment of fares, tolls, and charges; and

(3) regulating privileges on any land, easement, right-of-way, rolling stock, or other property owned or controlled by the authority.

(b) A condensed substantive statement of the rules and regulations shall be published after adoption once a week for two consecutive weeks in a newspaper with general circulation in the area in which the authority is located which notice shall advise that the full text of the rules and regulations is on file in the principal office of the authority where it may be read by any interested person. Such rules and regulations shall become effective 10 days after the second publication.

Competitive Bids

Sec. 20. Contracts for more than \$2,000 for the construction of improvements or the purchase of material, machinery, equipment, supplies, and all other property, except real property, shall be let on competitive bids after notice published once at least 15 days before the date fixed for receiving bids in a newspaper of general circulation in the area in which the authority is located. The executive committee may adopt rules governing the taking of bids and the awarding of such contracts. This section shall not apply to personal and professional services or to the acquisition of existing transit systems.

County Authority to Contract with Authority

Sec. 21. A commissioners court may contract with an authority for the authority to provide public transportation services to any unincorporated area outside the boundaries of the authority for a term and on those conditions as are determined to be desirable by the commissioners court and the executive committee. The county may levy and collect taxes or pledge and encumber other receipts or revenues as may be required to make any payments to the authority under the provisions of the contract.

Elections

Sec. 22. (a) This section governs all elections ordered by the executive committee except elections held under the provisions of Section 9 of this Act.

(b) Notice of an election ordered by the executive committee shall be given by publication once a week for three consecutive weeks with the first publication in a newspaper with general circulation in the authority at least 21 days before the election.

(c) A resolution calling an election and the notice of the election are sufficient if the date and hours of the election, the voting places within voting precincts for the election, and the propositions to be voted on are specified. The executive committee may define and declare voting precincts, determine the manner of absentee voting, and prescribe the election officers.

(d) As soon as practicable after an election, the executive committee shall canvass the returns of the election and declare the results.

(e) Where not otherwise provided in this section, the general election laws apply.

Exemptions from Taxes

Sec. 23. The property, revenues, and income of the authority and the interest bonds and notes issued by the authority shall be exempt from all taxes levied or to be levied by the State of Texas, its political subdivisions, counties, or municipal corporations.

Incorporated City May Provide Services

Sec. 23A. Nothing contained in this Act shall preclude an incorporated city from providing general transportation services or public transportation services.

Subregional Transportation Authorities in Contiguous Cities

Sec. 24. (a) Nothing contained in this Act shall require any city with a population in excess of 150,000, according to the most recent federal census and with boundaries contiguous to a principal city with a population less than 800,000 according to the most recent federal census, or any city with boundaries contiguous to a principal city and with boundaries extending into two or more adjacent counties, two of which counties include a principal city, to be a part of or participate in the regional transportation authority provided herein. Such cities shall be called "contiguous cities."

(b) Nothing contained in this Act shall prohibit any such contiguous city from establishing a subregional transportation authority.

(e)(1) Within 60 days after initiation of the process provided in Section 3 of this Act by a principal city or a county of the principal city or within 60 days after a confirmation election or any election to dissolve the authority, in which a majority of the votes cast in such contiguous city either fail to confirm the creation of the authority or approve the dissolving of the authority, any such contiguous city may elect by resolution of its governing body not to participate in the regional transportation authority established by a principal city or county of a principal city.

(2) In the event such contiguous city shall elect not to participate in the regional transportation authority provided in this Act, its boundaries shall be excluded from the regional transportation authority proposed or created by the principal city or county of the principal city and shall not be included in the initiating process of said principal city or county of the said principal city as provided in Section 4 of this Act and the confirmation procedure of Section 9 of this Act.

(d) Any such contiguous city may create a subregional transportation authority by one of the following methods:

(1) The governing body of a contiguous city may initiate the process to create a subregional transportation authority on its own motion.

(2) If a petition requesting creation of a subregional transportation authority signed by at least five percent of the registered voters of the contiguous city is presented, the governing body of the contiguous city shall initiate the process for creating the subregional transportation authority.

(e) The subregional transportation authorities created in any two or more contiguous cities may establish a joint subregional transportation authority by contract. A subregional transportation authority or joint subregional transportation authorities may enter into contracts with a regional transportation authority.

(f) Except as it may conflict with the intent of this Section 24, the initiating procedure for a subregional transportation authority shall be the same as that provided in Section 4 of this Act. Where the word "principal city" is used therein, it shall mean contiguous city and where the word "authority" is used therein, it shall mean the subregional transportation authority.

(g)(1) The management, control, and operation of a subregional transportation authority and its property shall be vested in an executive committee comprised of five members selected by the governing body of the contiguous city.

(2) The members of the executive committee shall elect from among their number a chairman, a vice-chairman, and a secretary. The executive committee may appoint such assistant secretaries, either members or nonmembers of the executive committee, as it deems necessary. The secretary and assistant secretary shall, in addition to keeping the permanent records of all proceedings and transactions of the subregional transportation authority, perform such other duties as may be assigned to them by the executive committee. No member of the executive committee or officer of the subregional transportation authority shall be pecuniarily interested or benefited directly or indirectly in any contract or agreement to which the authority is a party.

(3) The executive committee shall hold at least one regular meeting during each month for the purpose of transacting the business of the subregional transportation authority. Upon written notice, the chairman may call special meetings as may be necessary. The executive committee, when organized, shall by resolution set the time, place, and day of the regular meetings and shall adopt rules, regulations, and bylaws as it may deem necessary for the conduct of its official meetings. Four members shall constitute a quorum of the executive committee for the purpose of conducting its busi-

ness and exercising its powers, and action may be taken by the subregional transportation authority upon a vote of a majority of the executive committee members present unless the bylaws require a larger number for a particular action.

(4) The executive committee shall receive recommendations for the annual budget from the governing body of the contiguous city and shall obtain approval of the final annual budget from said contiguous city.

(h)(1) After the interim executive committee has organized, developed a service plan, and determined the rate of tax that it desires to levy, it shall call a confirmation election in accordance with the provisions of this section.

(2) When the executive committee orders a confirmation election, it shall submit to the qualified voters within the subregional transportation authority the following proposition:

"Shall the creation of (name of authority) be confirmed and shall the levy of the proposed tax be authorized?"

(3) Except as otherwise provided in this Act, notice of the election shall be given in accordance with the general election laws. The notice of the election shall include a description of the nature and rate of the proposed tax. A copy of the notice of the election and any other election held pursuant to this Act shall be furnished to the State Highways and Public Transportation Commission.

(4) Immediately after the election, the presiding judge of each election precinct within the contiguous city shall return the results to the executive committee, which shall canvass the returns and declare the results of the election and adopt an order declaring the creation of the subregional transportation authority.

(5) If the votes cast are such that the subregional transportation authority ceases to exist in its entirety, the executive committee shall enter an order so declaring and file a certified copy of the order with the State Highways and Public Transportation Commission, and the authority shall be dissolved.

(6) The cost of the confirmation election shall be paid by the creating entity.

(7) If the election results in the confirmation of a subregional transportation authority, the authority shall, within the limits confirmed, be authorized to function in accordance with the terms of this Act, and the executive committee may levy and collect the proposed tax within those limits.

(8) If the continued existence of a subregional transportation authority is not confirmed by election within three years after the effective date of the resolution(s) or order(s) initiating the process to create the subregional transportation authority, the subregional transportation authority ceases to exist on the expiration of the three years.

(9) For a period of one year following a confirmation election, the governing body of any contiguous city may on its own volition or shall, upon receipt of a petition containing signatures of at least 20 percent of the registered voters within the contiguous city call an election and offer the following proposition: "Shall the (name of authority) be dissolved in city?" Should the majority of voters voting in the election vote to dissolve the subregional transportation authority within the contiguous city, the subregional transportation authority shall cease to exist within the city as of 12 midnight on the date of the canvass of the election and all financial obligations of that unit of election will cease to accrue at that time. The financial obligation shall be computed on a per capita basis for the entire year and taxes will continue to be collected until such time as all financial obligations of the contiguous city are paid, at which time the taxes collected to support the subregional transportation authority shall cease within the contiguous city.

(i) The following sections of this Act shall not apply to subregional transportation authorities:

Sections 5, 6, 7, 8, 9, 11, and 12.

(j) Sections 10, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 23 shall be applicable to the subregional transportation authorities. Whenever the term "authority" is used, it shall mean subregional transportation authority.

(k)(1) If a city or town which is a part of an authority lawfully annexes additional territory which is not a part of the subregional transportation authority, the annexed territory becomes a part of the subregional transportation authority.

(2) At the time territory is added to a subregional transportation authority under the provisions of this section, any tax which the board of the subregional transportation authority has already been authorized to levy applies to the added territory.

Eligibility of Excepted Areas for Federal Funds

Sec. 25. Ratification by referendum of an authority under the terms of this Act by less than all incorporated cities within the metropolitan area as defined herein shall not affect in any way the eligibility of such excepted incorporated cities to receive federal transit grants under the Surface Transportation Assistance Act of 1978¹ or any subsequent federal statutes.

¹ See 23 U.S.C.A. § 101 et seq.

Severability Clause

Sec. 26. If any word, phrase, clause, paragraph, sentence, part, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, or provision. It is provided, however, that the pro-

visions of Subsection (b) of Section 4 of this Act are not severable in whole or in part.

[Acts 1979, 66th Leg., p. 1610, ch. 683, §§ 1 to 26, eff. Aug. 27, 1979. Amended by Acts 1981, 67th Leg., p. 431, ch. 183, §§ 1 to 9, eff. Aug. 31, 1981; Acts 1981, 67th Leg., p. 560, ch. 237, § 7, eff. Sept. 1, 1981; Acts 1981, 67th Leg., p. 1774, ch. 389, §§ 17 to 19, eff. Jan. 1, 1982; Acts 1981, 67th Leg., p. 3197, ch. 838, § 3, eff. Aug. 31, 1981; Acts 1983, 68th Leg., p. 960, ch. 227, § 1, eff. May 24, 1983.]

Section 1 of Acts 1981, 67th Leg., p. 1490, ch. 389, enacted Title 2 of the Tax Code.

3. CITY REGULATION

Art. 1119. Repealed by Acts 1975, 64th Leg., p. 2352, ch. 721, § 90, eff. Sept. 1, 1976

See, now, the Public Utility Regulatory Act, classified as art. 1446c.

Art. 1120. Protective Ordinances, Etc.

The governing body shall have power to pass such ordinances as they may deem proper to protect any said company, corporation or person, in the free enjoyment of all their rights and franchises, to protect any interference with their property or privileges, and to prevent the free or unauthorized use or waste of the water or other commodity or service furnished.

[Acts 1925, S.B. 84.]

Arts. 1121, 1122. Repealed by Acts 1975, 64th Leg., p. 2352, ch. 721, § 90, eff. Sept. 1, 1976

See, now, the Public Utility Regulatory Act, classified as art. 1446c.

Art. 1123. City Owned Plants

The governing body of any city or town incorporated under the general laws shall have the power where such city or town owns the plant, to regulate by ordinance, the rates and compensation to be charged the public by such city or town for water, sewerage, gas, electricity or other fluid or substance used for lights, heat or power, to establish and operate necessary plants for the manufacture, generation or production thereof, and to sell and distribute the same to the public within the corporate limits.

[Acts 1925, S.B. 84.]

Art. 1124. Repealed by Acts 1975, 64th Leg., p. 2352, ch. 721, § 90, eff. Sept. 1, 1976

See, now, the Public Utility Regulatory Act, classified as art. 1446c.

Art. 1124a. Official Reading of Meters

Sec. 1. That hereafter any consumer or user of electric power, current, natural or artificial gas furnished by any private concern in any city, town or village in this State on complaint made to the city commissioners or city council of any city, town or village within this State, shall have the right to have any meter which measures the amount of electricity or gas installed by the person furnishing said elec-

trical current or gas for the purpose of ascertaining what amount to charge him for the use thereof, examined, read and tested by the agents, servants and employees of the city commissioners or city council, as the case may be; said agents, servants and employees being hereby given the right to break the seal, and examine, read and test the various meters and similar devices, in company with an agent of the furnisher of said electrical power, current and gas, if said furnisher desire its representative to be present, if not, then such examination to be had without him but three days' notice shall be given to all persons, firms or corporations furnishing said electricity or gas of said test.

Sec. 2. The word "meter" as used in this Act applies to any instrument, apparatus or machine used for measuring electric currents or gas and recording the results obtained.

Sec. 3. The words "person" and "furnisher" used in this Act refer to any corporation, association, partnership or individual engaged in furnishing electricity, electric current, electrical power or gas for consumption for hire in cities.

Sec. 4. That on demand of¹ said city council or city commissioners shall furnish the complaining consumer with a detailed report of the result of their reading, examination and testing of said meters or other said measuring devices for electrical current, or gas as hereinbefore referred to, said report to state whether or not said meter or measuring device is functioning properly, is in good condition, and the amount of electrical current, power or gas used by the consumer for any period of time preceding of not more than one year, such period to be designated by the consumer in his complaint hereinbefore mentioned.

Sec. 5. Any person or furnisher of electrical power and current or gas who fails or refuses to allow the agents of city commissioners or city council of any cities, towns or villages of the class hereinbefore mentioned to examine the meters and measuring devices hereinbefore referred to, shall be guilty of a misdemeanor, and be punished by a fine not to exceed two hundred (\$200.00) dollars, each and every day of such refusal to constitute a separate offense.

[Acts 1927, 40th Leg., p. 71, ch. 47.]

¹ So in enrolled bill; "of" probably should be omitted.

4. JUDICIAL REGULATION

Arts. 1125 to 1132. Repealed by Acts 1975, 64th Leg., p. 2352, ch. 721, § 90, eff. Sept. 1, 1976

See, now, the Public Utility Regulatory Act, classified as art. 1446c.

CHAPTER ELEVEN. TOWNS AND VILLAGES

Art.

1133. May be Incorporated.

1134. Mode of Incorporation.

Art.

- 1134a. Incorporation of Cities and Towns Validated.
- 1134b. Validating Incorporation of Cities of 600 or Over.
- 1134c. Validation of Incorporation of Cities and Towns between 200 and 10,000.
- 1134d. Validation of Incorporation, Boundary Lines and Governmental Proceedings; Towns and Villages Involved in Litigation Resulting in Agreed Judgment.
- 1135. Adjoining Territory Added.
- 1136. Election Order.
- 1137. Qualifications of Electors.
- 1138. Ballots.
- 1139. Returns.
- 1139a. Validating the Incorporation of Certain Cities and Towns.
- 1140. Powers of Corporation.
- 1141. Election of Officers.
- 1142. Commission.
- 1143. Term of Office.
- 1144. Annual Election.
- 1145. Quorum May Pass By-laws.
- 1145a. Code of Civil and Criminal Ordinances.
- 1146. Powers of Aldermen.
- 1146A. Appointment of Health Officer.
- 1147. Powers of Marshal.
- 1148. Repealed.
- 1149. Condemnation for Highways.
- 1150. Commissioners Court May Condemn.
- 1151. Crossings: Duty of Railroad.
- 1152. Publication of Ordinances.
- 1153. Amendment of Charter.
- 1153a. Change in Designation From Town to City.

Art. 1133. May be Incorporated

When a town or village contains more than two hundred (200) and less than ten thousand (10,000) inhabitants, it may be incorporated as a town or village in the manner prescribed in Chapter 11, Title 28, of the Revised Civil Statutes of Texas, 1925, and all amendments thereto.

[Acts 1925, S.B. 84. Amended by Acts 1941, 47th Leg., p. 68, ch. 55.]

Art. 1134. Mode of Incorporation

If the inhabitants of such town or village desire to be so incorporated, at least twenty residents thereof, who would be qualified voters under the provisions of this chapter, shall file an application for that purpose in the office of the county judge of the county in which the town or village is situated, stating the boundaries of the proposed town or village, the name by which it is to be known when incorporated, and accompany the same with a plat of the proposed town or village including therein no territory except that which is intended to be used for strictly town purposes. If any town or village be situated on both sides of a line dividing two counties, application may be made to the county judge of either county in which a portion of said town or village is located, in manner and form as herein provided. A new election shall not be ordered in less than one year.

[Acts 1925, S.B. 84.]

Art. 1134a. Incorporation of Cities and Towns Validated**Irregularities Not Invalidating Incorporation**

Sec. 1. All cities and towns in Texas of five thousand (5000) inhabitants or less, heretofore incorporated and/or attempted in good faith to be incorporated under the General Laws of Texas, whether under the aldermanic form of government or under the commission form of government, and which have in good faith functioned as incorporated cities and towns since the date of such incorporation or attempted incorporation, are hereby in all respects validated, as of the date of such incorporation or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid on account of irregularities in the petition for election, order for election, notice of election, returns of election, order declaring result of election, or other incorporation proceedings.

Governmental Proceedings Validated

Sec. 2. All governmental proceedings performed in good faith by the governing bodies of such cities and towns since their incorporation or attempted incorporation, respectively, are hereby in all respects validated as of the respective dates of such proceedings, and such governmental proceedings shall be effective the same as if such cities and towns had been regularly incorporated in the first instance.

Inapplicable to City or Town in Litigation

Sec. 3. The provisions of this bill shall affect no city or town now in litigation.

[Acts 1933, 43rd Leg., p. 125, ch. 58.]

Art. 1134b. Validating Incorporation of Cities of 600 or Over

All cities and towns of six hundred inhabitants or more which have heretofore attempted to accept the provisions of Title XXVIII¹ and to become incorporated cities and towns of six hundred inhabitants or more under the General Laws of Texas, and have failed to comply with all the requirements of said General Laws, or which are not included within the literal meaning of those cities which are authorized to accept the provisions of said general laws, and all towns and villages incorporated under Chapter 14 or Chapter 11 of Title XXVIII of the Revised Civil Statutes of 1925,² and which now have six hundred inhabitants or more, and which have heretofore attempted to accept the provisions of Title XXVIII and to become incorporated cities of six hundred inhabitants or more, but which said cities have from and after the dates of their several attempted incorporations and their several efforts to accept the provisions of said Title XXVIII, have exercised the functions of cities of the class named, and were by the State of Texas recognized as such cities, are hereby declared to be cities of six hundred inhabitants; and the several acts whereby they attempted

to accept the provisions of said law are hereby in all things validated; and that all subsequent acts of said cities and towns done and performed as a city of six hundred inhabitants or more, after they had attempted to accept the provisions of said law, as aforesaid, are hereby validated and declared to be as binding as if said cities had been duly and legally incorporated; provided, that nothing herein shall be construed as validating any act of said cities or the councils thereof, unless the same were authorized by the General Laws of the State under which they were attempting to act at the several dates when said acts were done; and provided, further, that the provisions of this article shall not validate the act of any town or city in adding additional territory to such city or town without the consent of such inhabitants so added to such city or town.

[Acts 1927, 40th Leg., p. 79, ch. 55, § 1.]

¹ Article 961 et seq.

² Article 1183 et seq. or 1133 et seq.

Art. 1134c. Validation of Incorporation of Cities and Towns Between 200 and 10,000

Sec. 1. All cities and towns in Texas of more than two hundred (200) and less than ten thousand (10,000) inhabitants heretofore incorporated or attempted to be incorporated under the General Laws of Texas, Title 28, Revised Civil Statutes of Texas, 1925,¹ and Senate Bill 144, passed by the Forty-seventh Legislature, Regular Session, 1941,² whether under the aldermanic form of government or the commission form of government, and which have functioned as incorporated cities and towns since the date of such incorporation, are hereby in all respects validated as of the date of such incorporation or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid by reason of the fact that the election may have been ordered by the Commissioners Court instead of the County Judge, nor shall such incorporation be held invalid on account of irregularities in the petition for election, order of election, notice of election, returns of election, order declaring result of election, or other incorporation proceedings.

Sec. 2. All governmental proceedings performed by the governing bodies of such cities and towns since their incorporation, or attempted incorporation, respectively, are hereby in all respects validated as of the respective dates of such proceedings, and such governmental proceedings shall be effective the same as if such cities and towns had been regularly incorporated in the first instance.

Sec. 3. The provisions of this Act shall affect no city or town now in litigation.

[Acts 1943, 48th Leg., p. 688, ch. 381.]

¹ Article 961 et seq.

² Article 1133.

Art. 1134d. Validation of Incorporation, Boundary Lines and Governmental Proceedings; Towns and Villages Involved in Litigation Resulting in Agreed Judgment

Scope of Act

Sec. 1. This Act applies to any municipality originally incorporated or attempted to have been incorporated under Chapter 11, Title 28, Revised Civil Statutes of Texas, 1925, as amended (Article 1133, et seq., Vernon's Texas Civil Statutes), which after the date of its incorporation or attempted incorporation was party to a suit in the district court in which another city, town, or village was a party and the issue was raised that the incorporation or attempted incorporation violated the territory or extraterritorial jurisdiction of the other city, town, or village, and the suit resulted in the entry of an agreed judgment upholding the validity of the incorporation or attempted incorporation and providing for the adjustment of boundaries and areas of extraterritorial jurisdiction for the two municipalities, which judgment was either not appealed or not reversed on appeal.

Proceedings Validated

Sec. 2. The following are validated as of the dates on which they occurred:

(1) the incorporation or attempted incorporation of a municipality covered by this Act;

(2) the boundary lines of the municipality covered by the original incorporation or attempted incorporation proceedings;

(3) any governmental proceedings of the municipality relating to the adoption or attempted adoption of the provisions of Chapters 1 through 10, Title 28, Revised Civil Statutes of Texas, 1925, as amended (Article 961, et seq., Vernon's Texas Civil Statutes);

(4) all adjustments in the boundaries and areas of extraterritorial jurisdiction of the municipality that were carried out in accordance with the agreed judgment or the Municipal Annexation Act, as amended (Article 970a, Vernon's Texas Civil Statutes), whether the proceedings were carried out before or after an adoption or attempted adoption by the municipality of the provisions of Chapters 1 through 10, Title 28, Revised Civil Statutes of Texas, 1925, as amended;

(5) any proceedings of the municipality carried out after an adoption or attempted adoption by the municipality of the provisions of Chapters 1 through 10, Title 28, Revised Civil Statutes of Texas, 1925, as amended, relating to the issuance of general obligation bonds, the issuance of which was approved by a majority of the qualified voters of the municipality voting on the question in an election; and

(6) all other governmental acts or proceedings of the municipality.

Exclusions

Sec. 3. This Act does not apply to any matter that on the effective date of this Act:

(1) has been declared invalid by a final judgment of a court of competent jurisdiction; or

(2) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court of competent jurisdiction.

[Acts 1978, 65th Leg., 2nd C.S., p. 9, ch. 3, §§ 1 to 3, eff. Aug. 14, 1978.]

Art. 1135. Adjoining Territory Added

Whenever a majority of the inhabitants, who are qualified voters of any territory adjoining the limits of any town or village incorporated hereunder, shall vote in favor of becoming a part of said town or village, any three of them may make affidavit to such fact and file such affidavit with the mayor of said town or village, and such mayor shall certify the same to the council of said town or village. Thereupon, such council may, by ordinance, receive such inhabitants as a part of said town or village. Thenceforth the territory so received shall be a part of said town or village and the inhabitants shall be entitled to all the rights and privileges of other citizens and bound by all the acts and ordinances made in conformity thereto and passed in pursuance of this chapter; provided, that the area of no town or village shall ever exceed that of cities or towns, as provided for in chapter one of this title.¹

[Acts 1925, S.B. 84.]

¹ Article 961 et seq.

Art. 1136. Election Order

If satisfactory proof is made that the town or village contains the requisite number of inhabitants, the county judge shall make an order for holding an election on a day therein stated and at a place designated within the town or village for the purpose of submitting the question to a vote of the people. He shall appoint an officer to preside at the election, who shall select two judges and two clerks to assist in holding it. After a previous notice of ten days, by posting advertisement thereof at three public places in the town or village, the election shall be held in the manner prescribed for holding elections in other cases.

[Acts 1925, S.B. 84.]

Art. 1137. Qualifications of Electors

Every person who has attained the age of twenty-one years and who has resided within the limits of the proposed town for the six months next preceding and is a qualified elector under the laws of this State, shall be entitled to vote at the election.

[Acts 1925, S.B. 84.]

Art. 1138. Ballots

On each ticket the voter must write or cause to be written or printed, "corporation" or "no corporation."

[Acts 1925, S.B. 84.]

Art. 1139. Returns

If a majority of the votes are cast in favor of incorporation the officers holding the election shall make return thereof to the county judge within ten days after the same was held. The county judge shall, within twenty days after the receipt thereof make an entry upon the records of the commissioners court that the inhabitants of the town or village are incorporated within the boundaries thereof; which boundaries shall also be designated in the entry. A certified copy of such entry, together with the plat of the town or village, shall thereupon be recorded in the proper record of deeds of such county.

[Acts 1925, S.B. 84.]

Art. 1139a. Validating the Incorporation of Certain Cities and Towns

Where, in any city or town heretofore incorporated or attempted to be incorporated under the General Laws of Texas, the petition calling for an election for the purpose of incorporating any such city or town, the order of the County Judge ordering such election, the notice, or notices of such election, the order of the County Judge declaring the result of such election, by inadvertence, oversight, or mistake, contained an incorrect description by metes and bounds of the territory incorporated or here attempted to be incorporated as such city or town, or where any other such irregularity in the proceedings for such incorporation was had, and where the governing body of such city or town has entered an ordinance correcting and setting forth the true field notes of the territory so incorporated or attempted to be incorporated, or where such ordinance has been entered correcting any other such irregularity in the proceedings for the incorporation of such city or town, and where such city or town has been acting or operating as an incorporated city or town, such incorporation, and any and all ordinances correcting the field notes, or any other irregularity of the proceedings has¹ for incorporation, are hereby in all things ratified, confirmed and validated and such cities or towns are hereby declared to be legally and validly incorporated.

[Acts 1931, 42nd Leg., 1st C.S., p. 79, ch. 36, § 1.]

¹ So in enrolled bill; probably should read "had".

Art. 1140. Powers of Corporation

When the entry mentioned in the preceding article has been made, the town shall be invested with all the rights incident to such corporation under this chapter, and shall have power to sue and be sued, plead and be impleaded, and to hold and dispose of

real and personal property, provided such real property is situated within the limits of the corporation.

[Acts 1925, S.B. 84.]

Art. 1141. Election of Officers

The county judge shall immediately order an election for a mayor, a marshal and five aldermen. No person shall be eligible to any of said offices unless he possess the requisites provided by this chapter for persons qualified to vote hereunder.

[Acts 1925, S.B. 84.]

Art. 1142. Commission

The county judge shall, immediately after the returns have been made, commission the candidate who received the highest number of votes for the office of mayor, and shall deliver certificates of election to the other officers elected.

[Acts 1925, S.B. 84.]

Art. 1143. Term of Office

(a) The mayor, alderman and all other officers elected at the first election under this chapter, regardless of the time of such first election, shall hold their offices until their successors shall have been duly elected and qualified at the next succeeding annual election, according to the provisions of the succeeding article.

(b) In lieu of one year terms of office, the board of aldermen may provide by ordinance for two year staggered terms of office for the mayor and aldermen. If such an ordinance is adopted, the mayor and two aldermen, determined by lot at the first meeting of the board of aldermen following the next annual election after the adoption of the ordinance, shall serve two year terms. The remaining aldermen hold office for an initial term of one year. Thereafter, all members of the board of aldermen hold office for terms of two years and until their successors have qualified.

[Acts 1925, S.B. 84. Amended by Acts 1967, 60th Leg., p. 1011, ch. 441, § 1, eff. Aug. 28, 1967.]

Art. 1144. Annual Election

The annual election of officers of all towns and villages incorporated under the provisions of this chapter shall be held on the first Saturday in April of each year. The mayor, or in case of his inability or refusal to act, any two aldermen, shall order such annual election by notices posted for at least twenty days at three public places within the corporate limits. The returns of such election shall be made to the town or village council, and certificates of election given by the mayor or person acting as such to the persons elected to the various offices of such corporation.

[Acts 1925, S.B. 84. Amended by Acts 1967, 60th Leg., p. 1931, ch. 723, § 75, eff. Aug. 28, 1967.]

Art. 1145. Quorum May Pass By-laws

The mayor shall be the president of the board of aldermen. At the first meeting of each new board of aldermen or as soon as practicable, the board shall elect one alderman to serve as president pro tempore for a term of one year and to perform the duties of the mayor in the event of the mayor's failure, inability, or refusal to act. The mayor shall, with three of the aldermen, constitute a quorum for the transaction of business. In the mayor's absence, any four of the aldermen constitute a quorum. The quorum has the power to appoint any alderman as a presiding officer at any meeting at which the mayor and president pro tempore are absent. The quorum shall have power to enact such by-laws and ordinances not inconsistent with the laws and constitution of this State as shall be deemed proper for the government of the corporation.

[Acts 1925, S.B. 84. Amended by Acts 1975, 64th Leg., p. 644, ch. 265, § 1, eff. Sept. 1, 1975.]

Art. 1145a. Code of Civil and Criminal Ordinances

The board of aldermen of a town or village shall have the power to codify its civil and criminal ordinances and to adopt a civil and criminal code of ordinances, together with appropriate penalties for the violation thereof, which said code when adopted shall have the force and effect of an ordinance regularly enacted with the usual prerequisites of law.

[Acts 1983, 68th Leg., p. 5445, ch. 1021, § 1, eff. Sept. 1, 1983.]

Art. 1146. Powers of Aldermen

The board of aldermen shall:

1. Have power to levy and collect an occupation tax of not more than one-half of the amount levied by the State; also to levy taxes on persons and property, real and personal, within the corporation, subject to taxation by the laws of this State; but the tax on persons and property shall not, in any one year, exceed the rate of one-fourth of one per cent on the one hundred dollars valuation.

2. Have and exercise exclusive control over the streets, alleys and other public places within the corporate limits; provided, that, with the consent of the board of aldermen, where streets are continuations of public roads, the commissioners court shall have power to construct bridges and other improvements thereon which facilitate the practicability of travel on said streets.

3. Have the power to cause the male inhabitants between the ages of twenty-one and forty-five years, except ministers of the gospel actually engaged in the discharge of their duties, to work on the streets and public alleys not to exceed five days in any one year, or furnish a substitute, or a sum of money, not to exceed one dollar for each day's work demanded, to employ such substitute.

4. Prevent, as far as practicable, any nuisances within the limits of the corporation, and cause such as exist to be removed at the expense of the person by whom they were occasioned or upon whose property they may be found.

5. Have power to prescribe the fine to be imposed by the mayor for the violation of any by-laws or ordinance, which shall in no case exceed one hundred dollars; but no fine shall be imposed except upon the verdict of a jury, should the defendant demand a trial by jury.

6. Fill, for the unexpired term, any vacancy which may occur in any office created by this chapter or by the board of aldermen under its provisions, such vacancy to be filled by the acting aldermen.

7. Have power to appoint such officers, other than those mentioned in this chapter, as shall be deemed necessary to carry out the provisions of the same, to prescribe their duties and to fix their compensation; and shall also have power to dismiss them at any time and appoint others in their stead.

8. Prescribe the bonds and security which the marshal and such other officers as may be appointed shall give, which shall be executed and approved by the mayor, before the marshal or other officer shall enter upon the discharge of his duties, said bond to be payable to the corporation.

9. Have power to appoint another marshal or officer in the place of the one so elected or appointed if the bond required in the preceding paragraph is not given within five days after the marshal is elected or appointed.

10. The board of aldermen may establish markets and may do whatever else may be necessary to give effect to the provisions of this chapter.

[Acts 1925, S.B. 84.]

Art. 1146A. Appointment of Health Officer

If the board of aldermen appoints a city health officer under Article 4425, Revised Civil Statutes of Texas, 1925, as amended, the appointee is not required to be a resident of the city.

[Acts 1977, 65th Leg., p. 891, ch. 335, § 2, eff. May 30, 1977.]

Repeal

Acts 1983, 68th Leg., p. 798, ch. 190, added art. 4436b and repealed arts. 4422 to 4435, 4436a-1, and 4447a. Section 2(b) of said Act provides:

"The following Acts are repealed to the extent of any conflict with the provisions of this Act: Articles 1003 and 1146A, as amended, Revised Statutes."

Art. 1147. Powers of Marshal

The marshal shall have the same power within the town that constables shall have within their precincts, and shall be entitled to the same fees. He

shall discharge all other duties that may be prescribed by the by-laws and ordinances, not inconsistent with the laws of this State, and shall receive therefor such fees as may be fixed by the board. He shall assess and collect the corporation tax, and if the same be not voluntarily paid, he shall have power to make the collection in the same manner and with like effect as is prescribed in chapter 5 of this title¹ for collection of taxes in cities, so far as applicable.

[Acts 1925, S.B. 84.]

¹ Article 1026 et seq.

Art. 1148. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(1), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this article, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

Art. 1149. Condemnation for Highways

Any town or village in this State, incorporated under this chapter or by special charter, shall have the right, and they are hereby empowered, to condemn the right of way and roadbed of any railway company whose roadbed runs within the corporate limits of such town or village, when deemed necessary and so declared, by a majority vote of the board of aldermen, for the purpose of opening, widening or extending the streets of such town or village; provided, there are less than four railroad tracks. Failing to agree on the damages to be paid therefor, the mayor shall prepare a statement in writing showing the point on said railroad right of way where said street is desired to be opened, widened or extended, giving the width and length of that portion of the right of way of the railroad sought to be condemned, and describing it so that it can be clearly identified, the object for which it is sought to be condemned, the name and style of the railway company, and file the same with the county judge of the county in which such town or village is situated, whereupon proceedings shall be had to condemn said right of way.

[Acts 1925, S.B. 84.]

Art. 1150. Commissioners Court May Condemn

County commissioners shall have the right, upon petition of twenty freeholders of any community, or unincorporated town or city, to condemn roadbed of railroads for the same purpose mentioned in the preceding article.

[Acts 1925, S.B. 84.]

Art. 1151. Crossings: Duty of Railroad

Every railroad company in this State shall place and keep that portion of its roadbed and right of way over or across which any public street of any incorporated town or village may run, in proper condition for the use of the traveling public; and in case of its failure to do so for thirty days after written notice given to the section boss of the

section where such work or repairs are needed, by the town marshal of such town or village, it shall be liable to a penalty of twenty-five dollars for each week such railroad may fail or neglect to comply with the requirements of this article, recoverable in any court having jurisdiction of the amount involved, in a suit in the name of such town or village.

[Acts 1925, S.B. 84.]

Art. 1152. Publication of Ordinances

Sec. 1. No ordinance or by-law shall be enforced until it has been published at least ten days in three public places in the town, or in a newspaper if one be published in the corporation. If no newspaper is published in the corporation, such ordinance or by-law may be published in some newspaper having general circulation in the town. If such newspaper be published weekly, the publication shall be made in one issue thereof.

Sec. 2. In lieu of the publication required in Section 1 of this Article, the governing body may in its discretion provide for the publication of a descriptive caption or title, stating in summary the purpose of the ordinance or by-law and the penalty for violation thereof.

[Acts 1925, S.B. 84. Amended by Acts 1967, 60th Leg., p. 468, ch. 212, § 1, eff. May 19, 1967.]

Art. 1153. Amendment of Charter

Towns and villages heretofore incorporated by the Congress of the Republic or the Legislature of this State may, by a resolution of the board of aldermen and a two-thirds vote of the voters at an election held therefor, amend their charters in any particular not in conflict with the constitution of this State or the Revised Statutes. In order to amend the charter of any town or village, it shall be necessary, before said amendment shall go into effect, for the board of aldermen to adopt a resolution setting forth the amendment; and a certified copy of the same shall be approved by the Attorney General and recorded in the office of the Secretary of State before the same shall take effect.

[Acts 1925, S.B. 84.]

Art. 1153a. Change in Designation From Town to City

Sec. 1. Any town in this state which has been duly and legally created under the laws relating to cities and towns, and which has heretofore adopted or may hereafter adopt the provisions of Title 28, Revised Civil Statutes of Texas, as amended,¹ may by ordinance passed by the governing body of such town, change its designation from town to city; provided, however, the change in the designation of such town shall in no wise affect its corporate existence or powers.

Sec. 2. Any bonds which have been voted by such town and which bonds are unissued prior to the change of such designation from town to city

may be issued in the name of such city as designated in the ordinance changing its designation.

[Acts 1961, 57th Leg., p. 331, ch. 177.]

¹ Article 961 et seq.

CHAPTER TWELVE. COMMISSION FORM OF GOVERNMENT

Art.

- 1154. Petition for Election; Change to Aldermanic Form.
- 1155. Unincorporated Towns.
- 1156. Ballot.
- 1157. Election.
- 1158. Officers.
- 1159. Vacancies.
- 1160. Shall Supersede Council.
- 1161. Officers Appointed.
- 1162. Bond of Officers.
- 1163. Commissioners, Duties, etc.
- 1164. Meetings and Salary.
- 1164a. Incorporations Validated.
- 1164b. Special Elections Changing Form of Government Validated.
- 1164c. Validation of Incorporation, Boundary Lines and Governmental Proceedings.

Art. 1154. Petition for Election; Change to Aldermanic Form

Sec. 1. Whenever ten (10%) per cent of the qualified voters of any incorporated city or town having a population of over five hundred (500) and less than five thousand (5,000) inhabitants incorporated under the provisions of this title or any previous General Law, or hereafter incorporated under any General Law, or of any incorporated town or village having a population of more than five hundred (500) and less than one thousand (1,000) inhabitants incorporated under Chapter 11, of this Title¹ or any previous General Law, or hereafter incorporated under any General Law, shall petition in writing the Mayor of said city, town or village requesting that an election be ordered to determine whether such city, town or village shall adopt the Commission form of government, the Mayor shall order an election in such city, town or village, to determine whether or not the Commission form of government shall be adopted. Thirty (30) days notice of such election shall be given by publishing such notice in some newspaper therein if there be one, and if none, then by posting notices of same at three (3) public places in such town, city or village. Provided, that any city or town now or hereafter operating under the Commission form of government may adopt the Aldermanic form of government as provided in Article 977, Revised Civil Statutes of Texas, 1925, or other lawful form of government for such city or town when authorized to do so by a majority vote at an election called and held for the purpose. Such election shall be called and held under the same procedure provided for the adoption of the Commission form of government.

Sec. 1a. Provided however, that in the event of such election where a city changes from a Commis-

sion form to an Aldermanic form of government, the Mayor and two Commissioners shall continue in office as Mayor and Aldermen respectively for the remainder of their respective terms.

[Acts 1925, S.B. 84. Amended by Acts 1949, 51st Leg., p. 791, ch. 425.]

¹ Article 1133 et seq.

Art. 1155. Unincorporated Towns

If any unincorporated city or town in this State, having a population of over five hundred and less than five thousand inhabitants, or any unincorporated town or village in this State having a population of more than two hundred and less than one thousand inhabitants, shall desire to be incorporated under the commission form of government as herein provided, an election to determine whether such incorporation may be had shall be called by the county judge of the county under the provisions herein governing incorporated cities and towns, and incorporated towns and villages, and notice of such election shall be given as herein provided, and if satisfactory proof is made that the city or town or village contains the requisite number of inhabitants, the county judge shall make an order for holding an election on a day therein stated, and at a place designated within the city or town or village, for the purpose of submitting the question to a vote of the people.

[Acts 1925, S.B. 84.]

Art. 1156. Ballot

The ballots to be used in said election shall have written or printed thereon "For Commission" or "Against Commission."

[Acts 1925, S.B. 84.]

Art. 1157. Election

The mayor or county judge, as the case may be, shall appoint two judges of election, one of which shall be designated as the presiding judge, and two clerks, to hold said election. The election shall be held and governed by the general laws of this State except as herein otherwise provided, and the returns shall be made to the mayor or the county judge, as the case may be within five days after said election shall have been held. If a majority of the votes cast are "For Commission," then the mayor or county judge shall enter an order to that effect upon the minutes of the city council, or board of aldermen, or of the commissioners court, and after the entry of said order said incorporated city or town or village shall be under the commission form of government, and said unincorporated city or town, or unincorporated town or village, shall be incorporated and under the commission form of government.

[Acts 1925, S.B. 84.]

Art. 1158. Officers

At such election there shall be elected two commissioners, who shall serve until the first Saturday in April following, and in said unincorporated cities and towns, and unincorporated towns and villages, there shall at such elections be elected a mayor and two commissioners, who shall serve until the first Saturday in April following. The mayor of the incorporated cities and towns, and incorporated towns and villages, adopting the commission form of government shall continue to hold his office for the term for which he was elected. The term of office of the mayor and commissioners, except the first elected under the provisions hereof, shall be two years, and they shall be elected on the first Saturday in April every two years.

[Acts 1925, S.B. 84. Amended by Acts 1967, 60th Leg., p. 1932, ch. 723, § 75, eff. Aug. 28, 1967.]

Art. 1159. Vacancies

In case of the death or the resignation of the mayor or commissioners, the others shall fill the place by appointment, provided, that shall a vacancy occur from death, resignation, or failure to qualify, or any other cause, of the mayor and one commissioner at the same time, or of two commissioners at the same time, the vacancy shall be filled by special election called by the county judge of the county, upon notice for the time, and subject to all the regulations herein for the original election; the result of said election shall be certified by the county judge to the clerk of said commission, and shall be entered upon the minutes.

[Acts 1925, S.B. 84.]

Art. 1160. Shall Supersede Council

In incorporated cities and towns and incorporated towns and villages, adopting the commission form of government under the provisions hereof, the members of the city council, and board of aldermen shall hold their offices until the commissioners elected hereunder shall have qualified, and after such qualification, the officers of the city council, and board of aldermen shall be abolished, and the mayor and commissioners herein provided for shall constitute the "Board of Commissioners" of said city or town, or town or village.

[Acts 1925, S.B. 84.]

Art. 1161. Officers Appointed

Said "Board of Commissioners" shall appoint a competent person to be Clerk, who shall also be Assessor and Collector of Taxes of such city or town, or town or village. He shall before entering upon the duties of his office, enter into a good and sufficient bond, to be executed by a surety company authorized to do business in the State of Texas, in an amount sufficient to adequately protect the funds of such city or town, but in no event less than twice the largest amount collected at any one time in the preceding fiscal or calendar year, to be deter-

mined by the Board of Commissioners, and said bond to be approved by the Board and filed and recorded in the minutes thereof. Said Clerk shall be invested and charged with and shall exercise all the power, rights and duties conferred upon and imposed by the General Laws, upon the Clerk, Treasurer, Assessor and Collector of Taxes, of cities and towns, or towns and villages, as the case may be. The Board shall also have the authority to appoint a City Attorney and such police force and such other officers as they may deem necessary, and fix the salary or other compensation to be received by such Clerk, and by such officers, and define their duties, and at any time may abolish any office which it creates, and may discharge any officer, clerk or employee which it appoints.

[Acts 1925, S.B. 84. Amended by Acts 1953, 53rd Leg., p. 565, ch. 210, § 1.]

Art. 1162. Bond of Officers

The mayor and each commissioner shall enter into a bond in the sum of three thousand dollars each, conditioned for the faithful performance of the duties of their office; said bond of the officers, first elected hereunder, shall be approved within twenty days after the entry upon the minutes of the city council, or board of aldermen or the commissioners court, as the case may be, by the county judge of the county in which such city or town, or town or village is located, and to be payable to said city or town or town or village for its use and benefit. All subsequent bonds of officers elected hereunder shall be approved by the "Board of Commissioners."

[Acts 1925, S.B. 84.]

Art. 1163. Commissioners, Duties, etc.

The "Board of Commissioners" of all incorporated and unincorporated cities or towns or towns and villages of over five hundred and less than five thousand inhabitants incorporated under or adopting the commission form of government under the provisions of this chapter, shall have all of the authority and powers, and be subject to all of the duties granted and conferred under Chapters 1 to 10 both inclusive of this title,¹ except where same may conflict with some provision of this chapter. In incorporated and unincorporated towns and villages of more than two hundred and not more than five hundred inhabitants, adopted or incorporated under the commission form of government hereunder, the "Board of Commissioners" shall have all authority and powers conferred under Chapter 11 of this title² except where the same may be in conflict with some provision contained herein.

[Acts 1925, S.B. 84.]

¹ Article 961 et seq.

² Article 1133 et seq.

Art. 1164. Meetings and Salary

Said Board shall hold at least one regular monthly meeting, and the mayor or two (2) commissioners may call as many special meetings as may be neces-

sary to attend to the municipal business. Each commissioner and said mayor shall receive for his service Five Dollars (\$5) per day for each regular meeting, and Three Dollars (\$3) per day for each special meeting. The mayor or any commissioner shall not receive pay for more than five (5) special meetings in any one month. In lieu of such per diem said "Board of Commissioners" of any such town or city with not less than two thousand (2,000) population, may fix the salary to be received by the mayor and commissioners, not to exceed the sum of Twelve Hundred Dollars (\$1200) per year for said mayor and Six Hundred Dollars (\$600) per year for each commissioner.

In lieu of such per diem said "Board of Commissioners" of any such town or city containing less than two thousand (2,000) population, according to the last preceding Federal Census, may fix salary to be received by the mayor not to exceed the sum of Six Hundred Dollars (\$600) per year.

[Acts 1925, S.B. 84. Amended by Acts 1937, 45th Leg., p. 658, ch. 326, § 1.]

Art. 1164a. Incorporations Validated

In all cities and towns heretofore incorporated, or attempted to be incorporated, under the provisions of Chapter 12, Title 28, Revised Civil Statutes of Texas, 1925,¹ which have functioned as incorporated cities and towns since the date of incorporation, or attempted incorporation, and the boundaries of which have been defined by the Board of Commissioners of such cities and towns, by ordinance duly adopted and placed in the Minutes of such Board of Commissioners, the incorporation of such cities and towns to include the exact territory described in said ordinance so adopted, be and the same is hereby validated, ratified, approved, and confirmed; and the boundaries of said cities and towns as defined in such ordinance shall control and prevail over the boundaries set forth in the incorporation proceedings of such cities and towns.

[Acts 1945, 49th Leg., p. 540, ch. 326, § 1.]

¹ Article 1154 et seq.

Art. 1164b. Special Elections Changing Form of Government Validated

Sec. 1. In each instance where, prior to January 1, 1971, a special election has been held in a city or town operating under the general laws for the purpose of changing the form of government of such city or town from the aldermanic form to the commission form, or for the purpose of changing the form of government of such city or town from the commission form to the aldermanic form, as authorized by Article 1154, Revised Civil Statutes of Texas, 1925, as amended, and such special election was held on the same day that a primary election was held throughout the state as prescribed in the Election Code of the State of Texas, as amended, such special election for the purpose of changing the form of government in such city or town, and the election of city officials under the new form of

government so adopted by the voters at such special election, shall not be held invalid by reason of the fact that such special election was held on the same day as a primary election day. Such special election to change the form of government in any such city or town is hereby in all things ratified, validated, and confirmed, and the election of city officials under the new form of government so adopted by the voters at such election is hereby ratified, validated, and confirmed.

Sec. 2. All governmental proceedings performed by the governing bodies of such cities and towns and all offices thereof since such election changing the form of government of all such cities and towns are hereby in all respects validated as of the respective date of such proceedings.

Sec. 3. The provisions of this Act shall not apply to any city or town now involved in litigation questioning the legality of an election changing the form of government under Article 1154, Revised Civil Statutes of Texas, 1925, as amended, or the election of city officials under the new form of government so adopted at such election, if such litigation is ultimately determined against the legality thereof; nor shall this Act be construed as validating any proceeding which may have been nullified by a final judgment of a court of competent jurisdiction.

[Acts 1971, 62nd Leg., p. 906, ch. 132, eff. May 10, 1971.]

Art. 1164c. Validation of Incorporation, Boundary Lines and Governmental Proceedings

Sec. 1. All towns heretofore incorporated or attempted to be incorporated under the commission form of government (as provided by Chapter 12 of Title 28, Revised Civil Statutes of Texas, 1925, as amended¹), which are now functioning or attempting to function as an incorporated municipality are hereby in all respects validated, ratified, and confirmed as of the date of the canvass of the returns and declaration of the result of the incorporation election; and the incorporation of such towns shall not be held invalid by reason of the fact the election or other proceedings may not have been in accordance with law, provided the election order was entered by the county judge or the person purporting to act as mayor of an unincorporated municipality at least 10 days prior to the election on incorporation, and a majority of the voters at the election approved such incorporation.

Sec. 2. The area and boundary lines of all such towns included by the original incorporation proceedings are in all things hereby validated, ratified, approved, and confirmed.

Sec. 3. All governmental proceedings and acts performed by the governing bodies of such towns, except such governmental proceedings that relate to any boundary changes subsequent to the date of incorporation or attempted incorporation, and all actions of officers thereof since their incorporation or attempted incorporation are hereby in all re-

spects validated, ratified, approved, and confirmed as of the respective date of such proceedings and acts.

Sec. 4. The provisions of this Act shall not apply to any city or town now involved in litigation which constitutes a direct attack on the legality of the proceedings pursuant to which the incorporation or attempted incorporation was accomplished or to any of the acts or proceedings hereby validated, if such litigation is ultimately determined against the legality thereof.

[Acts 1973, 63rd Leg., p. 364, ch. 161, eff. May 23, 1973.]

¹ Article 1154 et seq.

CHAPTER TWELVE A. CITY-MANAGER PLAN

Art.

- 1164a-1. Adoption of City-Manager Plan.
- 1164a-2. Definition.
- 1164a-3. Adoption of Act; Election; Petition.
- 1164a-4. Appointment of City Manager; Salary.
- 1164a-5. Powers and Term of Manager.
- 1164a-6. Qualifications of Manager.
- 1164a-7. All Officers to be Appointive.
- 1164a-8. Abandonment of City-Manager Plan; Petition; Election.
- 1164a-9. Duties of Governing Body Upon Abandonment of City-Manager Plan.
- 1164a-10. Conduct of Elections.

Art. 1164a-1. Adoption of City-Manager Plan

Any incorporated city, town or village in this State incorporated under the General Laws, having a population of less than five thousand (5,000) inhabitants according to the last preceding or any future Federal Census, may vote upon the question of adopting a city-manager plan of government as in this Act¹ provided.

[Acts 1943, 48th Leg., p. 615, ch. 356, § 1.]

¹ Article 1164a-1 et seq.

Art. 1164a-2. Definition

The word "city" where used in this Act¹ shall mean any city, town or village incorporated under the General Laws of this State, having a population of less than five thousand (5,000) inhabitants according to the last preceding or any future Federal Census.

[Acts 1943, 48th Leg., p. 615, ch. 356, § 2.]

¹ Article 1164a-1 et seq.

Art. 1164a-3. Adoption of Act; Election; Petition

Before the provisions of this Act¹ shall apply to and become operative in any city of this State, it shall be submitted to a vote of the legally qualified electors of such city for adoption, and shall receive a majority of all the votes cast thereon at such election. Provided, however, that upon the filing of a petition with the city clerk, signed by not less than twenty (20) per cent of the total number of legally

qualified electors voting for mayor at the last preceding city election, requesting the mayor to call a special election for the adoption of this Act, it shall be the duty of the mayor within ten (10) days after the filing of such petition, to issue a proclamation calling a special election for such purpose, and such election shall be held within thirty (30) days after the filing of such petition. Such proclamation shall state that the election is called in order to submit this Act for adoption, and shall be signed by the mayor and attested by the city clerk, and shall be published in some newspaper of general circulation within the city for one time not less than ten (10) days preceding said election. Such proclamation shall be posted in at least five (5) conspicuous places within such city not less than ten (10) days preceding such election.

The ballots used for the submission of such question shall be substantially as follows:

FOR the governing body of the city of (naming the city) appointing a city manager and fixing by ordinance the salary of such manager.

AGAINST the governing body of the city of (naming the city) appointing a city manager and fixing by ordinance the salary of such manager.

[Acts 1943, 48th Leg., p. 615, ch. 356, § 3.]

¹ Article 1164a-1 et seq.

Art. 1164a-4. Appointment of City Manager; Salary

If a majority of all votes cast at such election shall be in favor of the appointment of a city manager, then the governing body of such city shall within sixty (60) days after such election appoint a city manager and by ordinance shall fix his salary.

[Acts 1943, 48th Leg., p. 615, ch. 356, § 4.]

Art. 1164a-5. Powers and Term of Manager

If such city has authorized by vote, as in this Act¹ provided, the appointment of a city manager, then after the appointment of such city manager as herein provided, the administration of the city's business shall be in the hands of such manager. The manager shall be appointed by the governing body and shall hold office at the pleasure of the governing body. The governing body shall be responsible for the manager's efficient administration of the city's business. The governing body by ordinance may delegate to and confer upon such manager such additional powers and duties as in their judgment may be proper for the efficient administration of the city affairs.

[Acts 1943, 48th Leg., p. 615, ch. 356, § 5.]

Art. 1164a-6. Qualifications of Manager

The manager shall be chosen solely upon the basis of administrative ability. Choice shall not be limited by any resident qualifications. The manager shall give bond for the faithful performance of

his duties, in such amount as may be provided by ordinance.

[Acts 1943, 48th Leg., p. 615, ch. 356, § 6.]

Art. 1164a-7. All Officers to be Appointive

When a majority of the voters have adopted the provisions of this Act¹ as set out in Section 3,² thereafter all officers of such city except members of the governing body shall be appointed as may be provided by ordinance; provided that any officer who has been elected by a vote of the people shall be allowed to serve until the expiration of his term of office.

[Acts 1943, 48th Leg., p. 615, ch. 356, § 6a.]

¹ Article 1164a-1 et seq.

² Article 1164a-3.

Art. 1164a-8. Abandonment of City-Manager Plan; Petition; Election

Any such city which has authorized the appointment of a city manager as in this Act¹ provided may abandon such city-manager plan at any time after any such city has elected to come under the provisions of this Act, and on the filing of a petition with the city clerk signed by not less than twenty (20) percent of the total number of legally qualified electors voting for mayor at the last preceding city election, requesting the mayor to call a special election for the abandonment of the city-manager form of government, it shall be the duty of the mayor within ten (10) days after the filing of such petition, to issue a proclamation calling a special election for such purpose, and such election shall be held within thirty (30) days after the filing of such petition. Such proclamation shall state that the election is called in order to submit the question of the abandonment of the city-manager plan of government as previously adopted by such city, and such proclamation shall be published as provided in Section 3 of this Act.²

The ballots used for the submission of such question shall be substantially as follows:

FOR abandoning the city-manager plan of government in the city of (naming the city).

AGAINST abandoning the city-manager plan of government in the city of (naming the city).

[Acts 1943, 48th Leg., p. 615, ch. 356, § 7.]

¹ Article 1164a-1 et seq.

² Article 1164a-3.

Art. 1164a-9. Duties of Governing Body Upon Abandonment of City-Manager Plan

If a majority of all the votes cast at such election shall be in favor of the abandonment of the city-manager plan, then the governing body of such city shall within sixty (60) days after such election discharge the city manager, and shall then assume the powers and duties delegated to such governing body under the existing laws, in the same manner and to

the same extent as though the provisions of this Act¹ had never been adopted.

[Acts 1943, 48th Leg., p. 615, ch. 356, § 8.]

¹ Article 1164a-1 et seq.

Art. 1164a-10. Conduct of Elections

Such elections as may be provided for or authorized by this Act¹ shall be called, held and conducted as near as practical the same as other city elections except as otherwise provided in this Act.

[Acts 1943, 48th Leg., p. 615, ch. 356, § 9.]

¹ Articles 1164a-1 to 1164a-10.

CHAPTER THIRTEEN. HOME RULE

Art.

- 1165. May Change Charter.
- 1166. Requisites of Submission.
- 1167. Submission of Charter.
- 1168. First Election.
- 1169. Adoption of Charter.
- 1170. Amendments.
- 1170a. Validation of Proceedings to Amend Charter; Ordinance Not Published as Required.
- 1171. Repealed
- 1172. Other Issues.
- 1173. Certification.
- 1174. Registration.
- 1174a. Validating Charter or Charter Amendments.
- 1174a-1. Validation of Adoption of Charter and Election and Assumption of Office.
- 1174a-2. Validation of Adoption of Charter; Elections and Assumption of Office; Acts of Officers.
- 1174a-3. Validation of Amendment of Charter; Elections and Assumption of Office; Acts of Governing Boards.
- 1174a-4. Validation of Adoption of Charter; Elections and Assumption of Office; Acts of Officers.
- 1174a-5. Validation of Amendment of Charter; Elections and Assumption of Office; Acts of Governing Boards.
- 1174a-6. Validation of Adoption of Charter of Home Rule Cities with Population in Excess of 10,000; Elections.
- 1174a-7. Validation of Adoption of Charter of Home Rule City in Counties of 500,000 or More; Elections and Assumption of Office; Acts of Officers.
- 1174a-8. Validation of Adoption of Charter; Elections; Governmental Proceedings.
- 1174a-9. Validation of Adoption of Charter; Elections; Governmental Proceedings.
- 1174a-10. Validation of Adoption of Charter; Governmental Acts and Proceedings.
- 1174a-11. Validation of Amendment of Charter; Governmental Acts and Proceedings.
- 1174a-12. Validation of Adoption of Charter; Governmental Acts and Proceedings.
- 1174b. Validation of Annexation Proceedings of Home Rule Cities.
- 1174c. Validating Annexation of Adjacent Territory.
- 1174d. Validation of Annexation Proceedings in Home Rule Cities of 8,920 to 9,580 Population.
- 1174e. Validation of Annexation Proceedings of Certain Home Rule Cities Occurring before March 1, 1961.
- 1175. Enumerated Powers.

Art.

- 1175a. Extension of Corporate Limits by Certain Cities Validated.
- 1175b. Inspection and Test of Motor Vehicles.
- 1175c. Vacancies in Offices in Cities Over 384,000.
- 1175d. Water Supply Systems; Easements Over Highways in Certain Home Rule Cities.
- 1175e. Parking Facilities.
- 1176. Further Powers.
- 1176a. Code of Civil and Criminal Ordinances.
- 1176b-1. Publication of Ordinances Enacted by Home Rule Cities.
- 1176b-2. Validation of Ordinances of Home Rule Cities Published in Compliance With Charters.
- 1176b-3. Validation of Ordinances of Home Rule Cities Authorizing Issuance of Time Warrants.
- 1177. Former Powers.
- 1178. Vested Rights.
- 1179. Improvement Districts.
- 1180. Private Improvements.
- 1180a. Improvement of Streams Within Boundaries by Certain Cities.
- 1180b. Self-liquidating Recreational Improvements.
- 1181. Franchises.
- 1182. Franchise Election.
- 1182a. Annexation of Additional Territory.
- 1182b. Annexation of Adjacent Territory Including Water District or Towns.
- 1182c. Validating Annexation by Cities of Fresh Water Supply Districts.
- 1182c-1. Cities and Towns Which Have Annexed Territory Within Water Districts.
- 1182c-2. Validation of Annexations by Cities and Towns of Less Than 100,000 Population of Territories of Water Control and Improvement Districts, Etc.; Exception.
- 1182c-3. Repealed.
- 1182c-4. Bonds; Issuance by Cities in Lieu of Unissued Bonds of Abolished Conservation and Reclamation District.
- 1182c-5. Cities Which Have Annexed Territory Within Water Control and Improvement, Fresh Water Supply or Municipal Utility Districts.
- 1182c-6. Validation of Contracts Affecting Water and Sewer Facilities of Cities and Contiguous Water Control and Improvement Districts.
- 1182d. Validating Relinquishment of Territory.
- 1182d-1. Donation of Unimproved Land to Counties for Use by Juvenile Boards; Validation; Authorization.
- 1182e. Exposition or Convention Halls in Cities of 290,000 or More.
- 1182f. Validating Certain Tax Proceedings.
- 1182g. Home Rule Cities of 900,000 or More; Investment of Trust Funds.
- 1182h. Validation of Ordinances Authorizing Bond Elections and Issuance of Bonds, and of Bonds Issued.
- 1182i. Validation of Actions Taken During 1970 Pursuant to Designation of Territory as Disaster Area.
- 1182j. Cultural and Related Parking Facilities in Cities of 1,200,000 or More.

Art. 1165. May Change Charter

Cities having more than five thousand inhabitants may, by a majority vote of the qualified voters of said city, at an election held for that purpose, adopt or amend their charters, subject to such limitations

as may be prescribed by the Legislature. No charter or any ordinances passed under said charter shall contain any provision inconsistent with the Constitution or general laws of this State; said cities may levy, assess and collect such taxes as may be authorized by law, or by their charters; but no tax for any purpose shall ever be lawful for any one year which shall exceed two and one-half per cent of the taxable property of such city, and no debt shall ever be created by any city unless at the same time provision be made to assess and collect annually a sufficient sum to pay the interest thereon and create a sinking fund of at least two per cent thereon. No city charter shall be altered, amended or repealed oftener than every two years. The governing body of such city may, by two-thirds votes of its members, or upon petition of ten per cent of the qualified voters of said city, shall provide by ordinance for the submission of the question, "shall a commission be chosen to frame a new charter."

[Acts 1925, S.B. 84.]

Art. 1166. Requisites of Submission

The ordinance providing for the submission of such question shall require that it be submitted at the next regular municipal election, if one should be held, not less than thirty nor more than ninety days after the passage of said ordinance; otherwise it shall provide for the submission of the question at a special election to be called and held not less than thirty days nor more than ninety days after the passage of said ordinance and the publication thereof in some newspaper published in said city. The ballot containing such question shall bear no party designation, and provision shall be made thereon for the election from the city at large of a charter commission of not less than fifteen members, nor more than one member for each three thousand inhabitants, provided, that a majority of the qualified voters, voting on said question shall have voted in the affirmative.

[Acts 1925, S.B. 84.]

Art. 1167. Submission of Charter

The charter so framed by said commission shall be submitted to the qualified voters of said city at an election to be held at a time fixed by the charter commission not less than forty nor more than ninety days after the completion of the work of the charter commission; provision for which shall be made by the governing body of the city in so far as not prescribed by the general law. Not less than thirty days prior to such election, the governing body shall cause the city clerk or city secretary to mail a copy of the proposed charter to each qualified voter in said city as appears from the list of registered voters maintained as required by law by the registrar of voters for each county in which the city is located. In preparing the charter the commission shall, as far as practicable, segregate each subject

so that the voter may vote "Yes" or "No" on the same.

[Acts 1925, S.B. 84. Amended by Acts 1981, 67th Leg., p. 2286, ch. 553, § 1, eff. Sept. 1, 1981.]

Art. 1168. First Election

Where the legislative or governing authority of any city, or where any mass meeting has selected a charter committee or charter commission, or where the mayor of any city has appointed a charter committee which has proceeded with the formation of a charter for said city, the provisions hereof as to the selection of the charter commission shall not apply to the first charter election to be held in said city under the terms of this law.

[Acts 1925, S.B. 84.]

Art. 1169. Adoption of Charter

If such proposed charter is approved by a majority of the qualified voters, voting at said election, it shall become the charter of said city until amended or repealed. No charter shall be considered adopted until an official order has been entered upon the records of said city by the governing body thereof declaring the same adopted.

[Acts 1925, S.B. 84.]

Art. 1170. Amendments

When the governing body desires to submit amendments to any existing charter, said body may on its own motion, in the absence of a petition, and shall, upon receiving a petition signed by qualified voters in such city, town or political subdivision in number not less than five per cent (5%) thereof or 20,000 signatures, whichever is less, submit any proposed amendment or amendments to such charter. The ordinance providing for the submission of such amendment or amendments shall require the submission thereof at an election to be held not less than thirty (30) days nor more than ninety (90) days after the passage of said ordinance. If the next regular municipal election is to be held during said period, the submission of said amendment or amendments shall be at such election. Otherwise, a special election shall be called for the purpose. Notice of the election for the submission of said amendment or amendments shall be given by publication thereof, in some newspaper of general circulation published in said city, on the same day in each of two (2) successive weeks; the date of the first publication to be not less than fourteen (14) days prior to the date set for said election. The form of such notice shall be as prescribed by the governing body or as may be otherwise prescribed by law, and shall include a substantial copy of the proposed amendment or amendments. Every amendment submitted must contain only one subject, and in preparing the ballot for such amendment, it shall be done in such manner that the voter may vote "Yes" or "No" on any amendment or amendments without voting "Yes" or "No" on all of said amendments. Each such proposed amendment, if approved by the

majority of the qualified voters voting at said election, shall become a part of the charter of said city. No amendment shall be considered adopted until an official order has been entered upon the records of said city by the governing body thereof declaring the same adopted.

[Acts 1925, S.B. 84. Amended by Acts 1961, 57th Leg., p. 1108, ch. 500, § 1; Acts 1973, 63rd Leg., p. 146, ch. 77, § 1, eff. Aug. 27, 1973.]

Art. 1170a. Validation of Proceedings to Amend Charter; Ordinance Not Published as Required

In any instance where the charter of a home rule city requires ordinances to be published in full in a newspaper once each week for three (3) consecutive weeks prior to passage and which city has heretofore held an election for the purpose of amending its charter and such election was called and held in all things in accordance with the applicable general laws of the State of Texas, and such election resulted favorably to the adoption of the amendment submitted as shown by resolution adopted by the governing body of any such city, all of the proceedings relating to the calling of such election, irrespective of whether such ordinance was published as required by its charter, the notice given precedent to or subsequent to the passage of the ordinance calling such election and the resolution adopted canvassing the returns and declaring the result of such election are hereby validated, and the charter of any such city as thus amended shall constitute the charter of such city under the Constitution and laws of the State of Texas.

[Acts 1951, 52nd Leg., p. 383, ch. 246, § 1.]

Art. 1171. Repealed by Acts 1961, 57th Leg., p. 1108, ch. 500, § 2, eff. August 28, 1961

Art. 1172. Other Issues

Nothing in this chapter shall prevent the qualified voters of any city of over five thousand inhabitants from adopting any charter or amendment thereto, and at the same time electing officers under such charter or amendment.

[Acts 1925, S.B. 84.]

Art. 1173. Certification

Upon the adoption of any such charter or amendment to any existing charter as provided herein, the mayor or chief executive officer exercising like or similar powers, of any such city, as soon as practicable, after the adoption of any such charter or amendment, shall certify to the Secretary of State an authenticated copy under the seal of the city, showing the approval by the qualified voters of any such charter or amendment, and the Secretary of State shall thereupon file and record the same in a separate book to be kept in his office for such purpose.

[Acts 1925, S.B. 84.]

Art. 1174. Registration

The city secretary of any such city or officer exercising like or similar powers, upon the adoption and approval of any such charter or any amendment thereof by the qualified voters as herein provided, shall record at length upon the records of the city, in a separate book to be kept in his office for such purpose, any such charter, or amendment so adopted. When such charter or any amendment thereof shall be so recorded, it shall be deemed a public act and all courts shall take judicial notice of same and no proof shall be required of same. All cities may institute and prosecute suits without giving security for cost and may appeal from judgment without giving supersedeas or cost bond.

[Acts 1925, S.B. 84.]

Art. 1174a. Validating Charter or Charter Amendments

That each charter, and amendment to a charter adopted by any city or¹ more than five thousand inhabitants in this State, or where such city has amended or attempted to amend or adopt such charter, since the enactment of Chapter 147, Acts of the Regular Session of the Thirty-Third Legislature of the State of Texas, 1913, relating to home rule, as well as all amendments and proceedings had under the same and all bonds issued under any amendment where the said bonds have been approved by the Attorney General and registered with the Comptroller, are hereby fully validated, ratified and confirmed and are hereby declared to be in full force and effect as if adopted in strict compliance with all of the requirements of said Chapter 147, Acts of the Thirty-Third Legislature, and the General Laws of Texas relating thereto, and this act shall take effect and be in force from and after its passage.

[Acts 1925, 39th Leg., p. 187, ch. 50, § 1. Amended by Acts 1929, 41st Leg., p. 324, ch. 149, § 1.]

¹ So in enrolled bill; probably should read "of".

Art. 1174a-1. Validation of Adoption of Charter and Election and Assumption of Office

In each instance where an election has been held heretofore in a city for the purpose of voting upon the adoption of a home rule charter for such city, and where copies of the proposed charter with the date of the election shown thereon were mailed to all of the voters within said city as shown by the tax rolls thereof, and a news item showing the date and purpose of said election was published in a newspaper published within such city at least thirty (30) days prior to the date of the said election, and such news item did not state that the voting would be limited to property owners or taxpayers in the city, and where the officers holding the election did not deny anyone the right to vote upon the ground that he was not a property owner or taxpayer, and such election resulted favorably to the adoption of the charter as shown by a resolution adopted by the

governing body of the city either before or after the election of¹ assumption of office by new members of such governing body under the charter, all of the proceedings relating to the adoption of such charter and the election of and assumption of office by the new members of the governing body are hereby validated, and such charter shall constitute the charter of said city under the Constitution and laws of this State.

[Acts 1951, 52nd Leg., p. 64, ch. 38, § 1.]

¹ So in enrolled bill; probably should read "election of and".

Art. 1174a-2. Validation of Adoption of Charter; Elections and Assumption of Office; Acts of Officers

Sec. 1. In each instance where an election has heretofore been held in an incorporated city for the purpose of voting upon the adoption of a home rule charter for such city, where copies of the proposed charter with the date of the election shown thereon were mailed to all voters within said city as shown by the tax rolls thereof, and a news item showing the date and purpose of said election was published in a newspaper published within such city at least thirty (30) days prior to the date of such election, and a majority of the qualified voters of said city voting at said election voted in favor of the adoption of such charter, all such proceedings relating to the adoption of said charter are hereby in all things validated, ratified, and confirmed, and said charter shall constitute the home rule charter of said city under the constitution and laws of this State. All elections held under the provisions of said charter for the purpose of electing members of the governing body of the city and the assumption of office by such elected members are hereby in all things validated. All acts of the city officers and officials of any such city are hereby in all things validated.

Sec. 2. This Act shall not be construed as validating the adoption of any charter or the charter so adopted if the validity of the charter adoption proceedings or of the charter are involved in litigation on the effective date of this Act in a court of competent jurisdiction of this State and such litigation is ultimately determined against the validity thereof.

Sec. 3. If any word, phrase, clause, sentence or part of this Act shall be held by any court of competent jurisdiction to be invalid or unconstitutional, it shall not affect any other phrase, word, clause, sentence, or part of this Act.

[Acts 1953, 53rd Leg., p. 362, ch. 88.]

Art. 1174a-3. Validation of Amendment of Charter; Elections and Assumption of Office; Acts of Governing Boards

Sec. 1. In any instance where a home rule city has previously held an election for the purpose of adopting an amendment or amendments to an existing home rule charter, and copies of the proposed charter amendment or amendments were mailed to

every qualified voter in the city as prescribed by law, and a majority of the qualified voters of said city voting at said election voted in favor of adopting such amendment or amendments, and such city did not publish the proposed amendment or amendments after calling said election as required by *Turner v. Lewie*, 201 S.W.2d 86, is, and such proceedings are, hereby in all things validated, ratified and confirmed as if such notice had been published. All elections held under the provisions of said charter, as amended, for the purpose of electing members of the governing body of the city and the assumption of office by those persons receiving the highest votes at such election and all elections thereafter called and/or held to authorize the issuance of bonds by such city, are hereby in all things validated. All acts of said officers and officials of any such city are hereby in all things validated.

Sec. 2. This Act shall not be construed as validating the adoption of any charter amendment, or the charter as so amended, if the validity of the charter amendment proceedings, or of the charter, are involved in litigation on the effective date of this Act in a court of competent jurisdiction of this State and such litigation is ultimately determined against the validity thereof.

Sec. 3. If any word, phrase, clause, sentence, or part of this Act shall be held by any court of competent jurisdiction to be invalid or unconstitutional, it shall not affect any other word, phrase, clause, sentence, or part of this Act.

[Acts 1955, 54th Leg., p. 28, ch. 20.]

Art. 1174a-4. Validation of Adoption of Charter; Elections and Assumption of Office; Acts of Officers

Sec. 1. In each instance where an election has heretofore been held in an incorporated city for the purpose of voting upon the adoption of a home rule charter for such city, where copies of the proposed charter with the date of the election shown thereon were mailed to all voters within said city as shown by the tax roll thereof, and a news item showing the dates and purpose of said election was published in a newspaper published within such city at least thirty (30) days prior to the date of such election, and the proposed charter in its entirety was printed and published in a newspaper published within such city at least twenty (20) days prior to the date of such election, and a majority of the qualified voters of said city voting at said election voted in favor of the adoption of such charter, all such proceedings relating to the adoption of said charter are hereby in all things validated, ratified, and confirmed, and said charter shall constitute the home rule charter of said city under the Constitution and Laws of this State. All elections held under the provisions of said charter for the purpose of electing members of the governing body of the city and the assumption of office by such elected members are hereby in all things validated. All acts of the city officers and

officials of any such city are hereby in all things validated.

Sec. 2. This Act shall not be construed as validating the adoption of any charter or the charter so adopted if the validity of the charter adoption proceedings or of the charter are involved in litigation on the effective date of this Act in a court of competent jurisdiction of this State, and such litigation is ultimately determined against the validity thereof.

[Acts 1959, 56th Leg., p. 984, ch. 459.]

Art. 1174a-5. Validation of Amendment of Charter; Elections and Assumption of Office; Acts of Governing Boards

Sec. 1. In any instance where a Home Rule City has previously held an election for the purpose of adopting an amendment or amendments to an existing Home Rule Charter, and the Notice of Intention had been published in the official newspaper published in the city one time at least eighteen days prior to the passage of the ordinance calling the election and that the ordinance calling the election was published in an "Extra Edition" of the official newspaper published in the city at least twenty-eight days prior to the date of the election, and copies of the proposed Charter amendment or amendments were mailed to every qualified voter in the city as prescribed by law, and a majority of the qualified voters of said city voted in favor of adopting such amendment or amendments is, and such proceedings are, hereby in all things validated, ratified and confirmed. All elections held under the provisions of said Charter as amended for the purpose of electing members of the governing body of the city and the assumption of office by those persons receiving the highest votes at such election and all elections thereafter and are held to authorize the issuance of bonds in such city are hereby in all things validated. All acts of said officers and officials in any such city are hereby in all things validated and the Charter of any such city as thus amended shall constitute the Charter of such city under the Constitution and Laws of the State of Texas.

Sec. 2. This Act shall not be construed as validating the adoption of any Charter amendment or the Charter as so amended if the validity of the Charter amendment proceedings or the Charter are involved in litigation on the effective date of this Act in a court of competent jurisdiction of the state and such litigation is ultimately determined against the validity thereof.

[Acts 1961, 57th Leg., p. 192, ch. 102.]

Art. 1174a-6. Validation of Adoption of Charter of Home Rule Cities with Population in Excess of 10,000; Elections

Sec. 1. This Act shall apply to every Home Rule City in the State of Texas having a population in excess of ten thousand (10,000) persons according to

the 1960 Federal Census, which has adopted or attempted to adopt a new Home Rule Charter. All proceedings had and actions taken in connection with the adoption of said new charter are hereby in all things validated. Without in any way limiting the generalization of the foregoing, it is expressly provided that all election proceedings relating to the adoption of said new charter, at which elections more than a majority of the qualified voters voting at said elections voted in favor of the proposition or propositions submitted at said elections, are hereby in all things validated.

Sec. 2. The validation provisions of this Act shall have no application to litigation pending upon the effective date of this Act questioning the validity of any matters hereby validated if such litigation is ultimately determined against the validity of the same.

[Acts 1961, 57th Leg., p. 448, ch. 221.]

Art. 1174a-7. Validation of Adoption of Charter of Home Rule City in Counties of 500,000 or More; Elections and Assumption of Office; Acts of Officers

Sec. 1. In each instance where an election has heretofore been held in an incorporated city in counties of five hundred thousand (500,000) or more according to the last preceding Federal Census for the purpose of voting upon the adoption of a home rule charter, where copies of the proposed charter with the date of election shown therein were mailed to each qualified voter in said city as appeared from the tax collector's roll for the year ending January 31 preceding such charter election, and a majority of the qualified voters of such city voting at said election voted in favor of the adoption of such charter as shown by the official canvass of election returns, all proceedings relating to the adoption of said charter are hereby in all things validated, ratified and confirmed, and said charter shall constitute the home rule charter of said city under the Constitution and laws of the State of Texas. All elections held under the provisions of said charter for the purpose of electing members of the governing body of the city and the assumption of office by such elected members are hereby in all things validated. All acts of the city officers and officials of any such city are hereby in all things validated, except to the extent that such acts have been heretofore invalidated by judgment of a court of competent jurisdiction or are hereafter so invalidated in litigation pending on the effective date of this Act.

Sec. 2. This Act shall not be construed as validating the adoption of any charter or the charter so adopted if the validity of the charter adoption proceedings or of the charter are involved in litigation on the effective date of this Act in a court of competent jurisdiction of this state and such litigation is ultimately determined against the validity thereof.

[Acts 1962, 57th Leg., 3rd C.S., p. 115, ch. 39, §§ 1, 2.]

Art. 1174a-8. Validation of Adoption of Charter; Elections; Governmental Proceedings

Sec. 1. In each instance where an election has heretofore been held in an incorporated city for the purpose of voting upon the adoption of a Home Rule Charter for such city, and in each instance where a home rule city has previously held an election for the purpose of voting upon the adoption of an amendment or amendments to an existing Home Rule Charter and a majority of the qualified voters (as shown by the canvass of the returns and declaration of the result of said election) participating at said election voted in favor of the adoption of such Charter, amendment or amendments, all of the proceedings relating to such election are hereby in all things ratified, confirmed and validated and said Charter or said Charter as so amended, as the case may be, shall constitute the Home Rule Charter of such city.

Sec. 2. All actions heretofore taken by the governing body of such city in the calling and holding of an election for the selection of members of the governing body of such city so the same shall consist of the number of persons specified in such Charter, amendment or amendments are hereby ratified and confirmed and the persons so elected and qualified are recognized as the governing body of such city.

Sec. 3. All governmental proceedings of home rule cities, save and except those relating to annexation of territory, are hereby ratified and confirmed and all actions of the governing bodies of home rule cities in calling and holding elections for bonds and in the authorization, issuance and delivery of bonds, warrants, scrip, and certificates of indebtedness or of assessment are hereby ratified and confirmed and said obligations shall have effect according to their purport and tenor.

Sec. 4. This Act shall not be construed as validating any proceedings or actions the validity of which is involved in litigation on the effective date of this Act and such litigation is ultimately determined against the validity thereof.

[Acts 1965, 59th Leg., p. 415, ch. 203, eff. May 18, 1965.]

Art. 1174a-9. Validation of Adoption of Charter; Elections; Governmental Proceedings

Sec. 1. In each instance where an election has heretofore been held in an incorporated city for the purpose of voting upon the adoption of a home-rule charter for the city, and in each instance where a home-rule city has previously held an election for the purpose of voting upon the adoption of an amendment or amendments to an existing home-rule charter and a majority of the qualified voters (as shown by the canvass of the returns and declaration of the result of said election) participating at the election voted in favor of the adoption of such charter, amendment or amendments, all the pro-

ceedings relating to such election are hereby in all things ratified, confirmed, and validated, and the charter or the charter as so amended, as the case may be, shall constitute the home-rule charter of the city.

Sec. 2. All actions heretofore taken by the governing body of the city in the calling and holding of an election for the selection of members of the governing body of the city so the same shall consist of the number of persons specified in the charter, amendment or amendments are hereby ratified and confirmed and the persons so elected and qualified are recognized as the governing body of the city.

Sec. 3. All governmental proceedings of home-rule cities, save and except those relating to annexation of territory, are hereby ratified and confirmed and all actions of the governing bodies of home-rule cities in calling and holding elections for bonds and in the authorization, issuance, and delivery of bonds, warrants, scrip, and certificates of indebtedness or of assessment are hereby ratified and confirmed and the obligations shall have effect according to their purport and tenor.

Sec. 4. This Act shall not be construed as validating any proceedings or actions the validity of which is involved in litigation on the effective date of this Act and such litigation is ultimately determined against the validity thereof.

[Acts 1973, 63rd Leg., p. 1682, ch. 609, eff. June 15, 1973.]

Art. 1174a-10. Validation of Adoption of Charter; Governmental Acts and Proceedings

Applicability

Sec. 1. This Act applies to any incorporated city or town that before the effective date of this Act adopted or attempted to adopt a home-rule charter and since the adoption or attempted adoption has functioned as a home-rule city.

Proceedings Validated

Sec. 2. (a) All governmental acts and proceedings of a municipality covered by this Act regarding the adoption of a home-rule charter are validated as of the dates on which they occurred.

(b) All governmental acts and proceedings of the municipality since adoption or attempted adoption of the charter are validated as of the dates on which they occurred.

Effect on Litigation

Sec. 3. This Act does not apply to any matter that on the effective date of this Act:

(1) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court of competent jurisdiction; or

(2) has been held invalid by a final judgment of a court of competent jurisdiction.

[Acts 1979, 66th Leg., p. 1552, ch. 668, eff. Aug. 27, 1979.]

Art. 1174a-11. Validation of Amendment of Charter; Governmental Acts and Proceedings

Application

Sec. 1. This Act applies to any home-rule city that before August 24, 1980, amended or attempted to amend its charter and since the amendment or attempted amendment has functioned or attempted to function under the charter as amended.

Proceedings Validated

Sec. 2. (a) The governmental acts and proceedings of a home-rule city covered by this Act relating to the amendment or attempted amendment of the city's charter are validated as of the dates they occurred. The acts and proceedings may not be held invalid because they were not performed in accordance with law.

(b) The governmental acts and proceedings of the city occurring since the amendment of the charter and before the effective date of this Act are validated as of the dates they occurred, except that the extension of a boundary line by annexation into the extraterritorial jurisdiction of another city or town without that city or town's consent, in violation of the Municipal Annexation Act, as amended (Article 970a, Vernon's Texas Civil Statutes), is not validated by this Act.

Effect on Litigation

Sec. 3. This Act does not apply to any matter that on the effective date of this Act:

(1) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court of competent jurisdiction; or

(2) has been held invalid by a final judgment of a court of competent jurisdiction.

[Acts 1981, 67th Leg., p. 2219, ch. 521, eff. Aug. 31, 1981.]

Art. 1174a-12. Validation of Adoption of Charter; Governmental Acts and Proceedings

Applicability

Sec. 1. This Act applies to any incorporated city or town that before the effective date of this Act adopted or attempted to adopt a home-rule charter and since the adoption or attempted adoption has functioned as a home-rule city.

Proceedings Validated

Sec. 2. (a) All governmental acts and proceedings of a municipality covered by this Act regarding the adoption of a home-rule charter are validated as of the dates on which they occurred.

(b) All governmental acts and proceedings of the municipality since adoption or attempted adoption of the charter are validated as of the dates on which they occurred, except any annexation or attempted annexation gulfward from the coastline.

Effect on Litigation

Sec. 3. This Act does not apply to any matter that on the effective date of this Act:

(1) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court of competent jurisdiction; or

(2) has been held invalid by a final judgment of a court of competent jurisdiction.

[Acts 1983, 68th Leg., p. 4354, ch. 698, §§ 1 to 3, eff. June 19, 1983.]

Art. 1174b. Validation of Annexation Proceedings of Home Rule Cities

Sec. 1. All elections, election orders, election proceedings and city ordinances annexing adjacent territory to, or extending and prescribing the corporate limits of, any Home Rule City that has adopted a charter under Article Eleven (11), Section Five (5), of the Constitution of Texas, and the provisions of Chapter 147, Acts of the Regular Session of the 33rd Legislature of the State of Texas, 1913, but which City did not in fact have a population of five thousand according to the 1920 Federal Census, be and the same are hereby validated and confirmed.

Sec. 2. The city ordinances of all Home Rule Cities in the class described in the foregoing Section fixing and prescribing the corporate limits extended by the annexation or attempted annexation of adjacent territory are hereby validated.

[Acts 1930, 41st Leg., 5th C.S., p. 139, ch. 16.]

Art. 1174c. Validating Annexation of Adjacent Territory

Sec. 1. All elections, election orders, election proceedings, city ordinances and amendments to charters annexing adjacent territory to, or extending and prescribing the corporate limitations of any home rule city that has adopted a charter under Article 11, Section 5, of the Constitution of the State of Texas, and the provisions of Chapter 147, Acts of the Regular Session of the Thirty-third Legislature of the State of Texas, 1913, and Article 1175 of Vernon's Annotated Texas Statutes, by which said city did not in fact have separate elections and separate election boxes for the city voters and the territory to be annexed, and did not comply with other requirements of the law, be and the same are hereby validated and confirmed.

Sec. 2. The city ordinances and charter amendments of all home rule cities in the class described in the foregoing section, fixing and prescribing the corporate limits extended by the annexation or at-

tempted annexation of adjacent territory are hereby validated.

[Acts 1936, 44th Leg., 3rd C.S., p. 2102, ch. 506.]

Art. 1174d. Validation of Annexation Proceedings in Home Rule Cities of 8,920 to 9,580 Population

All ordinances and proceedings and all actions, proceedings, and contracts taken or made in pursuance thereof, heretofore undertaken by virtue of Article 1175, Revised Civil Statutes of Texas of 1925, providing for the extension of the corporate limits of Home Rule cities by any city which at such time was acting under a Home Rule charter, and which such ordinances, actions, proceedings, and contracts were undertaken prior to April 1, 1930, are hereby ratified and confirmed, and such extensions of the city limits of such cities so undertaken, as well as all proceedings and contracts taken or made in pursuance thereof and the exercise of dominion and governmental functions over such added territory by extension shall be deemed and held valid in all respects and to the same extent as if done under legislative authority previously given. The provisions of this Act shall apply only to cities having a population of not less than eight thousand, nine hundred and twenty (8,920) nor more than nine thousand, five hundred and eighty (9,580), according to the last preceding Federal Census.

[Acts 1937, 45th Leg., 2nd C.S., p. 1904, ch. 27, § 1.]

Art. 1174e. Validation of Annexation Proceedings of Certain Home Rule Cities Occurring Before March 1, 1961

Sec. 1. All ordinances, resolutions and proceedings passed and adopted and all contracts made pursuant thereto, prior to the 1st day of March, 1961, by a home rule city undertaking to annex adjacent and contiguous territory to its corporate limits by virtue of the provisions of Article 1175 of the Revised Civil Statutes of 1925 and the amendments thereto, or by virtue of the applicable provisions of its city charter, are hereby ratified and confirmed, and such extensions of the city limits of such cities so undertaken, as well as all proceedings and contracts taken or made in pursuance thereof and the exercise of dominion and governmental functions over such added territory, by annexation, shall be deemed and held valid in all respects and to the same extent as if done under legislative authority previously given.

Sec. 1(a). Nothing herein shall validate any annexation proceedings where no bonds have been voted or issued by the annexing municipality prior to March 1, 1961, and after the commencement of such annexation proceedings.

Sec. 2. The effective date of this Act shall be January 1, 1962, and the provisions of this Act shall not apply to any city if its annexation proceedings

are involved in litigation at the time this law becomes effective.

[Acts 1961, 57th Leg., p. 1009, ch. 439.]

Art. 1175. Enumerated Powers

Cities adopting the charter or amendment hereunder shall have full power of local self-government, and among the other powers that may be exercised by any such city the following are hereby enumerated for greater certainty:

1. The creation of a commission, aldermanic or other form of government; the creation of offices, the manner and mode of selecting officers and prescribing their qualifications, duties, compensation and tenure of office.

2. The power to fix the boundary limits of said city, to provide for the extension of said boundary limits and the annexation of additional territory lying adjacent to said city, to provide for the disannexation of territory within such city and to provide for the exchange of territory with other cities or towns, according to such rules as may be provided by said charter not inconsistent with the procedural rules prescribed by the Municipal Annexation Act.¹

3. To hold by gift, deed, devise or otherwise any character of property, including any charitable or trust fund; to plead and be impleaded in all courts, and to act in perpetual succession as a body politic.

4. To provide that no public property or any other character of property owned or held by said city shall be subject to any execution of any kind or nature.

5. To provide that no fund of the city shall be subject to garnishment, and the city shall never be required to answer in any garnishment proceedings.

6. To provide for the exemption from liability on account of any claim for any damages to any person or property, or to fix such rules and regulations governing the city's liability as may be deemed advisable.

7. To provide for the levying of any general or special ad valorem tax for any purpose not inconsistent with the Constitution of this State.

8. To provide for the mode and method of assessing taxes, both real and personal, against any person and corporation, including the right to assess the franchise of any public corporation using and occupying the public streets or grounds of the city, separately from the tangible property of such corporation.

9. To provide for the collection of all taxes, including the right to impose penalties for delinquent taxes.

10. The power to control and manage the finances of any such city; to prescribe its fiscal year and fiscal arrangements; the power to issue bonds upon the credit of the city for the purpose of making permanent public improvements or for other public purposes in the amount and to the extent

provided by such charter, and consistent with the Constitution of this State; provided, that said bonds shall have first been authorized by a majority vote by the duly qualified property tax-paying voters voting at an election held for that purpose. Thereafter all such bonds shall be submitted to the Attorney General for his approval, and the Comptroller for registration, as provided by law, provided that any such bonds after approval, may be issued by the city, either optional or serial or otherwise as may be deemed advisable by the governing authority. Whenever any city has heretofore been authorized, under any special charter, creating such city, to issue any bonds by the terms of such charter, the provisions of this chapter shall not be construed to interfere with the issuance of any such bonds under the provisions of any charter under which such bonds were authorized.

11. To have the exclusive right to own, erect, maintain and operate water works and water works system for the use of any city, and its inhabitants, to regulate the same and have power to prescribe rates for water furnished and to acquire by purchase, donation or otherwise, suitable grounds within and without the limits of the city on which to erect any such works and the necessary right of way, and to do and perform whatsoever may be necessary to operate and maintain the said water works or water works system and to compel the owners of all property and the agents of such owners or persons in control thereof to pay all charges for water furnished upon such property and to fix a lien upon such property for any such charges. To provide that all receipts from the water works may, in its discretion, constitute a separate or sacred fund which shall be used for no other purpose than the extension, improvement, operation, maintenance, repair and betterment of said water works system or water works supply, and to provide for the pledging of any such receipts and revenues for the purpose of making any of such improvements, and the payment of the principal and providing an interest and sinking fund for any bonds issued therefor under such regulations as may be provided by the charter adopted by such city.

12. To prohibit the use of any street, alley, highway or grounds of the city by any telegraph, telephone, electric light, street railway, interurban railway, steam railway, gas company, or any other character of public utility without first obtaining the consent of the governing authorities expressed by ordinance and upon paying such compensation as may be prescribed and upon such condition as may be provided by any such ordinance. To determine, fix and regulate the charges, fares or rates of any person, firm or corporation enjoying or that may enjoy the franchise or exercising any other public privilege in said city and to prescribe the kind of service to be furnished by such person, firm or corporation, and the manner in which it shall be rendered, and from time to time alter or change

such rules, regulations and compensation; provided that in adopting such regulations and in fixing or changing such compensation, or determining the reasonableness thereof, no stock or bonds authorized or issued by any corporation enjoying the franchise shall be considered unless proof² that the same have been actually issued by the corporation for money paid and used for the development of the corporate property, labor done or property actually received in accordance with the laws and Constitution of this State applicable thereto. In order to ascertain all facts necessary for a proper understanding of what is or should be a reasonable rate or regulation, the governing authority shall have full power to inspect the books and compel the attendance of witnesses for such purpose.

13. To buy, own, construct within or without the city limits and to maintain and operate a system or systems, of gas, or electric lighting plant, telephone, street railways, sewerage plants, fertilizing plants, abattoir, municipal railway terminals, docks, wharfs, ferries, ferry landings, loading and unloading devices and shipping facilities, or any other public service or public utility, and to demand and receive compensation for service furnished for private purpose or otherwise, and to exercise the right of eminent domain as hereinafter provided for the appropriation of lands, rights of way or anything whatsoever that may be proper and necessary to efficiently carry out said objects. Any city shall have the power to condemn the property of any person, firm or corporation now conducting any such business and for the purpose of operating and maintaining any such public utilities and for the purpose of distributing such service throughout the city or any portion thereof; provided that any city may adopt by its charter any such rules and regulations as it may deem advisable for the acquiring and operation of any such public utilities.

14. To manufacture its own electricity, gas, or anything else that may be needed or used by the public; to purchase and make contracts with any person or corporation for the purchasing of gas, electricity, oil or any other commodity or article used by the public and to sell the same to the public upon such terms as may be provided by the charter.

15. To have the power to appropriate private property for public purposes whenever the governing authorities shall deem it necessary; to take any private property within or without the city limits for any of the following purposes; city halls, police stations, jails, calaboose, fire stations, libraries, school houses, high school buildings, academies, hospitals, sanitariums, auditoriums, market houses, reformatories, abattoirs, railroad terminals, docks, wharves, warehouses, ferries, ferry landings, elevators, loading and unloading devices, shipping facilities, piers, streets, alleys, parks, highways, boulevards, speedways, playgrounds, sewer systems, storm sewers, sewerage disposal plants, drains, filtering beds and emptying grounds for sewer systems, reservoirs, water sheds, water supply sources,

wells, water and electric light systems, gas plants, cemeteries, crematories, prison farms, and to acquire lands within and without the city for any other municipal purposes that may be deemed advisable. The power herein granted for the purpose of acquiring private property shall include the power of the improvement and enlargement of the water works, including water supply, riparian rights, stand pipes, water sheds, the construction of supply reservoirs, parks, squares and pleasure grounds, public wharves, and landing places for steamers and other crafts, and for the purpose of straightening or improving the channels of any stream, branch or drain, or the straightening, widening or extension of any street, alley, avenue or boulevard. The power of eminent domain hereby conferred shall include the right of the governing authority, when so expressed, to take the fee in the lands so condemned and such power and authority shall include the right to condemn public property for such purposes.

16. To have exclusive dominion, control, and jurisdiction in, over and under the public streets, avenues, alleys, highways and boulevards, and public grounds of such city and to provide for the improvement of any public street, alleys, highways, avenues or boulevards by paving, raising, grading, filling or otherwise improving the same and to charge the cost of making such improvement against the abutting property, by fixing a lien against the same, and a personal charge against the owner thereof according to an assessment specially levied therefor in an amount not to exceed the special benefit any such property received in enhanced value by reason of making such improvement, and to provide for the issuance of assignable certificates covering the payments for said cost, provided that the charter shall apportion the cost to be paid by the property owners and the amount to be paid by the city, and provided further, that all street railways, steam railways, or other railways, shall pay the cost of improving the said street between the rails and tracks of any such railway companies and for two feet on each side thereof. The city shall have the power to provide for the construction and building of sidewalks and charge the entire cost of constructing of said sidewalks, including the curb, against the owner of abutting property, and to make a special charge against the owner for such cost and to provide by special assessment a lien against such property for such cost; to have the power to provide for the improvement of any such sidewalk or the construction of any such curb by penal ordinance and to declare defective sidewalks to be a public nuisance. The power herein granted for making street improvements and assessing the cost by special assessment in the manner herein stated shall not be construed to prevent any city from adopting any other method or plan for the improvement of its streets, sidewalks, alleys, curbs, or boulevards, as it may deem advisable by its charter.

17. To open, extend, straighten, widen any public street, alley, avenue or boulevard and for such

purpose to acquire the necessary lands and to appropriate the same under the power of eminent domain and to provide that the cost of improving any such street, alley, avenue or boulevard by opening, extending and widening the same shall be paid by the owners of property specially benefited whose property lies in the territory of such improvement and to provide that the cost shall be charged by special assessment and that a personal charge shall be made against any owner for the amount due by him and to provide for the appointment by the county judge or other officer exercising like or similar powers, of three special commissioners for the purpose of condemning the said lands and for the purpose of apportioning the said cost, which apportionment of said cost shall be specially assessed by the governing authorities against the owners and the property of the owners lying in the territory so found to be specially benefited in enhanced value by said special commissioners. The city shall pay such portion of such cost as may be determined by the said special commissioners, provided the same shall never exceed one third the cost, and the property owners and their property shall be liable for the balance of the same as may be apportioned by said commissioners. The city may issue assignable certificates for the payment of any such cost against such property owners and may provide for the payment of any such cost in deferred payments, to bear interest at such rate as may be prescribed by the charter not to exceed eight per cent. The city may adopt any other method for the opening, straightening, widening or extending of its streets as herein provided for as may be deemed advisable, and charge the cost of same against the property and the owner specially benefited in enhanced value and lying in the territory of said improvement, that its charter may provide. The authority to adopt any other method shall include the manner of appointing commissioners, the manner of giving notice and the manner of fixing assessments or providing for the payment of any such improvement.

18. To control, regulate and remove all obstructions or other encroachments or encumbrances on any public street, alley or ground, and to narrow, alter, widen or straighten any such streets, alleys, avenues or boulevards, and to vacate and abandon and close any such streets, alleys, avenues or boulevards, and to regulate and control the moving of buildings or other structures over and upon the streets or avenues of such city.

19. Each city shall have the power to define all nuisances and prohibit the same within the city and outside the city limits for a distance of five thousand feet; to have power to police all parks or grounds, lakes and the land contiguous thereto and used in connection therewith, speedways, or boulevards owned by said city and lying outside of said city; to prohibit the pollution of any stream, drain or tributaries thereof, which may constitute the source of water supply of any city and to provide

for policing the same as well as to provide for the protection of any water sheds and the policing of same; to inspect dairies, slaughter pens and slaughter houses inside or outside the limits of the city, from which meat or milk is furnished to the inhabitants of the city.

20. To license, operate and control the operation of all character of vehicles using the public streets, including motorcycles, automobiles or like vehicles, and to prescribe the speed of the same, the qualification of the operator of the same, and the lighting of the same by night and to provide for the giving bond or other security for the operation of the same.

21. To regulate, license and fix the charges or fares made by any person owning, operating or controlling any vehicle of any character used for the carrying of passengers for hire or the transportation of freight for hire on the public streets and alleys of the city.

22. To regulate the location and control the conduct of theaters, moving picture shows, ten pin alleys, vaudeville shows, and all places of public amusements.

23. To license any lawful business, occupation or calling that is susceptible to the control of the police power.

24. To license, regulate, control or prohibit the erection of signs or bill boards as may be provided by charter or ordinance.

25. To provide for the establishment and designation of fire limits and to prescribe the kind and character of buildings or structures or improvements to be erected therein, and to provide for the erection of fire proof buildings within certain limits, and to provide for the condemnation of dangerous structures or buildings or dilapidated buildings or buildings calculated to increase the fire hazard, and the manner of their removal or destruction.

26. To divide the city in zones or districts, and to regulate the location, size, height, bulk and use of buildings within such zones or districts, and to establish building lines within such zones or districts or otherwise, and make different regulations for different districts and thereafter alter the same. The governing authorities may be authorized by their charter to create a commission or board for the purpose of carrying out the powers of this section, or may provide for the creation of a board of appeals or review for the purpose of hearing and deciding on appeals from and reviewing any order, requirement, decision or determination of the governing authorities in carrying out the powers and authority herein conferred; provided the authority and power herein conferred shall never be construed to be a limitation of any other power and authority conferred in this chapter.

27. To provide for police and fire departments.

28. To provide for a health department and the establishment of rules and regulations protecting the health of the city and the establishment of quarantine stations, and pest houses, emergency hospitals and hospitals, and to provide for the adoption of necessary quarantine laws to protect the inhabitants against contagious or infectious diseases.

29. To provide for a sanitary sewer system and to require property owners to make connections with such sewers with their premises and to provide for fixing a lien against any property owner's premises who fails or refuses to make sanitary sewer connections and to charge the cost against said owner and make it a personal liability. To provide for fixing penalties for a failure to make sanitary sewer connections.

30. The power to require water works corporations, gas companies, street car companies, telephone companies, telegraph companies, electric light companies or other companies or individuals enjoying a franchise now or hereafter from the city, to make and furnish extensions of their service to such territory as may be required by the charter.

31. Provided that in all cities of over twenty-five thousand inhabitants, the governing body of such city, when the public service of such city may require the same, shall have the right and power to compel any street railway or other public utility corporation to extend its lines of service into any section of said city not to exceed two miles, all told, in any one year.

32. To provide for the establishment of public schools and public school system in any such city, and to have exclusive control over same and to provide such regulations and rules governing the management of same as may be deemed advisable; to levy and collect the necessary taxes, general or special, for the support of such public schools and public school system.

33. Whenever any city may determine to acquire any public utility using and occupying its streets, alleys, and avenues as hereinbefore provided, and it shall be necessary to condemn the said public utility, the city may obtain funds for the purpose of acquiring the said public utility and paying the compensation therefor, by issuing bonds, notes or other evidence of indebtedness and shall secure the same by fixing a lien upon the said properties constituting the said public utility so acquired by condemnation or purchase or otherwise; said security shall apply alone to said properties so pledged; and such further regulations may be provided by any charter for the proper financing or raising the revenue necessary for obtaining any public utilities and providing for the fixing of said security.

34. To enforce all ordinances necessary to protect health, life and property, and to prevent and summarily abate and remove all nuisances and to preserve and enforce the good government, order and security of the city and its inhabitants.

35. A home-rule city may require all buildings to be constructed in accordance with energy conservation standards included in the building code, if any.

36. A home-rule city may adopt an ordinance which requires the demolition or repair of buildings which are dilapidated, substandard, or unfit for human habitation and which constitute a hazard to the health, safety, and welfare of the citizens. The ordinance must establish minimum standards for continued use and occupancy of structures, and these standards shall apply to buildings regardless of when they were constructed. The ordinance must provide for proper notice to the owner and a public hearing. After the hearing, if the building is found to be substandard, the city may direct that the building be repaired or removed within a reasonable time. After the expiration of the allotted time the city has the power to remove the building at the expense of the city and assess the expenses on the land on which the building stood or to which it was attached and may provide for that assessment, the mode and manner of giving notice, and the means of recovering the removal expenses.

[Acts 1925, S.B. 84. Amended by Acts 1963, 58th Leg., p. 447, ch. 160, art. II; Acts 1967, 60th Leg., p. 189, ch. 100, § 1, eff. Aug. 28, 1967; Acts 1975, 64th Leg., p. 235, ch. 89, § 8, eff. Jan. 1, 1976; Acts 1975, 64th Leg., p. 627, ch. 258, § 1, eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 905, ch. 413, § 1, eff. June 6, 1979.]

¹ Article 970a.

² So in enrolled bill.

Art. 1175a. Extension of Corporate Limits by Certain Cities Validated

That all ordinances and proceedings, and all actions, proceedings and contracts, taken or made in pursuance thereof, of any city having a population of one hundred thousand and under one hundred fifty thousand, as shown by the preceding Federal Census, which have been, heretofore, passed under and in accordance with Article 1175, Revised Statutes 1925, providing for the extension of the corporate limits of such city, are hereby ratified and confirmed, and such extensions and actions, proceedings and contracts, taken or made in pursuance thereof, shall be deemed and held valid in all respects and to the same extent as if done under Legislature¹ authority, previously given.

[Acts 1929, 41st Leg., p. 386, ch. 176, § 1.]

¹ So in enrolled bill; probably should read "Legislative".

Art. 1175b. Inspection and Test of Motor Vehicles

Ordinances Authorized

Sec. 1. All cities and towns in the State of Texas, whether incorporated under general or special law, including home rule cities, having a population in excess of two hundred and ninety thousand (290,000) inhabitants, according to the last preceding or any future Federal Census, shall have and they are

hereby given the power and authority to pass an ordinance or ordinances;

(a) Requiring all residents of said city, including corporations having their principal office or place of business in said city, owning a motor vehicle used for the transportation of persons or property, or both, and all persons using the streets, alleys, or other public thoroughfares of said city upon which to operate a motor vehicle, to have each and every such motor vehicle tested and inspected and to comply with such requirements, as may be imposed by said ordinance, not more than four times in each calendar year;

(b) Requiring that other and additional tests and inspections may be required of all motor vehicles involved in any wreck, collision, or accident before the same may be operated on the streets, alleys, or other public thoroughfares of said city after said wreck, collision, or accident;

(c) Requiring as a condition precedent to the right to use the streets, alleys, or other public thoroughfares of said city that motor vehicles operated thereupon shall have been tested and inspected, shall have been approved by said testing and inspecting authorities, and shall have complied with all provisions of said ordinance;

(d) Providing a penalty subject to the limitations of Article 1011 of the Revised Civil Statutes of the State of Texas for the violation of any of the terms of said ordinance.

Testing Stations

Sec. 2. Said cities shall be and they are hereby authorized to acquire, establish, erect, equip, improve, enlarge, repair, operate, and maintain motor vehicle testing stations and to pay for the same out of the fees charged for testing and inspecting said motor vehicles.

Fees

Sec. 3. Said cities shall have and they are hereby given power and authority to prescribe and collect a fee, not to exceed One Dollar (\$1) per year per vehicle, for the testing and inspecting of each such motor vehicle. All fees so collected to be placed in a separate fund, out of which costs and expenses in connection with, or growing out of the acquisition, establishment, erection, equipping, improvement, enlargement, repairing, operating, and maintaining said testing stations, and automotive and Safety Education programs, may be paid.

Payment for Testing Stations; Encumbrance; Borrowing Money

Sec. 4. Said cities shall have and they are hereby given power and authority to pay for such testing stations and the equipping, maintaining, and operating thereof out of past or future earnings of said stations, and may mortgage and encumber said stations and everything pertaining thereto acquired, to secure the payment of funds to construct the

same or any part thereof, or to erect, equip, improve, enlarge, repair, operate, or maintain said stations. No such mortgage or encumbrance shall ever be a debt of such city, but solely a charge upon the properties so mortgaged or encumbered, and shall never be reckoned in determining the power of such city to issue bonds for any purpose authorized by law. Said cities may borrow money and issue warrants to finance in whole or in part the cost of the acquisition, erection, equipping, improvement, enlargement, or repair of said stations and to pledge for the punctual payment of said warrants and interest thereon all or any part of the fees or other receipts derived from the operation of such stations.

Partial Invalidity

Sec. 5. If any section, subsection, paragraph, sentence, clause, phrase, or word of this Act, or the application thereof to any person or circumstance, is held invalid or unconstitutional, such holding shall not affect the validity of the remaining portions of the Act, and the Legislature hereby declares that it would have passed such remaining portions despite such invalidity or unconstitutionality.

Vehicles Operated Under Permits

Sec. 5a. Nothing herein or in any ordinance passed pursuant hereto shall apply to motor vehicles, trailers or semitrailers operated under a certificate or permit from the Railroad Commission of Texas.

Repeal

Sec. 6. All laws and parts of laws in conflict herewith shall be and the same are hereby repealed to the extent of said conflict only.

[Acts 1937, 45th Leg., p. 194, ch. 102.]

Art. 1175c. Vacancies in Offices in Cities Over 384,000

In case of vacancy from any cause in any elective office of any Home Rule City in this state having a population of three hundred eighty-four thousand (384,000) inhabitants or more according to the last preceding or any future Federal Census, where the charter of such city does not, at such time, provide for the filling of such vacancy, the city council or governing body of such city, by majority vote, shall appoint someone to fill such vacancy for the unexpired term; and pending such appointment such governing body may appoint someone temporarily, for not more than sixty (60) days, to hold such office, which person or persons, as the case may be, shall be qualified in like manner as is then required of the elective official. Provided, however, that whenever any such city holds an election to vote upon proposed amendments to its charter, it shall at such time submit a proposed amendment thereto providing a method for filling any vacancy to elective offices which are not now provided for in said charter.

[Acts 1945, 49th Leg., p. 77, ch. 54, § 1.]

Art. 1175d. Water Supply Systems; Easements Over Highways in Certain Home Rule Cities

The City Commission of all Home Rule Cities of this State, having a population of not less than thirty-one thousand (31,000) and not more than thirty-two thousand, five hundred (32,500) inhabitants, according to the last preceding Federal Census, shall have and such Cities are hereby granted easements on and over all public highways and county roads in the county in which such City is situated, for the purpose of constructing, laying and maintaining water pipe lines which constitute a part of the water supply system operated by said Cities. Provided, however, that on all State highways such water pipe lines shall be laid at such place and in such manner as may be approved by the State Highway Engineers, and all such water pipe lines to be laid on any county road shall be laid in such manner and as may be approved by the County Engineer of such county; provided further, such water pipe lines shall not be laid in any manner that will unreasonably interfere with the use of such highways and public roads. Provided further that such lines shall be laid parallel to and in reasonably close proximity with the outer edge of the right of way of such State highway or public road, except that such lines may be laid across such highway or public road in the manner to be approved by the engineers of the aforesaid; and provided further that said lines shall be laid deep enough under the ground that the said pipe lines will not interfere with the grading or other use required by the Highway Department or the County Commissioners.

[Acts 1947, 50th Leg., p. 392, ch. 220, § 1.]

Art. 1175e. Parking Facilities

Sec. 1. Any home rule city in this state is hereby authorized to establish, acquire, lease as lessor or lessee, purchase, construct, improve, enlarge, equip, repair, operate and maintain structures, parking areas, parking garages or facilities for off-street parking or storage of motor vehicles or other conveyances.

Sec. 2. Any such city is hereby authorized and shall have the power by the exercise of the right of eminent domain to acquire the fee simple title to property for the purpose of acquiring sites upon which to build parking structures, parking areas, parking garages or facilities for off-street parking or storage of motor vehicles or conveyances. Any such city is hereby authorized and shall have the power to regulate the use of such facilities and establish rates and charges for the use thereof. In the event that the city, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting, or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all

such necessary relocation, raising, rerouting, changing of grade, or alteration of construction shall be accomplished at the sole expense of the city. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 3. The governing body of any such city may divide the city or any portion thereof into improvement districts clearly defining the limits of each district, and any such city shall have the power to borrow money on the credit of such city and issue bonds of the city for the acquisition of the public improvements authorized herein; but every proposition to borrow money on the credit of the city for the acquisition or construction of any of said public improvements within any improvement district shall be submitted to the qualified taxpaying voters living and owning property in such districts, and each proposition to borrow money on the credit of the city in any improvement district shall distinctly specify the purpose for which the bonds are to be issued and the public improvements to be constructed. If said proposition be sustained by a majority of the votes cast in such election in such district, the issuance of such bonds shall be lawful. All bonds shall specify for which purpose they were issued, shall bear interest at a rate not greater than 6½% per annum, and when sold, shall net not less than par value, with accrued interest to date of payment of the proceeds into the city treasury, and such bonds may be negotiated in lots, as the governing body of such city may direct. No debts shall ever be created against the city or any improvement district unless at the same time provision be made to assess and collect annually upon the property in such improvement district a sum sufficient to pay the interest on such bonds and create a sinking fund of at least 2% thereon. The interest and sinking fund tax shall be in addition to the other current taxes levied by the city, and shall be kept separate by the City Treasurer from other funds, and shall not be diverted or used for any other purpose than to pay interest and principal on such bonds and the City Treasurer shall honor no draft on said fund except to pay the interest and redeem the bonds for which it was provided. The sinking fund for such bonds may be invested in such securities as are now permitted by law for other municipal bonds. The tax levied for interest and sinking fund for bonds issued for public improvements in any district shall not exceed 50 cents on the \$100.00 valuation annually which tax shall be in addition to all other taxes authorized or permitted to be levied by the charter of such city.

[Acts 1969, 61st Leg., 2nd C.S., p. 125, ch. 27, eff. Sept. 19, 1969.]

Art. 1176. Further Powers

The enumeration of powers hereinabove made shall never be construed to preclude, by implication or otherwise, any such city from exercising the powers incident to the enjoyment of local self-government, provided that such powers shall not be inhibited by the State Constitution.

[Acts 1925, S.B. 84.]

Art. 1176a. Code of Civil and Criminal Ordinances

Power to Codify; Effect

Sec. 1. Any city of this state, whether incorporated under General or Special Law, shall have the power to codify its civil and criminal ordinances and adopt a civil and criminal code of ordinances, together with appropriate penalties for the violation thereof, which said code when adopted shall have the force and effect of an ordinance regularly enacted with the usual prerequisite of law.

Ordinances Changed Without Separate Amendment or Repeal

Sec. 2. That should it become necessary in the codification of such ordinances, both civil and criminal, to change, alter or repeal any portion thereof or to change the terminology of any ordinances heretofore adopted, such change being occasioned by a change in the form of government and the redesignation of offices and officers, then such city is hereby expressly authorized to amend, omit or repeal the same and to change the terminology to conform to its present form of government without the necessity of re-enacting, repealing or amending any such ordinance separately incorporated in said code.

Adoption of Code

Sec. 3. That upon the codification of said code of civil and criminal ordinances, such city is authorized to adopt such code by the enactment of an ordinance and upon the adoption thereof, the City Secretary shall record said code as adopted in the ordinance records of such city, and thereafter such record shall serve as a record of the ordinances so codified and it shall not be necessary in establishing the content of any particular ordinance so codified to go beyond said record.

Publication of Adopting Ordinance

Sec. 4. That the ordinance adopting such code shall be published in the official publication of such city, or in a newspaper published in the city or county, as now provided by law, provided, however, that if any such city operates under a special charter or special law which provides for the publication of ordinances both civil and criminal, then in that event such city shall comply with such special provision of its charter in publishing such adopting ordinance. The code, when so adopted, shall become effective immediately upon and after its passage

and it shall not be necessary to publish said code in any publication whatsoever.

Printed Code as Evidence of Enactment of Particular Ordinance

Sec. 5. That any such city may cause a copy of such code, duly authenticated and approved under the signature of the mayor and attested by the city secretary, to be printed under the direction of the governing body, and when so printed it shall be admitted in evidence without further proof and shall be prima facie evidence in all courts of the existence and regular enactment of such particular ordinance.

Subdivision of Code into Chapters, Articles, Sections, Etc.

Sec. 6. That the code may be subdivided into chapters, titles, articles and/or sections within the discretion of the governing body making such codification and providing for its adoption.

[Acts 1935, 44th Leg., p. 418, ch. 168. Amended by Acts 1937, 45th Leg., 2nd C.S., p. 2004, ch. 71, § 1; Acts 1941, 47th Leg., p. 1352, ch. 614, § 1; Acts 1945, 49th Leg., p. 179, ch. 138, § 1; Acts 1965, 59th Leg., p. 349, ch. 165, § 1.]

Art. 1176b-1. Publication of Ordinances Enacted by Home Rule Cities

Sec. 1. Hereafter all ordinances passed by Home Rule Cities in the State of Texas organized and operating under the provisions of the Home Rule Amendment to the Constitution of the State of Texas, and under Title 28, Chapter 13 of the Revised Civil Statutes of Texas, 1925,¹ may be published as provided by the Charters of such Cities, however, as an alternative method of publication the governing body may publish a descriptive caption or title stating in summary the purpose of the ordinances and the penalty for violation thereof; and in the event the Charter of any Home Rule City makes no provision for the method of publication, a full text of the ordinance may be published at least twice in the official newspaper of the City, or in lieu thereof a descriptive caption or title stating in summary the purpose of the ordinance and the penalty for violation thereof may be published.

Sec. 2. The provisions of this Act shall be cumulative of all laws on this subject and wherever the provisions of this Act are in conflict with any existing law or laws on this subject, the provisions hereof, in so far as same are in conflict with any existing law or laws, shall govern and control.

[Acts 1939, 46th Leg., p. 112. Amended by Acts 1947, 50th Leg., p. 463, ch. 264, § 1.]

¹ Article 1165 et seq.

Art. 1176b-2. Validation of Ordinances of Home Rule Cities Published in Compliance With Charters

All Ordinances heretofore passed by Home Rule Cities organized and operating under the provisions of Home Rule Amendment to the Constitution of

the State of Texas, and under the provisions of Title 28, Chapter 13, Revised Civil Statutes of Texas, 1925,¹ where such Ordinances have been passed in compliance with the provisions of the charters of said cities and have been duly published, as required by such charters, be and the same are hereby validated, ratified and confirmed, and are hereby declared to be in full force and effect, in so far as the required publication is concerned, as if published in strict compliance with all of the requirements of the General Laws of the State of Texas; provided, however, that the provisions of this Act shall not apply to any proceedings, levies, or to any bonds or warrants issued thereunder, nor to ordinances passed and published in violation of the method and procedure prescribed in said charters, the validity of which has been contested or attacked in suit or litigation which is pending at the time this Act becomes a law, or which may be filed within ninety (90) days after this Act becomes a law; provided further, that any person, whose rights are adversely affected by an ordinance hereafter enacted in violation of said charter, shall be entitled to injunctive relief in any court of competent jurisdiction upon proper application and satisfactory proof.

[Acts 1939, 46th Leg., p. 693, § 1.]

¹ Article 1165 et seq.

Art. 1176b-3. Validation of Ordinances of Home Rule Cities Authorizing Issuance of Time Warrants

This Act shall apply to every city or town incorporated and operating under a Home Rule Charter (hereinafter sometimes referred to as "city"). All ordinances or other proceedings heretofore adopted by the governing body of any city authorizing the issuance of time warrants of said city for the purpose of evidencing the indebtedness of such city for all or part of the cost of purchasing or acquiring, either or both, of rights-of-way for the public streets within said city, including incidental expenses in connection therewith, are hereby in all things validated; and any time warrants heretofore issued pursuant to the terms of any such ordinance or proceedings are hereby in all things validated; and any time warrants hereafter issued pursuant to the terms of any such ordinance or proceedings heretofore adopted shall, when issued, be valid and binding obligations of such city. It is expressly provided, however, that the validation provisions of this Act shall have no application to litigation pending upon the effective date of this Act which questions the legality of any of the matters hereby validated.

[Acts 1961, 57th Leg., p. 120, ch. 66, § 1.]

Art. 1177. Former Powers

All powers heretofore granted any city by general law or special charter are hereby preserved to each of said cities, and the power so conferred upon such cities, either by special or general law, is hereby granted to such cities when embraced in and made a

part of the charter adopted by such city; and until the charter of such city as the same now exists is amended and adopted, it shall be and remain in full force and effect.

[Acts 1925, S.B. 84.]

Art. 1178. Vested Rights

The adoption of any charter hereunder or any amendment thereof shall never be construed to destroy any property, action, rights of action, claims, and demands of any nature or kind whatever vested in the city under and by virtue of any charter theretofore existing or otherwise accruing to the city, but all such rights of action, claims or demands shall vest in and inure to the city and to any persons asserting any such claims against the city as fully as though the said charter or amendment had not been adopted hereunder. The adoption of any charter or amendment hereunder shall never be construed to affect the right of the city to collect by special assessment any special assessment heretofore levied under any law or special charter for the purpose of paving or improving any street, highway, avenue or boulevard of any city, or for the purpose of opening, extending, widening, straightening or otherwise improving the same, nor affect any right of any contract or obligation existing between the city and any person, firm or corporation for the making of any such improvements. For the purpose of collecting any such special assessment and carrying out of any such contract, the provisions of all charters shall be continued in force.

[Acts 1925, S.B. 84.]

Art. 1179. Improvement Districts

Such city shall have the power to create and establish improvement districts, to levy, straighten, widen, enclose or otherwise improve any river, creek, bayou, stream or other body of water or streets or alleys, and to drain, grade, fill and otherwise protect and improve the territory within its limits, and shall have power to issue bonds for making such improvements, such improvement districts to be created and established agreeably to the general laws of this State providing for the creation of such improvement districts, and the issuance of such bonds shall be governed by the powers a city possesses in the matter of issuing bonds.

[Acts 1925, S.B. 84.]

Art. 1180. Private Improvements

Such city shall further have the power to straighten, widen, levy, enclose, or otherwise improve any river, creek, bayou, stream, or other body of water, or streets or alleys and to drain, grade, fill and otherwise protect and improve the territory within its limits and to provide that the cost of making any such improvements shall be paid for by the property owners owning property in the territory specially benefited in enhanced value by reason of making such improvements, and a personal charge shall be made against such owners as well as a lien shall be

fixed by special assessment against any such property, and the city may issue assignable certificates or negotiable certificates, as it deems advisable, covering such cost, and may provide for the payment of such cost in deferred payments and fix the rate of interest not to exceed eight per cent, and may provide for the appointment of special commissioners or otherwise for the making or levying of said special assessment, or may provide that the same shall be done by the governing authorities, and that such rules and regulations may be adopted for a hearing and other proceedings had as may be provided by said charter.

[Acts 1925, S.B. 84.]

Art. 1180a. Improvement of Streams Within Boundaries by Certain Cities

Cities Which May Make Improvements; Power Conferred

Sec. 1. Any City having a population in excess of 150,000 people and less than 240,000 people, according to the last or any succeeding Federal Census, shall have and exercise the power and right to straighten, widen, levee, restrain or otherwise control or improve any river, creek, bayou, stream or other body of water, and to grade or fill land and otherwise protect life and property within the boundaries of such City, meaning hereby to confer the power to amend or abate any harmful excess of water, either constant or periodic, by any and all mechanical means, and, to that end, may provide and pay the cost of any such improvement, or any part thereof, in the manner and form provided by Articles 1179 and 1180, Revised Civil Statutes of 1925, or the cost of any such improvement, or any part thereof, may be provided in any other manner or form lawful to be exercised by any such City under the Constitution of Texas and not expressly prohibited by the Charter of any such City.

Additional Powers

Sec. 2. Any such City, in addition to the power declared in Subdivision 1 of this Article, shall have these further specific powers, viz.:

a. To contribute to the cost, upkeep, replacement, alteration, extension, maintenance and operation of any works or improvements contemplated hereby, when such improvements are to be provided and/or operated by another.

b. To solicit and receive from another contribution to the cost of any such improvements and/or the alteration, enlargement, operation and maintenance thereof, when such works are to be provided and operated by any such City.

c. To purchase, or otherwise acquire and take over any such improvements, and/or the maintenance or the operation thereof, any one or all, and, electively and when so contracted, to assume any outstanding bond debt or other debt secured by lien, which debt does not bear interest at a rate greater

than six per cent per annum, and which debt may have been incurred in order to provide any such works and improvements. It is the intent hereof that this provision shall supercede and control any provision of a City Charter not in conformity hereto, but it is expressly provided that nothing herein contained shall be held to create indebtedness exceeding the limit for debt appropriately fixed by Law; provided no such city, in purchasing or acquiring any such improvements, or the right to maintain and control the properties of such levee or improvement district, shall assume any bonded indebtedness outstanding and owing by such levee or improvement district, unless and until such city shall have first been authorized to do so by an election, at which such question of assuming any indebtedness and/or maintenance shall be first submitted to, and adopted by, the qualified property-tax-paying voters of said city.

d. To enter into contract with another whereby any such City may, jointly with another or independently, do any one or all of the things by this Act intended.

Powers Available to All Bodies Politic

Sec. 3. It is the intent hereof that any and all Bodies Politic which are subsidiary Governmental Agencies of the State, and otherwise having appropriate powers, may avail themselves of the provisions hereof and enter into contract one with another in order to accomplish the purpose of this Article.

Power to Provide Money

Sec. 4. Any such City and/or any other Body Politic and Corporate, which, under contract with a City having power hereunder, may seek to exercise the powers established by this Article, shall have the further power to provide the money required to construct, maintain and operate improvements hereunder, either separately or jointly under contract with another, in any manner lawful under the Constitution of Texas, and not expressly inhibited by the Charter and/or Statutory Act under which any such City or other contracting Body Politic may have its being.

Construction

Sec. 5. The word "another" or "others" as used herein shall be understood to include both the singular and the plural and shall be understood to include a City, a County, a Levee District, a Water Control and Improvement District, a Water Improvement District, a Navigation District and every other Body Politic under the Laws of Texas having Statutory powers concerning the control of harmful excess of water.

[Acts 1931, 42nd Leg., p. 831, ch. 345.]

Art. 1180b. Self-Liquidating Recreational Improvements

Powers Granted to Certain Cities; Encumbrances

Sec. 1. That all cities having two hundred and thirty thousand (230,000) or more inhabitants according to the last preceding Federal Census, shall have the power to purchase and own, build, maintain, operate, mortgage and encumber health and recreational establishments, parks, playgrounds, hotels, bathhouses, bathing pools or facilities, and any and all other installations or establishments necessary or desirable as a part of health and recreational resorts, parks, or playgrounds, or any of them either, and the income therefrom and to provide, maintain, operate, and encumber such projects and facilities acquired by gift, devise, grant, or otherwise by such cities, and to evidence the obligations therefor by bonds, notes or warrants and to secure the payment of funds to purchase same with such instruments of pledge or mortgage as may be deemed to be desirable; or to remodel, rebuild, renovate, maintain and repair such health and recreational establishments, parks, playgrounds, hotels, bathhouses, bathing pools or facilities, and any and all other installations or establishments necessary or desirable as a part of such projects, or any of them. Provided, however, that such cities are prohibited from mortgaging or encumbering any property now owned by such cities, and the rights and privileges hereby conferred upon such cities shall only authorize such cities to mortgage and encumber property acquired by such cities after the date of the passage of this Act. No such obligation on any such project shall ever be a debt of such city, but solely a charge upon the property and revenue of the project or projects so encumbered, and shall never be reckoned in determining the power of any such city to issue any bonds for any purpose authorized by law.

Acts as to Notice, Competitive Bids, Etc., Inapplicable

Sec. 2. That the provisions of House Bill No. 312, Chapter No. 163; Acts of the Forty-second Legislature, 1931,¹ with reference to notice, competitive bids and the right to referendum shall not apply to cities issuing "revenue bonds" under the authority conferred in this Act.

¹ Article 2368a.

Encumbrance of Income; Operating Expenses as Prior Lien

Sec. 3. Whenever the income to be derived from the operation of any such project or projects shall be encumbered under this law, the expense of operation and maintenance, including all salaries, labor, materials, interest, repairs, and extensions necessary to properly maintain said project or projects, and every proper item of expense, shall always be a first lien and charge against such income. The rate of rental and concession charges for the use of the various installations, facilities and establishments of such project or projects shall be determined by the

governing body of such project and no free service or rental shall ever be allowed. Rental and concession charges shall be charged and collected for the use of the various installations, facilities and establishments of such project or projects in an amount sufficient to pay operating and maintenance expenses, depreciation, replacements, salaries and interest charges, and to provide interest and sinking funds to pay the amount of any bonds issued to purchase, construct, maintain or improve any such project as herein enumerated or allowed, or any outstanding indebtedness against such projects, or any of them, and such charges shall be in accordance with the requirements of the Governmental Agency or Agencies lending or furnishing funds in aid thereof.

Contents of Contracts, Bonds, Etc.

Sec. 4. Every contract, bond, warrant and note issued or executed under this law shall contain this clause:

"The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation."

Management and Control by Governing Body

Sec. 5. The management and control of any such health and recreational establishments, parks, playgrounds, hotels, bathhouses, bathing pools or facilities, and any and all other installations or establishments necessary or desirable as a part of such project during the time that they are encumbered shall be, by the terms of such encumbrance, placed in the City Council or the Mayor and City Commissioners or other governing body as said city shall establish therefor. The City Council, Mayor and City Commissioners or the governing body of the project that shall be so established by the city shall have the power to make rules and regulations governing the use and rental of said various installations, facilities, premises and establishments of such project or projects and for the payment of said rentals and concession charges. Such governing body shall have the power to provide penalties for the violation of such rules and regulations and for the use of such project or projects of the facilities or equipment thereof without the consent or knowledge of the authorities in charge thereof and to provide penalties for all interference, trespassing, or injury to any such project or projects or premises on which same may be located.

Trustee Under Encumbrance

Sec. 6. A contract of encumbrance may provide for the selection of a trustee to make sale upon the default of principal or interest or violation of the terms and conditions of such contract and for the selection of his successor or successors if the original trustee of any substitute trustee should become disqualified or fail or refuse to act, and for attorneys' fees in amount not exceeding ten (10) per cent of the principal unpaid.

Foreclosure Procedure

Sec. 7. No collection fees shall accrue, and no foreclosure proceedings shall be begun in any Court or through any trustee, and no option to mature any part of any such obligation because of any default in payment of any installment of principal or interest or violation of the terms and conditions of such pledge or loan shall be exercised until ninety (90) days written notice shall be given to the City Council, Mayor and City Commissioners, or other governing body of such city, of the default claimed, which notice shall date from the sending of a prepaid registered letter to each person to be notified, addressed to them at the post office in such city. If the default claimed shall have been cured before the expiration of said ninety (90) days, it shall have like effect as if no default has occurred or been claimed.

Application of Income

Sec. 8. No part of the income of any such project or projects so encumbered shall be used to pay any other debt, expense, or obligation of such city until the indebtedness so secured shall have been finally paid.

[Acts 1935, 44th Leg., 2nd C.S., p. 1848, ch. 470.]

Art. 1181. Franchises

No charter or any amendment thereof framed or adopted under this charter, shall ever grant to any person, firm or corporation any right or franchise to use or occupy the public streets, avenues, alleys or grounds of any such city, but the governing authority of any such city shall have the exclusive power and authority to make any such grant of any such franchise or right to use and occupy the public streets, avenues, alleys, and grounds of the city. If, at any time, before any ordinance granting a franchise takes effect, a petition shall be submitted to the governing authority signed by 10 percent of the bona fide qualified voters of the city or, in a city having a population of more than 1.2 million according to the last federal census, signed by a lesser number of qualified voters if so provided by city charter, then the governing body shall submit the question of granting such franchise to a vote of the qualified voters of the city, at the next succeeding election date authorized by Section 9b, Texas Election Code, as amended (Article 2.01b, Vernon's Texas Election Code).

[Acts 1925, S.B. 84. Amended by Acts 1981, 67th Leg., p. 10, ch. 9, § 1, eff. March 4, 1981.]

Section 2 of the 1981 amendatory act provides:

"Articles 1181 and 1182, Revised Civil Statutes of Texas, 1925, as amended by this Act, apply only to a grant of a franchise that occurs on or after the effective date of this Act. The grant of a franchise before the effective date of this Act is covered by the law in effect on the date the franchise was granted, and the former law is continued in effect for this purpose."

Art. 1182. Franchise Election

Whenever said ordinance is submitted at any election, notice thereof shall be published at least twenty days successively in a daily newspaper in said

city prior to the holding of said election. The ballot used at said election shall briefly describe the franchise to be voted on and the terms thereof and shall be prepared to permit voting for or against the proposition: "Granting of a franchise." If a majority of those voting at said election shall vote in favor of granting a franchise, the governing body upon canvassing the returns shall so declare and said franchise shall take effect in accordance with its terms. No franchise shall extend beyond the period fixed for its termination.

[Acts 1925, S.B. 84. Amended by Acts 1981, 67th Leg., p. 10, ch. 9, § 1, eff. March 4, 1981.]

Art. 1182a. Annexation of Additional Territory

Election

Sec. 1. Whenever the City Commission of any City within this State, acting under and by virtue of any Charter adopted under Home Rule Amendment Article 11, Section 5, of the Constitution of this State, shall initiate or order an election for the extension of the territorial limits of said city, to be submitted to the legally qualified property tax paying voters residing within the territorial limits of said city, to determine whether or not the adjacent territory desired to be annexed shall be included within the territorial limits of said city, said City Commissioners shall at the same time order an election to be held at some convenient place within said city limits, so that the legally qualified property tax paying voters residing in the territory contiguous to said city and proposed to be annexed, may appear and cast their vote for the purpose of determining whether a majority of the legally qualified property tax paying voters residing in said territory proposed to be annexed, favor the annexation of said territory proposed to be annexed.

Ballots for Election

Sec. 2. Whenever an election for the annexation of additional territory is held in accordance with the provisions of the foregoing section, said City Commissioners, when ordering such election for the annexation of said territory, shall prepare for the legally qualified property tax paying voters, printed ballots containing the following propositions to be voted on thereat:

"For annexation of additional territory and assumption by the city of all bonded indebtedness and flat rates owing to such water control and improvement district on the territory to be annexed and the levying and collecting of a tax on all property within the city limits sufficient to pay off and discharge said bonded indebtedness and flat rates."

"Against annexation of additional territory and assumption by the city of all bonded indebtedness and flat rates owing to such water control and improvement district on the territory to be annexed and the levying and collecting of a tax on all property within the city limits sufficient to pay off and discharge said bonded indebtedness and flat rates."

Assumption of Indebtedness of Annexed Territory

Sec. 3. If, at any election to be held under the provisions hereof, a majority of the legally qualified tax paying voters residing within the territorial limits of such city, and those residing within the territorial limits proposed to be annexed, shall each vote in favor of the annexation of such additional territory, said city shall thereby assume all of said bonded indebtedness and flat rates on the territory thus annexed and due such Irrigation District, Water Improvement District or Water Control and Improvement District, or either of them, and shall from thence forth out of the taxes collected on the territory thus annexed pay to said Irrigation District, Water Improvement District or Water Control and Improvement District, said bonded indebtedness and flat rates, owing to such district, or either of them, as same become due and payable, and no city thus annexing such territory shall be entitled to collect any taxes due it from the property owners within the territory annexed until said City shall pay such bonded indebtedness and flat rates, for the current year same become due and payable, and present to said property owner a receipt showing that said City has paid the same.

The order of election must give the metes and bounds of the territory to be annexed, and said metes and bounds shall be include¹ and made a part of the ordinance calling for the election.

The election herein provided for shall be ordered by the City Commissioners and the returns canvassed and the results declared as is provided by law for other elections pertaining to said City.

Said ordinance for the election must provide for separate elections and must be issued and public notice given thereof as in other city elections, and provided further that if a majority of the legally qualified property tax paying voters residing within the territorial limits of said city or if a majority of the legally qualified property tax paying voters residing within the territory desired to be annexed shall not be in favor of such annexations then such annexations shall not be made.

Powers Additional to Charter Provisions

Sec. 4. Provided further, however, that nothing in this Act shall be held or construed to repeal or nullify any charter provision of any city of over one hundred thousand inhabitants according to the last United States census, operating under Article 11, Section 5 of the Constitution providing for the annexation of additional territory by ordinance, but shall be construed as an additional power and cumulative of the said charter provisions.

[Acts 1929, 41st Leg., p. 251, ch. 110.]

¹ So in enrolled bill; probably should read "included".

Art. 1182b. Annexation of Adjacent Territory Including Water District or Towns**Cities Which May Annex Territory**

Sec. 1. In all cities having a population of more than One Hundred Fifty Thousand (150,000) and less than One Hundred Sixty Thousand (160,000) at the time of the taking of the Federal Census of 1920 and operating under a special charter or the Home Rule Act, the power to provide for the annexation of additional territory lying adjacent to said city according to such provisions as may be provided by said charter is hereby expressly granted, recognized, ratified and confirmed.

Annexation Authorized

Sec. 2. Said cities may annex territory which includes one or more fresh water supply districts, organized under authority of Section 59 of Article 16 of the Constitution of the State of Texas whether organized under general or special law; also which includes cities and towns of less than five thousand (5,000) inhabitants operating under the general law.

Property of Annexed Territory Vested in City

Sec. 3. In the event such district or districts, or incorporated cities and towns are included in the annexed territory, it shall be the duty of the Governing Board of said City annexing such territory to adopt a resolution or pass an ordinance providing that all physical property belonging to said fresh water supply district or districts, or cities and towns so annexed, shall thereafter be vested in said city, provided that prior to the passage of any ordinance or resolution of the city annexing territory including fresh water supply district or districts, or incorporated cities and towns of under five thousand (5,000) inhabitants, the Board of Commissioners of such city annexing such territory, shall have been presented with an application for such annexation from the governing authority of such fresh water supply district or districts, or cities and towns of under five thousand (5,000) inhabitants included in the territory to be annexed.

Assumption of Indebtedness by City

Sec. 4. The ordinance or resolution passed or adopted by the governing board of said City shall provide that all bonded indebtedness of said fresh water supply district or districts and all legal indebtedness of such cities and towns, as provided herein, be assumed by said City. Immediately upon the passage of such resolution or ordinance the corporate existence of said fresh water supply district or districts, or cities and towns so annexed will have legally terminated and the outstanding bonds and interest unpaid thereon of said fresh water supply district or districts, and the legal indebtedness of such cities and towns, shall be paid by said City as they mature and accrue.

[Acts 1929, 41st Leg., 1st C.S., p. 65, ch. 30.]

Art. 1182c. Validating Annexation by Cities of Fresh Water Supply Districts**Cities in Which Proceedings Validated**

Sec. 1. That in each instance when there has been presented to the governing body of any city having a population of 150,000 or more a petition by the supervisors of any Fresh Water Supply District theretofore organized under Title 128, Chapter 4, Vernon's Revised Civil Statutes of 1925, or said Chapter 4 as amended,¹ asking that the territory therein described, including such Fresh Water Supply District, be annexed to such city, and the governing body of such city has adopted an ordinance annexing such territory to such city, including such Fresh Water Supply District, said ordinance and all proceedings had in connection with its adoption and with said annexation of territory are hereby validated and legalized.

Assumption of Indebtedness

Sec. 2. That in each instance when the governing body of any such city has provided by ordinance for the annexation of territory, including any such Fresh Water Supply District, to such city and has provided in said ordinance that all outstanding legal indebtedness and all outstanding bonds and interest unpaid thereon of any such Fresh Water Supply District shall be assumed and paid by said city, such outstanding indebtedness and all such outstanding bonds and interest unpaid thereon are hereby declared to be the legal indebtedness of said city and for the payment thereof such city is authorized to levy taxes upon all taxable property therein, provided that this Act shall apply only on bonds or indebtedness of any Fresh Water Supply District, authorized and created pursuant to the approving vote of a majority of the qualified property taxpaying voters of any such District; and provided, further, that this Act shall not operate to abolish or impair any of the contractual rights of the holders of said bonds or other evidences of indebtedness issued or incurred by such Fresh Water Supply District.

[Acts 1931, 42nd Leg., Spec.Laws, p. 351, ch. 171.]

¹ Article 7881 et seq. (repealed; see, now, Water Code, § 53.012 et seq.)

Art. 1182c-1. Cities and Towns Which Have Annexed Territory Within Water Districts**Application**

Sec. 1. This Act shall apply to all incorporated cities and towns, including Home Rule Cities, and those operating under general laws or special charters (hereinafter called "city" or "cities"), which have heretofore annexed, or hereafter may annex, all or any part of the territory within one (1) or more water control and improvement districts, fresh water supply districts or municipal utility districts, which districts were organized for the primary purpose of providing such municipal functions as the

supply of fresh water for domestic or commercial uses, the furnishing of sanitary sewer service or drainage services, any or all. Such cities shall succeed to the powers, duties, assets, and obligations of such district or districts in the manner and to the extent hereinafter provided. Nothing herein shall prohibit any city from continuing to operate utility facilities within such districts in which such facilities are owned and are operated by such city at the effective date of annexation. This Act shall not apply in the case of any such district, the territory of which is now situated in more than one (1) incorporated city.

Taking Over Assets and Liabilities; Contracts

Sec. 2. In case all the territory within any such district is so annexed, such city shall take over all properties and assets, shall assume all debts, liabilities and obligations and shall perform all functions and services of such district, and after such annexation such district shall be abolished at the time and in the manner as provided in the sentence immediately following. The governing body of such city shall, by ordinance, designate the date upon which the city shall take over, shall assume all debts, and such district shall be abolished, and said date shall be in no event later than ninety (90) days after the effective date of such annexation; provided, that if the city fails to adopt such ordinance, the city shall automatically take over and assume such debts and the district shall be abolished ninety (90) days after the effective date of such annexation.

In case less than all of the territory within any such district is so annexed, the governing authorities of such city and district shall be authorized to enter into contracts in regard to the division and allocation of duplicate and overlapping powers, functions and duties between such agencies, and in regard to the use, management, control, purchase, conveyance, assumption and disposition of the properties, assets, debts, liabilities and obligations of such district. Any such district is expressly authorized to enter into agreements with such city for the operation of the district's utility systems and other properties by such city, and may provide for the transfer, conveyance or sale of such systems and properties of whatever kind and wherever situated (including properties outside the city) to such city upon such terms and conditions as may be mutually agreed upon by and between the governing bodies of such district and city. Such operating contracts may extend for such period of time not exceeding thirty (30) years as may be stipulated therein and shall be subject to amendment, renewal or termination by mutual consent of such governing bodies. No such contract shall contain any provision impairing the obligation of any existing contract of such city or district.

In the absence of such contract, such district shall be authorized to continue to exercise all the powers and functions which it was empowered to exercise and perform prior to such annexation, and the city

shall not duplicate services rendered by the district within the district's boundaries without the district's consent, but may perform therein all other municipal functions in which the district is not engaged.

Abolition of Water Districts Within Cities and Towns

Sec. 2a. All water control and improvement districts, fresh water supply districts or municipal utility districts which have heretofore been or which may hereafter be created out of territory which, at the time of such creation, was situated wholly within the corporate limits of any incorporated city, town or village, including a home rule city (hereinafter called "City"), may be abolished in the manner herein provided. The governing body of such city shall be authorized, by a vote of not less than two-thirds (2/3) of the entire membership of its governing body, to adopt an ordinance abolishing such water control and improvement district, fresh water supply district or municipal utility district if such governing body finds (a) that such district is no longer needed or (b) that the services furnished and functions performed by such district can be served and performed by the city and (c) that it would be to the best interests of the citizens and property within said district and the citizens and property within such city that such district be abolished.

If prior to the date when an ordinance adopted pursuant to this Section shall take effect, or within thirty (30) days after the same takes effect, or the publication of same, a petition signed and verified by the qualified voters of the city, equal in number to ten percent (10%) of the total vote cast at the city election for municipal officers next preceding the filing of said petition shall be filed with the city secretary protesting against the enactment or enforcement of such ordinance, it shall be suspended from taking effect and no action theretofore taken under such ordinance shall be legal or valid. Immediately upon the filing of such petition the secretary shall present it to the governing body of the city. Thereupon the governing body shall immediately reconsider such ordinance and if it does not entirely repeal the same shall submit it to popular vote at the next municipal election or the governing body may, in its discretion, call a special election for that purpose, and such ordinance shall not take effect unless a majority of the qualified electors voting thereon at such election shall vote in favor thereof.

Upon the adoption of an ordinance as hereinabove provided, such water control and improvement district, fresh water supply district or municipal utility district shall be abolished and dissolved and all properties and assets of such district shall thereupon vest immediately in such city and such city shall thereby assume and become liable for all bonds and other obligations for which such district is liable. Such city shall thereafter perform all services and functions theretofore performed or rendered by said district. When any district bonds, warrants or other obligations payable in whole or in part from ad valorem taxes have been assumed by such city, the

governing body of such city shall thereafter levy and cause to be collected upon all taxable property within such city, taxes sufficient to pay principal of, and interest on, such bonds, warrants or obligations as they respectively become due and payable. Such city shall be authorized to issue refunding bonds in its own name to refund any bonds, warrants or other obligations, including unpaid earned interest thereon, so assumed by it. Such refunding bonds shall be issued in the manner provided in the Bond and Warrant Law of 1931, as heretofore or hereafter amended, provided that it shall not be necessary to give any notice of intention to issue such refunding bonds and no right of referendum thereon shall be available.

**Continued Existence of City Water Boards;
Depositories for Funds**

Sec. 2b. City Water Boards created by Section 6 of Chapter 134, Acts of the 52nd Legislature, Regular Session, 1951,¹ which have remained in existence to preserve vested rights created thereunder shall, after a relevant city has annexed all the territory of the Water Control and Improvement District whose functions it has assumed and delegated to the City Water Boards, remain in existence with its full powers, so long as lands located within its jurisdiction are being used for farming, ranching and/or orchard purposes, and such City Water Boards, without limitation of any other powers they have, shall select and designate one or more depositories of the proceeds of all maintenance and water charges and other charges levied by any water control and improvement district annexed by a relevant city and of any other income or funds of said water control and improvement district, regardless of the fact that one or more members of said City Water Board may be a member of the board of directors or a stockholder of any such depository, and that the funds of said water control and improvement district may be kept in one or more separate and distinct accounts in said depository or depositories if the funds deposited in each such separate account are to be used for a different or separate designated purpose from the funds deposited in any other such separate account, and such funds deposited in any depository selected by said City Water Board shall be insured by an official agency of the government of the United States and shall be at least equally as well insured and protected as funds deposited in the official city depository of said relevant city.

¹ Article 7880-147z1 (repealed).

Taxes to Pay Bonds; Refunding Bonds or Warrants

Sec. 3. When any district bonds, warrants or other obligations payable in whole or in part from ad valorem taxes have been assumed by such city, the governing body of such city shall thereafter levy and cause to be collected upon all taxable property within such city, taxes sufficient to pay principal of, and interest on, such bonds, warrants or obligations as they respectively become due and

payable. Such city shall be authorized to issue its refunding bonds or warrants to refund any bonds, warrants or other obligations, including unpaid earned interest thereon, so assumed by it. Such refunding bonds or warrants shall be issued in the manner provided in the Bond and Warrant Law of 1931, as heretofore or hereafter amended, provided that it shall not be necessary to give any notice of intention to issue such refunding bonds or warrants and no right of referendum thereon shall be available. Such refunding bonds shall bear interest at the same or lower rate than that borne by the obligations refunded, unless it is shown mathematically that a saving will result in the total amount of interest to be paid.

Outstanding Obligations

Sec. 4. When all of the territory within such district has been annexed as hereinabove provided and in cases where such district has outstanding bonds, warrants or other obligations, payable solely from the net revenues from the operation of any utility system or property, such city shall nevertheless take over and operate such system or properties, and shall apply the net revenues from the operation thereof to the payment of such outstanding district revenue bonds, warrants or other bonded obligations in all respects as though the district had not been abolished.

If such city does not itself have outstanding revenue bonds, warrants or other obligations payable from, and secured by a pledge of, the net revenues of its own utility system or properties of like kind, or, if such city does have outstanding revenue bonds, warrants or other obligations payable from, and secured by pledge of, the net revenues of its own utility system or properties of like kind, but the revenues therefrom are sufficient to meet its own outstanding obligations to which such revenues are pledged, and have over a period of five (5) years prior to the effective date of this Amendment hereto had an annual surplus in said fund sufficient to meet the annual obligations for which the revenues from the water district, or districts, are pledged, such city may, at its option, combine such utility system or properties acquired from such district or districts with its own similar utility system or properties and, in such case, such city shall levy each year against all property subject to taxation by such city, an ad valorem tax in sufficient amount, when taken together with other funds and revenues of the city which may be lawfully appropriated and devoted thereto, to provide sufficient funds and moneys to make the payment of the principal of and interest on any such assumed bonds, warrants or other obligations so secured.

If any such city does have outstanding bonds, warrants or other bonded obligations payable from, and secured by a pledge of, the net revenues of the city's said utility system or properties of like kind, and such city does not have annually accruing to its surplus revenue fund an amount over and above the

amount of such fund pledged to the payment of outstanding obligations of the city sufficient to meet the annual obligations for which the revenues from the water district or districts are pledged, then, until the refunding hereinafter authorized has been accomplished, the city shall continue to operate former properties of the district separate and apart from any similar properties of the city and shall not commingle in any way the revenue of any such several systems. Such city shall faithfully perform all duties, functions and obligations imposed by law or by contract upon the governing body of such district in regard to the outstanding bonds, warrants, or other obligations payable solely from the revenues of such former district's utility system or properties and shall likewise, separate and apart, perform all duties, functions and obligations imposed upon such city in connection with its own revenue bonds, warrants or other obligations; provided that overhead expenses may be allocated between any two (2) or more such systems of properties in direct proportion of the gross income of each.

Revenue Refunding Bonds

Sec. 5. Any such city shall have authority to issue revenue refunding bonds in its own name for the purpose of refunding outstanding district revenue bonds, warrants or other obligations (including unpaid accrued interest thereon) assumed by such city and shall also have authority to combine any number of different issues of both district and city revenue bonds, warrants or other obligations into one series of revenue refunding bonds and pledge the net revenues of such utility systems or properties to the payment of such refunding bonds as the governing body shall deem proper. The provision of Articles 1111 to 1118, Vernon's Texas Civil Statutes, as amended, shall apply to such revenue refunding bonds except as otherwise provided herein and provided that no election for the issuance of such bonds shall be necessary. Such refunding bonds shall bear interest at the same or lower rate than that borne by the obligations refunded, unless it is shown mathematically that a saving will result in the total amount of interest to be paid.

Newly Incorporated Cities or Towns

Sec. 6. When any city or town is newly incorporated over all or any part of the territory within a water control and improvement district, a fresh water supply district or municipal utility district, the governing body may adopt an ordinance making the provisions of this Act applicable to such city or town and, upon the adoption of such an ordinance by a vote of not less than two-thirds (2/3) of the entire membership of such governing body, the provisions of this Act shall thereafter be applicable to such city or town and to such districts situated in whole or in part therein.

Partial Invalidity

Sec. 7. If any clause, phrase, sentence, paragraph, section or provision of this Act or the application thereof to any particular person or thing, is held to be invalid, such invalidity shall not affect the remainder of this Act or the application thereof to any other person or thing.

[Acts 1947, 50th Leg., p. 223, ch. 128. Amended by Acts 1949, 51st Leg., p. 387, ch. 206, § 1; Acts 1953, 53rd Leg., p. 588, ch. 230, § 1; Acts 1957, 55th Leg., p. 348, ch. 161, § 1; Acts 1959, 56th Leg., p. 940, ch. 436, § 1; Acts 1961, 57th Leg., p. 150, ch. 77, § 1; Acts 1967, 60th Leg., p. 929, ch. 406, § 1, eff. June 8, 1967; Acts 1971, 62nd Leg., pp. 2988, 2989, ch. 986, §§ 1, 2, eff. June 15, 1971; Acts 1973, 63rd Leg., p. 504, ch. 217, § 1, eff. May 28, 1973.]

Art. 1182c-2. Validation of Annexations by Cities and Towns of Less Than 100,000 Population of Territories of Water Control and Improvement Districts, Etc.; Exception

All annexations by cities and towns of less than one hundred thousand (100,000) inhabitants, including Home Rule Cities, and those operating under general laws or special charters, heretofore made of territory or territories of water control and improvement districts or fresh water supply districts and the actions of such cities and towns in taking over all the properties and assets of such districts, in assuming the debts and liabilities and obligations of such districts, and in abolishing such districts are hereby in all things validated, ratified, and confirmed, and all bonds heretofore issued by such cities and towns to refund bonds, warrants or other obligations of such district or districts are hereby in all things validated, ratified, and confirmed; provided, that this Section shall have no application to pending litigation questioning the validity of any of the matters hereby validated if such litigation is ultimately determined against the validity of the same.

[Acts 1957, 55th Leg., p. 348, ch. 161, § 2.]

Art. 1182c-3. Repealed by Acts 1959, 56th Leg., p. 515, ch. 228, § 7, eff. May 25, 1959

Art. 1182c-4. Bonds; Issuance by Cities in Lieu of Unissued Bonds of Abolished Conservation and Reclamation District

Sec. 1. This Act shall apply to all incorporated cities, including home-rule cities, and those operating under general laws or special charters, which have heretofore abolished or may hereafter abolish or which have heretofore annexed, or hereafter may annex, all the land within one or more conservation and reclamation districts created under Article XVI, Section 59, of the Texas Constitution, including water control and improvement districts, fresh-water supply districts, or municipal utility districts and have abolished or may abolish such districts as provided by applicable law, including but not limited to Article 1182c-1, Vernon's Texas Civil Statutes

(Chapter 128, Acts of the Fiftieth Legislature of Texas, Regular Session, 1947), as same has been, or may hereafter be, amended. In the event any such district had, prior to such abolition, voted bonds for the purpose of providing waterworks, sanitary sewer or drainage facilities, any or all, which bonds were not issued, sold and delivered prior to such abolition, the governing body of such city shall be authorized to issue and sell bonds of said city in an amount not exceeding the amount of such voted but unissued district bonds, for the purpose of carrying out the purpose or purposes for which said district bonds were voted. Such bonds shall be authorized by ordinance adopted by the governing body of said city in which provision shall be made for the levy of taxes upon all taxable property within said city for the payment of principal and interest thereon when due. Said bonds shall be sold for not less than par and accrued interest, shall mature, bear interest, be subject to approval by the Attorney General of Texas and registration by the Comptroller of Public Accounts as provided by law for other general obligation bonds of such city, and when so approved, registered, and sold, shall be incontestable.

Sec. 2. All laws, general and special, and city charter provisions in conflict herewith are, to the extent of such conflict, hereby repealed but nothing herein shall affect the right of such cities to issue bonds for other purposes. All ordinances, acts and proceedings of the governing bodies of any such cities for the annexation of territory which includes any such water district or districts are hereby in all things validated, ratified and confirmed; provided, however, that nothing in this Act shall affect any pending litigation or the legal rights of parties involved in any litigation pending upon the effective date of this Act.

[Acts 1957, 55th Leg., p. 1428, ch. 495. Amended by Acts 1979, 66th Leg., p. 1884, ch. 761, § 1, eff. Aug. 27, 1979.]

Art. 1182c-5. Cities Which Have Annexed Territory Within Water Control and Improvement, Fresh Water Supply or Municipal Utility Districts

Application of Act; Succession to Powers, Duties, Assets and Obligations of Districts

Sec. 1. (a) This Act shall apply to all incorporated cities and towns, including Home Rule Cities and those operating under General Laws or special charters (hereinafter called "city" or "cities"), which now or hereafter contain within their city or corporate limits (by virtue of annexation of territory or original incorporation, either or both) any part of the territory within one (1) or more water control and improvement districts, freshwater supply districts or municipal utility districts (hereinafter called "district" or "districts"), which districts were organized for the primary purpose of providing such municipal functions as the supply of fresh water for domestic or commercial uses, or the furnishing of sanitary sewer service, any or all, when the balance of the territory comprising such district

or districts lies in another city or cities so that the entire district lies wholly within two (2) or more cities. Such cities shall succeed to the powers, duties, assets and obligations of such district or districts in the manner and to the extent hereinafter provided. Nothing herein shall prohibit any city from continuing to operate utility facilities within any such district in which such facilities are, or were, owned and operated by such city at the time that the part of the territory of the district became, or becomes, a part of or included within the boundaries of such city.

(b) This Act shall also apply when the balance of the territory comprising a district or districts, other than a district created by a special act of the Legislature, lies in another city or cities and in unincorporated territory so that the entire district lies wholly within two (2) or more cities and in unincorporated territory. In this latter case dissolution of the district may be effected by the procedure in Section 2 hereof. This subsection shall not apply to a district created by a special act of the Legislature.

Abolition of Districts; Distribution of Assets; Assumption of Obligations

Sec. 2. (a) Such district may be abolished by mutual agreement between the district and the cities wherein such district lies. Subject to the provisions of Section 4 of this Act, such agreement shall provide for the distribution among such cities of all the properties and assets of the district and for the pro rata assumption by such cities of all the debts, liabilities and obligations of the district, said distribution and assumption to be predicated or based upon the pro rata value of the properties and assets of the district going to such cities, respectively, to the entire value of such properties and assets. The determination of the value of such properties and assets may be on an original cost basis, a reproduction cost basis, or a fair market value basis or by any other valuation method agreed upon by the parties which reasonably reflects the value of the properties, assets, debts, liabilities, and obligations of the district. Such agreement shall designate the date upon which the district shall be abolished, and the agreement shall be approved by ordinance adopted by the governing body of each of the cities and by order or resolution adopted by the governing board of the district, and the same shall be so approved prior to the date designated in the agreement for such abolition, distribution, and assumption.

(b) In the event a district, other than a district created by a special act of the Legislature, lies wholly within two (2) or more cities and in unincorporated territory, said district may be abolished by mutual agreement between the district and all of the cities wherein portions of the district lie. Subject to the provisions of Section 4 of this Act, the agreement of dissolution shall provide for the distribution of assets and liabilities as stated in Subsection (a) hereof. The agreement shall also include a

distribution among one (1) or more of the cities of the pro rata assets and liabilities lying outside the limits of the contracting cities, in unincorporated territory. In addition, the agreement shall also include provisions for service to customers in unincorporated areas previously within the service area of the abolished district. In this connection, the city providing service to customers in unincorporated areas is specifically authorized to charge its usual and customary fees and assessments to such customers and to new customers outside its incorporated limits. The agreement shall be approved by ordinance adopted by the governing body of each city and by order or resolution adopted by the governing board of the district, and the agreement shall have this approval before the date designated in the agreement for abolition, distribution, and assumption.

Abolition of Certain Multi-City Conservation and Reclamation Districts

Sec. 2A(1) Notwithstanding any other provision of the law or this Act, any conservation and reclamation district created or existing pursuant to Article XVI, Section 59 of the Constitution of Texas which lies wholly within more than one city, and which, on April 1, 1971, did not lie wholly within more than one city, and which, on said date, was not a party to a contract providing for a federal grant for research and development pursuant to Title 33, Sections 1155(a)(2) and 1155(d) of the United States Code, as amended, and which has provided or is providing fresh water supply, sanitary sewer and drainage services shall be abolished ninety (90) days after the inclusion of all of the territory of said district within said cities, and the physical assets, properties and facilities of the district shall be distributed to said cities and its intangible assets, bonded indebtedness, liabilities, obligations and other debts assumed by said cities in the following manner:

(a) All physical assets, properties and facilities of said district located within the boundaries of each respective city shall, at the date of distribution, belong to said city. The intangible assets, bonded indebtedness, liabilities, obligations and other debts of the district shall be assumed by the cities. That part of the intangible assets, bonded indebtedness, liabilities, obligations and other debts of the district assumed by each city shall be determined by multiplying the total intangible assets, bonded indebtedness, liabilities, obligations or other debts of the district by a fraction, the numerator of which is the original cost of all physical assets, properties and facilities of said district distributed to the city and the denominator of which is the total original cost of all physical assets, properties and facilities of the district. The term "original cost" as used in this section shall mean the actual cost of construction or acquisition. Operating expenses during construction, interest during construction, organizational expenses, engineering fees, legal fees, fiscal fees and other fees and expenses shall not be considered

when determining the original cost of any physical assets, properties or facilities. Each city shall faithfully perform all duties, functions and obligations imposed by law or by contract upon the abolished district and its governing body in regard to any outstanding district bonds, warrants or other obligations payable in whole or in part from the revenues from the operation of the district's properties, assets and facilities; provided, however, that maintenance and operation expenses may be allocated by a city between two or more similar properties, assets and facilities owned and operated by the city in direct proportion to the gross income of each.

(b) All of the physical assets, properties and facilities which serve territory within more than one city shall continue to serve such territory and shall be operated and maintained by the city within which such properties, assets and facilities are located. Said city may make reasonable charges to the other cities served by such assets, properties and facilities for the operation and maintenance of such assets, properties and facilities.

(2) Notwithstanding any contrary provision of the law or this Act, a district defined by Section 2A(1) may be abolished by mutual agreement between all of the cities wherein said district lies. Such agreement need not be approved by the district. The agreement may designate a date or dates, no later than ninety (90) days after the inclusion of all of the territory of said district within said cities, upon which the district shall be abolished. The agreement may provide a method by which the district's properties, assets and facilities shall be taken over by the cities, and the bonded indebtedness, liabilities, obligations and other debts of the district shall be assumed by said cities pursuant to such agreement. Said agreement may define those physical assets, properties and facilities of the district which serve territory within more than one city, and may provide a method by which said assets, properties and facilities shall be operated and maintained. An agreement executed pursuant to this section may contain all provisions necessary or proper to the abolition of said district, the distribution of its properties, assets and facilities, and the assumption of its bonded indebtedness, liabilities, obligations, and other debts. Said agreement may bind the parties for as long as fifty (50) years, notwithstanding any provision of the city charters of the respective cities to the contrary.

(3) If a city which has previously annexed territory within a district defined in Section 2A(1) annexes additional territory which lies wholly within such district and obtains the consent of all other cities which have previously annexed territory within said district and which have extraterritorial jurisdiction over the territory proposed to be annexed, then, notwithstanding any contrary provision of the Municipal Annexation Act (Article 970A, Vernon's Texas Civil Statutes, as amended), such annexing city need not obtain the consent of any other municipality.

Levy of Taxes to Pay Obligations

Sec. 3. When its pro rata part of any district bonds, warrants, or other obligations payable in whole or in part from ad valorem taxes have been assumed by any such city, the governing body of such city shall thereafter levy and cause to be collected upon all taxable property within such city, taxes to pay its pro rata part of the principal of and interest on such bonds, warrants, or obligations, as they respectively become due and payable.

Operation of Systems With Outstanding Obligations Payable From Revenue

Sec. 4. When any such district is abolished and has outstanding bonds, warrants, or other obligations payable in whole or in part from net revenues from the operation of the district utility system or properties, the affected cities shall nevertheless take over and operate such system or properties through a board of trustees, hereinafter provided for, and shall apply the net revenues from the operation thereof to the payment of such outstanding district revenue bonds, warrants, or other obligations in all respects as though the district had not been abolished, and such system or properties shall be so operated until all such bonds, warrants, or other obligations shall have been retired in full, either by the payment thereof or by the refunding thereof into obligations of the cities. Such board of trustees shall consist of not more than five (5) members, shall be appointed by the governing bodies of the cities, shall serve for such term or terms, and shall perform such duties as shall be set forth in the agreement mentioned in Section 2 of this Act. It is specifically provided, however, that such board of trustees shall faithfully perform all duties, functions, and obligations imposed by law or by contract upon the abolished district and its governing board in regard to said outstanding district bonds, warrants, or other obligations payable in whole or in part from net revenues of the district utility system or properties, including the charging and collection of sufficient rates for the services of such system or properties and the application of revenues so as to comply with all covenants and agreements contained in the proceedings pertaining to such bonds, warrants, or other obligations with respect to the payment of the interest thereon and principal thereof and the maintenance of reserves and other funds. When all such district revenue bonds, warrants, or other obligations have been retired in full, either by the payment thereof or by the refunding thereof, then the properties and assets of the district shall be distributed among the cities as provided in Section 2 hereof, and such board of trustees shall thereupon be abolished.

General Obligation Refunding Bonds; Warrants; Issuance; Notice; Interest

Sec. 5. Any such city shall be authorized to issue general obligation refunding bonds in its own name to refund in whole or in part its pro rata part

of any outstanding district bonds, warrants, or other obligations payable in whole or in part from ad valorem taxes (including unpaid earned interest thereon) so assumed by it. Such refunding bonds shall be issued in the manner provided in the Bond and Warrant Law of 1931, as heretofore or hereafter amended;¹ provided, however, that it shall not be necessary to give any notice of intention to issue such refunding bonds and no right of referendum thereon shall be available. Such refunding bonds shall bear interest at the same or lower rate than that borne by the obligations refunded unless it is shown mathematically that a saving will result in the total amount of interest to be paid.

¹ Article 2368a.

Revenue Refunding Bonds for Payment of District Bonds, Warrants or Obligations; Combination of Issues

Sec. 6. Any such city shall be authorized to issue revenue refunding bonds or general obligation refunding bonds, either or both, in its own name to refund in whole or in part its pro rata part of any outstanding district bonds, warrants, or other obligations payable solely from net revenues (including unpaid earned interest thereon) so assumed by it, and shall also have the authority to combine any number of different issues or bonds of different issues of both district and city revenue bonds, warrants, or other obligations into one (1) or more series of revenue refunding bonds (and pledge the net revenues of such utility systems or properties to the payment thereof) or into one (1) or more series of general obligation refunding bonds, either or both, as the governing body may deem proper; provided however, that no originally issued city revenue bonds shall be refunded into city general obligation refunding bonds. The provisions of Articles 1111 through 1118, Vernon's Texas Civil Statutes, 1925, as amended, shall apply to such revenue refunding bonds except as otherwise provided herein, and no election for the issuance of such revenue refunding bonds shall be necessary; and in the issuance of revenue refunding bonds, it is expressly provided that such cities shall have the benefits provided by Article 1118n-5, Vernon's Texas Civil Statutes, 1925, as amended, including the power and authority to issue and sell revenue refunding bonds under Section 1a of said Article, as amended in 1955, and the provisions of such Article, as amended, relating to outstanding revenue bonds shall apply to outstanding revenue bonds assumed by cities under this Act. General obligation refunding bonds shall be issued in the manner provided in the Bond and Warrant Law of 1931, as heretofore or hereafter amended; provided, however, that it shall not be necessary to give any notice of intention to issue such refunding bonds and no right of referendum thereon shall be available. Such revenue refunding bonds or general obligation refunding bonds shall bear interest at the same or lower rate than that borne by the obligations refunded unless it is shown

mathematically that a saving will result in the total amount of interest to be paid.

[Acts 1959, 56th Leg., p. 515, ch. 228. Amended by Acts 1971, 62nd Leg., p. 1076, ch. 228, § 1, eff. May 17, 1971; Acts 1971, 62nd Leg., p. 2989, ch. 986, § 3, eff. June 15, 1971; Acts 1979, 66th Leg., p. 126, ch. 75, §§ 1, 2, eff. April 26, 1979.]

Art. 1182c-6. Validation of Contracts Affecting Water and Sewer Facilities of Cities and Contiguous Water Control and Improvement Districts

Sec. 1. In each instance where since Chapter 161, Laws of the Regular Session of the 55th Legislature of Texas, 1957, amending Article 1182c-1, Vernon's Revised Civil Statutes of Texas, became effective, any city, including home rule cities, has entered into a contract with a contiguous Water Control and Improvement District, part or all of which district by reason of annexations to such city was at the time of the making of such contract within the territorial limits of such city, which contract provides for the operation of the water and sewer facilities of such district by such city and makes other provisions with respect to the operation of the water and sewer facilities of such district and such city and with respect to the rights of such district and such city thereto, such contract is hereby validated, ratified and confirmed and declared to be enforceable and legally effective in accordance with its terms, and the parties thereto are authorized to perform and carry out the provisions and obligations of such contract. No such contract shall be so construed as to have the effect of giving the outstanding bonds of any such district a lien on any revenues not contemplated by the proceedings authorizing such bonds, nor to have the effect of giving any outstanding bonds of such city a lien on any of the revenues pledged to the payment of such outstanding district bonds until all such outstanding district bonds shall have been retired.

Sec. 2. This Act shall not apply to any contract, the validity of which is under attack, in litigation pending in any court in Texas at the time this Act becomes effective.

[Acts 1959, 56th Leg., p. 635, ch. 289.]

Art. 1182d. Validating Relinquishment of Territory

That the Legislature of the State of Texas hereby validates, ratifies and approves all ordinances, relinquishing, discontinuing, and segregating any territory within the corporate limits of any Home Rule City in this state, having a population of more than twenty thousand (20,000) inhabitants and less than twenty-one thousand (21,000) inhabitants, according to the last preceding Federal census; which city has adopted a charter under Article 11, Section 5, of the Constitution of the State of Texas and the provisions of Chapter 147, Acts of the Regular Session of

the 33rd Legislature of the State of Texas, passed in 1913.

[Acts 1934, 43rd Leg., 3rd C.S., p. 53, ch. 30, § 1.]

Art. 1182d-1. Donation of Unimproved Land to Counties for Use by Juvenile Boards; Validation; Authorization

Sec. 1. All donations of unimproved land by Home Rule cities of this State by grant or lease to the counties wherein they are located for use by the Juvenile Boards of said counties are hereby validated.

Sec. 2. Home Rule cities of this State are authorized and empowered to donate by grant or lease to the counties wherein they are located any unimproved land for use by the Juvenile Boards of such counties.

[Acts 1959, 56th Leg., p. 275, ch. 155.]

Art. 1182e. Exposition or Convention Halls in Cities of 290,000 or More

Powers Granted; Obligation Not a Debt

Sec. 1. That all cities having two hundred and ninety thousand (290,000) or more inhabitants according to the last preceding Federal Census shall have the power to build and purchase, mortgage and encumber exposition and convention halls, or either, and the income thereof and to evidence the obligations therefor by bonds, notes or warrants and to secure the payment of funds to purchase same; or to remodel, rebuild, renovate and repair such exposition and convention halls, or either. No such obligation of any such exposition and convention halls shall ever be a debt of such city, but solely a charge upon the property of the exposition and convention hall so encumbered, and shall never be reckoned in determining the power of any such city to issue any bonds for any purpose authorized by law.

Provisions as to Notice and Competitive Bids Inapplicable Until After January 1, 1936

Sec. 2. That notwithstanding any of the provisions of House Bill No. 312, Chapter No. 163, Acts of the 42nd Legislature, 1931, the requirements of said House Bill No. 312, Chapter No. 163, Acts of the 42nd Legislature, 1931,¹ with reference to notice, competitive bids and the right to referendum shall not apply to cities acting under the authority conferred in this Act until after January 1, 1936, instead of June 1, 1932, as provided in House Bill No. 312, Chapter No. 163, Acts of the 42nd Legislature, 1931.

¹ Article 2363a.

Lien on Income; Rates for Use

Sec. 3. Whenever the income to be derived from the operation of any exposition and convention hall shall be encumbered under this law, the expense of operation and maintenance including all salaries, labor, materials, interest, repairs, and extensions

necessary to properly maintain said exposition and convention hall and every proper item of expense shall always be a first lien and charge against such income. The rate for the use of said exposition and convention hall shall be determined by the governing body of such city and no free service or rental shall ever be allowed. There shall be charged and collected for the use of such exposition and convention hall a sufficient rental to pay all operating, maintenance, depreciation, replacements, betterments, and interest charges and for interest and sinking fund to pay any bonds issued to purchase, construct or improve any such exposition and convention hall or of any outstanding indebtedness against it.

Provision to be Inserted in Contract, Bond or Note

Sec. 4. Every contract, bond, or note issued or executed under this law shall contain this clause:

"The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation."

Governing Body to Manage

Sec. 5. The management and control of any such exposition and convention halls during the time that they are encumbered shall be, by the terms of such encumbrance, placed in the city council or other governing body of said city. The city council or other governing body shall have power to make rules and regulations governing the use and rental of said exposition and convention halls and for the payment of said rentals. Such governing body shall have the power to provide penalties for the violation of such rules and regulations and for the use of such exposition and convention halls without the consent or knowledge of the authorities in charge thereof and to provide penalties for all interference, trespassing, or injury to any such exposition and convention halls or premises on which same may be located.

Provision for Trustee

Sec. 6. A contract of encumbrance may provide for the selection of a Trustee to make sale upon the default of principal or interest or otherwise according to the terms of such contract and for the selection of his successor, if disqualified or failing to act, and for collection of fees not exceeding five (5) per cent of the principal. If such contract provides for the appointment of a Receiver, the Trustee, in the event of any default in the payment of principal and interest or otherwise under such contract, continuing for a period of thirty (30) days, may apply to the proper Court for the appointment of a Receiver. A Receiver so appointed may, subject to the order of the Court, enter and take possession of the properties and operate and maintain them and apply the net revenue to the liquidation of the debt. The Receiver may maintain and operate the properties and may use or rent any part of the properties for any purpose consistent with the continued use of

the major part as an exposition and convention hall or, if so authorized by the Court, may rent all the properties for any lawful use, and all of such properties shall continue to be free from taxation until the indebtedness secured thereby is fully paid. The Receiver may rent any part or all of such properties to the city, and the city may lease the same from the Receiver. All rights of the Receiver and of any lessees or other persons holding under him shall cease when the indebtedness is paid or if the Trustee, in the exercise of its powers, shall sell the properties, provided that the Trustees may agree with any lessee of the properties from the Receiver not to sell the property during the term of his lease; provided also that if the principal of all the bonds shall not have been declared due or if such declaration being made shall have been annulled under the provisions of the contract of encumbrance, the rights of the Receiver may be terminated and the Receiver discharged by remedy or waiver of the default and upon application to the Court, and in such event the rights of any lessee from the Receiver shall be subject to adjudication and may be terminated or adjusted by the Court.

Validation of Proceedings, Mortgages, and Bonds

Sec. 6-a. Any proceedings taken by any such city under such Act and any mortgage or bonds heretofore authorized reciting the authority of such Act are hereby in all respects validated and confirmed as fully for all purposes as though duly and legally taken and authorized under such Act as now amended.

Notice to Governing Body Prior to Foreclosure or Action

Sec. 7. No collection fees shall accrue, and no foreclosure proceedings shall be begun in any Court or through any trustee, and no option to mature any part of any such obligation because of any default in payment of any installment of principal or interest shall be exercised until ninety (90) days written notice shall be given to each member of the city council or other governing body of such city that payment has been demanded and default made which notice shall date from the sending of a prepaid registered letter to each person to be notified, addressed to them at the post office in such city. If the installments of principal and interest then due shall be paid before the expiration of said ninety (90) days together with the interest prescribed in such contract, not exceeding ten (10) per cent per annum, from the date of default until the date of payment, it shall have like effect as if paid on the date when same was originally due.

Income Not to be Used for Other Debts

Sec. 8. No part of the income of any such exposition and convention hall so encumbered shall ever be used to pay any other debt, expense, or obliga-

tion of such city until the indebtedness so secured shall have been finally paid.

[Acts 1935, 44th Leg., 1st C.S., p. 1655, ch. 425. Amended by Acts 1937, 45th Leg., p. 614, ch. 307, §§ 1, 2.]

Art. 1182f. Validating Certain Tax Proceedings

Sec. 1. All elections, election orders, election proceedings, and city ordinances by which any city or town having a home rule charter has attempted to amend said charter so as to eliminate any requirement in said charter that any portion of the annual ad valorem tax levied in said city or town shall be provided for or set apart for the use of the Public Free Schools in said city or town, which election resulted in a majority of the votes cast being favorable to the amendment of said charter, shall be deemed and held valid in all respects and to the same extent as if each and all things done by said city or town in attempting to amend said charter had been done and performed in strict compliance with law, and each such charter amendment so adopted or attempted to be adopted are hereby fully validated, ratified, and confirmed, and are hereby declared to be in full force and effect as if adopted in strict compliance with all the requirements of the laws of the State of Texas and the charters of such cities and towns.

Sec. 2. Further provided that this Act shall only apply to cities and towns acting under a home rule charter and which charter sought to be amended provided that a portion of the annual ad valorem taxes levied shall be set apart for the use of the Public Free Schools; and further provided that this Act shall not apply to such cities and towns unless, prior to the voting of said amendment, the control of the Public Free Schools in such cities and towns had been separated from the jurisdiction of said cities and towns and such Public Free Schools were at the time of the holding of such election being operated under the control and jurisdiction of an independent school district.

[Acts 1939, 46th Leg., p. 700.]

Art. 1182g. Home Rule Cities of 900,000 or More; Investment of Trust Funds

Application of Act

Sec. 1. This Act shall apply to all cities having a population of 900,000 or more, according to the preceding federal census, and whose home rule charter provides for an elected comptroller, auditor, or treasurer.

Authority to Make Investments of Trust Funds and Special Deposits; Amount

Sec. 2. Any such city, acting by and through the official or officials thereof charged with the duty of managing and conducting its fiscal affairs and subject to the supervision and control of its governing body, as established from time to time by ordinance, is hereby authorized from time to time to make investments of trust funds and special deposits in

the custody of such city, to the extent of the amount of such funds that, according to official estimates, are not required for immediate disbursement, by purchasing with such funds or some of them obligations of the United States government, or by placing such funds or some of them on time deposit with one or more depository banks of such city.

Withdrawal of Funds

Sec. 3. If at any time any of the funds so placed on time deposit are required before maturity they shall be made available by the depository bank but the depository bank shall not be liable for interest earned on any amount withdrawn before maturity.

Interest

Sec. 4. Said city official is hereby authorized to receive all interest earned on such investments and to place the same in the general fund of such city as compensation to the city for holding and handling said trust funds and special deposits for the benefit of the persons ultimately entitled to receive such funds and deposits.

Cumulative Effect of Act

Sec. 5. The provisions of this Act are cumulative of all other powers of investment possessed by any such city, whether derived from its charter or from the general law; and nothing contained herein shall ever be held to have effected any limitation on any such city's powers of investment otherwise so derived.

[Acts 1967, 60th Leg., p. 201, ch. 113, eff. May 4, 1967.]

Art. 1182h. Validation of Ordinances Authorizing Bond Elections and Issuance of Bonds, and of Bonds Issued

Where any city in the state which operates pursuant to a home-rule charter has heretofore passed by unanimous vote of the governing body ordinances as emergency measures calling bond elections and authorizing the issuance of bonds, said ordinances are hereby in all things ratified, validated, and confirmed, including the purposes as stated in the voted propositions. All such bonds authorized by ordinances passed as emergency measures, including voted and authorized but undelivered bonds, are in all things ratified, validated, and confirmed.

[Acts 1971, 62nd Leg., p. 83, ch. 46, § 1, eff. April 1, 1971.]

Art. 1182i. Validation of Actions Taken During 1970 Pursuant to Designation of Territory as Disaster Area

All actions, proceedings, and ordinances taken by cities and towns during the year 1970 under the authority of Article 5890e, Vernon's Texas Civil Statutes, and Article 1175, Vernon's Texas Civil Statutes, jointly or severally pursuant to and in implementation of a decision of the President of the United States and/or the Governor of the State of

Texas designating the territory encompassing such city or town to be a disaster area are hereby validated and confirmed as of the date of such actions, proceedings or ordinances; provided, however, the terms of this Act shall not affect any proceeding in a court of law docketed as of the effective date hereof.

[Acts 1971, 62nd Leg., p. 1542, ch. 410, eff. May 26, 1971.]

Art. 1182j. Cultural and Related Parking Facilities in Cities of 1,200,000 or More

Definition

Sec. 1. In this Act, "city" means a home-rule city having a population of at least 1,200,000 according to the last preceding federal census.

Cultural and Parking Facilities; Promotion

Sec. 2. (a) In addition to the authority provided by the provisions of any other law of this state, a city is hereby authorized to acquire sites for and establish, acquire, lease as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate, or maintain (any or all) cultural facilities, such as opera houses, ballet and symphony halls, theaters or similar buildings, or any building or buildings combining same, and to acquire sites for and establish, acquire, lease as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate, or maintain (any or all) parking facilities, including areas and structures, or any combination thereof, located at or in the immediate vicinity of such cultural facilities, to be used in connection with such cultural facilities and otherwise for off-street parking or storage of motor vehicles or other conveyances.

(b) Further, a city is hereby authorized to expend funds derived from that portion of the mixed beverage tax revenues hereinafter authorized for (i) the advertising and promotion of events to take place in such cultural facilities and the attraction of events to such facilities either by such city or through contracts with persons or organizations selected by such city and (ii) the encouragement, promotion, improvement, and application of the cultural arts, including but not limited to opera, ballet, symphony, and theater, and the arts related to the presentation, performance, execution, and exhibition of these major art forms.

Issuance of Bonds; Pledge of Revenues

Sec. 3. (a) A city is hereby authorized to issue revenue bonds to provide all or part of the funds to provide the cultural facilities and parking facilities in order to accomplish the purposes of this Act as described in Subsection (a) of Section 2 hereof.

(b) Such revenue bonds may be issued when duly authorized by an ordinance passed by the governing body of a city and shall be secured by a pledge of and be payable from all or any designated part of the revenues of such cultural facilities or such parking facilities, as may be provided in the ordinance or

ordinances authorizing the issuance of such bonds. To the extent that such revenues may have been pledged to the payment of revenue or refunding bonds which are still outstanding, the pledge securing the proposed bonds shall be inferior to such previous pledge or pledges. Within the discretion of the governing body of such city, and subject to any limitations contained in previous pledges, in addition to the pledge of revenues, a lien may be given on all or any part of the physical properties and facilities constructed or acquired out of the proceeds of the sale of such bonds.

(c) When any of the revenues of such cultural facilities or parking facilities are pledged to the payment of bonds issued under this Act, it shall be the duty of the governing body of the city to cause to be fixed, maintained, and enforced charges for services rendered by the facilities and properties, the revenues of which have been pledged, at rates and amounts at least sufficient to comply with and carry out the covenants and provisions contained in the ordinance or ordinances authorizing the issuance of such bonds.

(d) If a city leases as lessee any one or more of such cultural facilities or parking facilities, such city shall have authority to pledge to the lease payments required to be made by such city all or any part of the revenues of such cultural facilities or parking facilities.

Pledge of Mixed Beverage Tax Receipts

Sec. 4. (a) By official action of its governing body a city is hereby authorized to pledge for the purposes provided herein a portion of that part of the receipts of the mixed beverage tax presently collected by the Texas Alcoholic Beverage Commission (the "commission") pursuant to the Alcoholic Beverage Code (the "code") which is remitted to such city pursuant to Section 205.03 of the code. The total amount of any such portion of such receipts so pledged shall not exceed the sum of 1½ percent of the gross receipts of each permittee, as defined in the code, located within the city from the sale, preparation, or service of mixed beverages, as defined in the code, or from the sale, preparation, or service of ice or nonalcoholic beverages that are sold, prepared, or served for the purpose of being mixed with alcoholic beverages and consumed on the premises of the permittee.

(b) All ordinances heretofore passed and adopted by the governing body of any city so pledging mixed beverage tax revenues which authorized the issuance of any bonds heretofore issued that are secured in whole or in part by a pledge of any portion of the mixed beverage tax presently collected by the commission and reimbursed to the city are hereby in all respects validated and held to be enforceable as of their respective dates of passage and adoption.

(c) In the event that at the time of any remittance of mixed beverage tax revenues by the Comptroller

of Public Accounts of the State of Texas pursuant to Section 205.03 of the code the amount collected by the commission from permittees in a city having acted to pledge a portion of mixed beverage tax as provided in Subsection (a) of this section shall be less than the total amount required to be collected from such permittees by Chapter 202 of the code, then the amount to be pledged under this section shall be an amount equal to the total amount actually collected from permittees in such city multiplied by a fraction in which the numerator is the amount of the mixed beverage tax receipts authorized to be pledged pursuant to this section during the quarterly period for which such remittance is to be made and the denominator is the total of the amount of the receipts required to be collected from all permittees in such city pursuant to Chapter 202 of the code during such period.

Use of Revenues

Sec. 5. (a) The revenues derived from that portion of mixed beverage tax revenues authorized to be pledged by this Act shall be used for the purposes described in Section 2 of this Act, which shall include but not be limited to the pledge of such revenues to the payment of bonds which are issued for the purposes described in Subsection (a) of Section 2 of this Act.

(b) Any amounts received by a city from that portion of the mixed beverage tax revenues authorized to be pledged by this Act and pledged to the payment of bonds pursuant to Subsection (a) of this section which are in excess of the amounts required by the ordinance or ordinances under which such bonds are issued may be used for any other purpose described in Section 2 of this Act. Any amounts remaining after such application of funds may be determined by the governing body of a city to be excess funds and may be used by such city for any lawful purposes, provided that any such use does not violate the provisions of any ordinance passed by the governing body of such city in connection with the issuance of bonds for the payment of which such portion of the mixed beverage tax revenues are pledged.

Source of Funds for Payment of Bonds

Sec. 6. The owners and holders of any bonds issued pursuant to the Act shall never have the right to demand payment of either the principal or interest on such bonds out of any funds raised or to be raised by taxation, except for that portion of the mixed beverage tax authorized herein if pledged.

Form of Bonds; Interim Certificates or Receipts; Approval and Registration of Bonds

Sec. 7. All bonds shall be signed by the manual or facsimile signatures of the mayor of the city and the city secretary or city clerk and shall bear the manual or facsimile seal of the city thereon. Such bonds may be payable at such times, may be in one

or more series, may bear such date or dates, may mature at such time or times, may bear interest at any rate or rates permitted by the constitution and the laws of the State of Texas, may be payable in such medium of payment at such place or places, may be subject to such terms or redemption at such premiums, may contain such terms, covenants, and conditions, and may be in such form, either coupon or registered, as the ordinance of the governing body of the city may provide. The bonds may be sold at public or private sale in such manner and upon such terms as may be provided in such ordinance. Pending the preparation of definitive bonds, interim receipts or certificates in such form and with such provisions as may be provided in such ordinance may be issued to the purchaser or purchasers of bonds sold pursuant to this Act. All bonds issued hereunder and the record relating to their issuance shall be submitted to the Attorney General of the State of Texas for his examination as to the validity thereof. If he finds that the bonds have been authorized in accordance with law, he shall approve them, and thereupon they shall be registered by the comptroller. After the approval and registration of such bonds by the comptroller, they shall be incontestable in any court or other forum for any reason and shall be valid and binding obligations in accordance with their terms for all purposes.

Ordinances

Sec. 8. In the ordinance or ordinances authorizing the issuance of any revenue or refunding bonds authorized hereunder, the city may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund or funds, reserve fund or funds, and other funds and may make additional covenants with respect to the bonds and the pledged revenues and the operation and maintenance of those facilities, the revenues of which are pledged, including provision for the operation or for the leasing of all or any part of such facilities and the use or pledge of money derived from such operation contracts and leases as it may deem appropriate. Such ordinance or ordinances may also prohibit the further issuance of bonds or other obligations payable from the pledged revenues or may reserve the right to issue additional bonds to be secured by a pledge of and payable from such revenues on a parity with, or subordinate to, the lien and pledge in support of the bonds being issued, subject to such conditions as are set forth in said ordinance or ordinances. Such ordinance or ordinances may contain other provisions and covenants, as the city may determine, not prohibited by the Constitution of Texas or by this Act, and the city may adopt and cause to be executed any other proceedings or instruments necessary or convenient in the issuance of any of such bonds.

Appropriation or Set Aside of Bond Proceeds

Sec. 9. From the proceeds of sale of any bonds issued under the provisions of the Act, the city may

appropriate or set aside an amount for the payment of interest and administrative and operating expenses expected to accrue during the period of construction, an amount or amounts to be deposited into the reserve fund or funds as may be provided in the bond ordinance or ordinances, as well as an amount necessary to pay all expenses incurred and to be incurred in the issuance, sale, and delivery of the bonds.

Refunding Bonds

Sec. 10. Refunding bonds may be issued for the purposes and in the manner provided by general law, including without limitation Chapter 503, Acts of the 54th Legislature, Regular Session, 1955, as amended (Article 717k, Vernon's Texas Civil Statutes), and Chapter 784, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-3, Vernon's Texas Civil Statutes), as presently enacted or hereafter amended.

Bonds as Investment Securities and to Secure Deposits

Sec. 11. All bonds issued under this Act shall be investment securities under the terms of Section 8 of the Business & Commerce Code and shall be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies of every kind or type, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for such deposits to the extent of their face value when accompanied by all unmaturing coupons appurtenant thereto.

Construction With Other Laws

Sec. 12. This Act is cumulative of all existing laws of the State of Texas, but to the extent that such existing laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall govern and prevail; and this Act shall take precedence over any and all conflicting or inconsistent city charter provisions.

Severability

Sec. 13. If any provisions of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect any other provisions or applications, and to this end the provisions of this Act are declared to be severable.

[Acts 1981, 67th Leg., p. 2574, ch. 687, eff. Aug. 31, 1981.]

CHAPTER FOURTEEN. CITIES ON NAVIGABLE WATERS

- Art. 1183. Extension of Limits.
- 1184. Powers.
- 1185. Status of Territory.
- 1186. Regulation.
- 1187. Restrictions.
- 1187a. Construction of Bridges Over Navigable Waters.
- 1187a-1. Bonds for International Bridge Across Rio Grande Validated; Additional Bonds for Repairs and Improvements.
- 1187a-2. Home Rule Cities Owning Portion of Bridge Over Rio Grande River Financed by Revenue Bonds; Additional Bonds for Acquisition, Construction, Repair and Improvement.
- 1187b. Revenue Bonds for Certain Purposes in Certain Cities Authorized.
- 1187c. Municipal Fish Markets; Bonds Secured by Pledge of Properties.
- 1187d. Municipalities Authorized to Encumber Abattoirs.
- 1187e. Harbors, Ports and Navigational Facilities.
- 1187f. Harbor and Port Facilities; Cities and Towns Over 5,000 on Gulf or Connecting Waters; Bonds.
- 1187g. City of Port Arthur; Lake Sabine; Regulations.
- 1187-1. Designation of Annexed Territory as an Industrial District.

Art. 1183. Extension of Limits

The city council of all cities situated along or upon navigable streams in this State, and acting under special charters, may extend the limits of said city for the limited purposes named in the four succeeding articles, so as to include in said city the said navigable streams and the land lying on both sides thereof for a distance of twenty-five hundred feet from the thread of said stream to a distance of twenty miles or less in an air line from the ordinary boundaries of said city, either above or below the boundaries of said city, or both, by the passage of an ordinance extending the boundaries of said city to include the territory aforesaid, being a strip five thousand feet wide, and twenty miles, more or less, in length, or so much thereof as the city council may consider advisable to add to the limits of said city.

[Acts 1925, S.B. 84.]

Saved from Repeal

Acts 1963, 58th Leg., p. 447, ch. 160, enacting the Municipal Annexation Act (art. 970a) expressly provides in art. III of the Act that it shall not repeal or affect arts. 1183 to 1187 of the Revised Civil Statutes.

Art. 1184. Powers

The city council of said city shall have the right, power and authority to secure land within the territory so added to said city by purchase, condemnation or gift, for the improvement of the navigation

of said navigable streams or waters either by the United States or by said city, or by any navigation or other improvement district, and for the purpose of establishing and maintaining wharves, docks, railway terminals, side tracks, warehouses or any other facilities or aids whatsoever to either navigation or wharves. In all condemnation proceedings under this law the same procedure shall apply that now applies in condemnation of land by cities for the purpose of streets.

[Acts 1925, S.B. 84.]

Art. 1185. Status of Territory

For the purposes specified, the corporate limits of said cities shall, upon passage of said ordinance, be extended from the existing limits so as to include all the land added to said city by said ordinance. Such city shall have no right to tax the property over which such boundaries are extended, unless such property is within the line and within the limits of the general city boundaries or limits.

[Acts 1925, S.B. 84.]

Art. 1186. Regulation

After the passage of the ordinance adding said territory to said city, said city shall have and exercise the fullest and most complete power of regulation of navigation and of wharfage and of wharfage rates and of all facilities, conveniences and aids to wharfage or navigation consistent with the Constitution of this State, and shall further have authority by criminal ordinances or otherwise, to police the navigation of said waters and the use of said wharves and facilities and aids to wharfage and navigation.

[Acts 1925, S.B. 84.]

Art. 1187. Restrictions

The power granted in the four preceding articles shall not authorize the extension of the territory of any city for the limited purposes named so as to include any land which is already part of any other city or town corporation whether incorporated under the general laws or under special law, or any land at the time belonging to any other city or town.

[Acts 1925, S.B. 84.]

Art. 1187a. Construction of Bridges Over Navigable Waters

Powers Granted; Wharves, Piers, Etc.; Sale or Lease

Sec. 1. Any city in this State, whether organized and operating under general law or under special charter granted by the Legislature of the State of Texas or under charter adopted or amended under Section 5 of Article 11 of the Constitution of the State of Texas, which city is situated within the territorial limits of a navigation district organized under the general laws of the State of Texas and having a deep water port located within the limits of said city, may within such city purchase, construct,

own, maintain and operate a bridge or bridges over or across any stream, inlet or arm of the Gulf of Mexico or entrance canal to said port connecting up any of the public streets, highways or other thoroughfares of said city and improve, enlarge or repair the same. Any such city may purchase, construct, own, maintain, operate or lease any wharf, pier, pavilion, and/or boat house and dams and dykes and spillways with roads and bridges thereon or thereover for the purpose of creating a fresh water supply for domestic, irrigation and other purposes within such navigation district, or within the county or counties adjacent to such fresh water basin and may acquire, reclaim, reconstruct, or fill in any submerged lands along its water front, may build and construct sea walls, breakwaters or other shore protection to protect its water front of said city, may provide for and construct water mains, gas mains, storm sewers, sanitary sewers, sidewalks, streets, or other like improvements in connection with such reconstructed or reclaimed properties and may operate, repair and otherwise maintain the same. And any such city reconstructing or reclaiming any such property may rent, lease or sell the same, or grant franchises for the use of any such reconstructed or reclaimed property and apply the income therefrom in accord with this Act, and may dredge out, construct, reconstruct, maintain and operate any channel in connection with any such deep water port in aid of navigation within said city and subject to the provisions of this Act.

Ordinances for Operation of Bridges

Sec. 2. Any such city may enact all necessary, appropriate and reasonable ordinances providing rules and regulations for the operation of any such bridge or bridges and concerning the manner in which traffic shall move over and across any such bridge or bridges not inconsistent with the General Laws of the State.

Construction of Act

Sec. 3. This Act shall be construed as cumulative authority for the purposes named herein, and as to the manner and form of issuance of any revenue bonds for any such purpose or purposes, and shall not be construed to repeal any existing laws with respect thereto, it being the purpose and intent of this Act to create an additional and alternate method for the purposes named herein.

Estimating Cost of Improvement

Sec. 4. Whenever the governing body of such city shall determine to acquire, construct, improve, enlarge, extend or repair any such bridge or bridges, and/or reclaim or reconstruct, improve, repair, or extend any such dams, dykes and spillways with roads and bridges thereon and thereover, sea walls, breakwaters, shore protection or water mains, gas mains, storm sewers, sanitary sewers, sidewalks, streets, wharfs, piers, pavilions, or other like improvements in any such reconstructed or

reclaimed area or territory, it shall first cause an estimate to be made of the cost thereof, and thereafter it shall then cause a notice to be published in such city in a newspaper of general circulation once each week for four (4) consecutive weeks stating in said notice the following:

- (1) The contemplated improvement;
- (2) The estimated cost thereof;
- (3) The use or disposition of the reclaimed lands, if any;
- (4) The amount and location of lands to be reclaimed, if any;
- (5) The time when the ordinance authorizing said improvements and the issuance of the bonds shall be passed or acted upon (which shall be not less than twenty days after the last publication of said notice); and
- (6) Reference shall be made to the right of referendum, as provided for in the next succeeding paragraph.

If by the time set for action upon said ordinance, which shall be not less than twenty (20) days after the last publication of the notice provided for herein, as many as one hundred (100) of the qualified voters of such city whose names appear on the last approved tax rolls as property taxpayers, petition the city council or governing body of such city in writing to submit to a referendum vote the question as to the making of such improvements and the issuance of such bonds for such purposes, then such city, city council or governing body shall not be authorized to make said improvements or issue said bonds unless the proposition making such improvements and issuing such bonds for such purposes is sustained by a majority of the votes cast at such election for such purpose. The law in reference to elections for the issuance of city bonds as contained in Chapters 1 and 2, Title 22, Revised Statutes of 1925,¹ shall govern in so far as consistent with the provisions of this Act. If such petition is not so filed with the city secretary, or clerk, then the city council or governing body may proceed with the improvements and may issue said bonds, but in the absence of such petition, the city council or governing body may at its discretion submit such question to a vote of the people.

¹ Articles 701 et seq. and 718 et seq.

Bonds for Improvement

Sec. 5. For the purpose of acquiring, constructing, improving, enlarging, extending or repairing any such bridge or bridges, and/or for the purpose of acquiring, constructing, reclaiming, reconstructing, repairing or improving any such dams, dykes and spillways with roads and bridges thereon and thereover sea walls, breakwaters, shore protection, water mains, gas mains, storm sewers, sanitary sewers, sidewalks, streets and other like improvements in such reconstructed or reclaimed area or territory, anyone or all, any such city may borrow

money and issue its negotiable bonds, provided that no such bonds shall be issued unless and until authorized by an ordinance which shall set forth a brief description of the contemplated improvement, the estimated cost thereof, the amount, the maximum rate of interest, time and place of payment and other details in connection with the issuance of such bonds. Such bonds shall bear interest at the rate of not more than six per centum (6%) per annum payable semiannually or otherwise, and shall be payable at such times, not exceeding forty-five (45) years from their date, and at such place or places as shall be prescribed in the ordinance providing for their issuance. The bonds and coupons shall be executed in such manner and shall be substantially in the form provided in the authorizing ordinance. Such bonds shall be sold in such manner and upon such terms as the governing body shall deem for the best interest of the city. In no event shall any of the bonds be sold on a basis to yield more than six per centum (6%) per annum from the date of sale to the date of average maturity of the bonds sold, provided, however, that in any contract for the purchase or construction of any such project or projects as hereinbefore described, or for the improvement, enlargement, extension, reclamation, reconstruction or repair of the same, provision may be made that payment therefor may be made in such bonds. Such bonds and their coupons may be made payable in lawful money of the United States of America, or in gold coin of or equal to the standard of weight and fineness existing on the date thereof. Such bonds shall mature annually and the first installment thereof shall be made payable not less than two (2) years nor more than five (5) years from the date of such bonds. No such installment shall be more than two and one-half times as great in amount as the smallest prior installment of the same issue. If all of the bonds of an issue are not issued at the same time, the bonds at any one time outstanding shall mature as aforesaid. The principal of and interest upon such bonds shall be payable solely from the income and revenues derived from the operation of the bridge or bridges, sea walls, breakwaters, shore protection, water mains, gas mains, storm sewers, sanitary sewers, sidewalks, streets and other like improvements including rentals or other charges received from any reclaimed or reconstructed area or territory for the acquisition, construction, improvement, reconstruction, reclamation, enlargement, extension or repair of which the same are issued; provided, however, that where any such city acquires or constructs a bridge or bridges under authority of this Act, and in connection therewith acquires or constructs any sea wall, breakwaters or other shore protection and reclaims or reconstructs any submerged area or territory and constructs therein or thereon any water mains, gas mains, storm sewers, sanitary sewers, sidewalks, streets or other like improvements, any such city may, as additional security for the payment of any bonds issued for the acquisition or construction of any such bridge or

bridges, pledge any income or revenues derived from any such projects, and additionally secure the payment of any such bonds with a mortgage on any such project or projects or reclaimed area as hereinafter provided. No bond or coupon issued pursuant to this Act shall constitute an indebtedness of such city within the meaning of any State constitutional or statutory limitation. No such obligation shall ever be reckoned in determining the power of such city to issue any bonds for any purpose authorized by law. It shall be plainly stated on the face of each such bond and coupon that the same have been issued under the provisions of this Act and that it does not constitute an indebtedness of such city within any State constitutional or statutory limitation, and that the holder of such bond shall never have the right to demand payment of such obligation out of any funds raised or to be raised by taxation.

Security for Payment of Bonds

Sec. 6. As security for the payment of the principal of and interest on such bonds, such city may mortgage and encumber any part, parts or all of the properties and facilities for the acquisition, construction, reconstruction, reclamation, repair or improvement of the same such bonds were issued, and may provide in such mortgage or encumbrance for a grant to the purchaser under sale or foreclosure thereunder of a franchise to operate the properties and facilities so encumbered for a term of not over twenty (20) years after such purchase, subject to all laws regulating same then in force. The ordinance authorizing the issuance of such bonds shall contain a substantial description of the franchise which is to appear in the mortgage.

Provision of Mortgage as to Foreclosure

Sec. 7. The mortgage or encumbrance shall provide for a trustee to enforce foreclosure and the city shall have the option at any five (5) year period within said twenty (20) years after purchase of properties designated in the franchise to repurchase said properties under reasonable terms and reasonable prices, to be set forth in said mortgage or encumbrance, but this limitation shall not extend to any reclaimed area acquired by individual purchasers.

Management of Encumbered Property

Sec. 8. The management and control of any such properties and/or facilities so encumbered, during the time they are so mortgaged and encumbered, shall be in the hands of the governing body of the city, except as otherwise provided in Section 29 of this Act. The provisions of this Section and Section 29 hereof shall not apply when there has been a sale on foreclosure under the mortgage in this Act provided for.

Bonds as Legal Investments

Sec. 9. The bonds issued under the provisions of this Act are legal investments for executors, administrators, trustees and other fiduciaries and for savings banks and insurance companies organized under the laws of this State.

Bonds Exempt From Taxation

Sec. 10. Bonds and interest coupons issued hereunder are hereby exempted from any and all State, county, municipal and other taxation whatsoever under the laws of the State of Texas, and it shall be plainly stated on the face of each such bond as follows:

"The principal of and interest on this bond are exempted from any and all State, county, municipal and other taxation whatsoever under the laws of the State of Texas."

Bonds as Negotiable Instruments

Sec. 11. Bonds issued under the provisions of this Act shall have all of the qualities of negotiable instruments under the law merchant and the Negotiable Instruments law.¹

¹ Article 5932 et seq. (repealed; see now, Business and Commerce Code, § 3.101 et seq.).

Deposit of Proceeds of Bonds

Sec. 12. The governing body of any such city issuing any such bonds shall, where practicable, require that the proceeds of the sale of bonds issued under the provisions of this Act be deposited in a special account or accounts in a bank or banks which are members of the Federal Reserve System, and shall require, in so far as practicable, that each such deposit be secured by direct obligations of the United States Government having an aggregate market value at least equal to the sum at the time on deposit, or, in any event, the proceeds shall be deposited in some bank or other depository, either within or without the State, which will secure such deposit satisfactorily to said governing body.

Use of Proceeds of Bonds Solely for Improvements

Sec. 13. All moneys received from any such bonds shall be used solely for the acquisition, construction, improvement, reclamation, reconstruction, enlargement, extension or repair of the project or projects for which issued including not more than five per centum (5%) for engineering, legal and other expenses and discounts incident thereto; provided, however, that such moneys may be used also to advance the payment of interest on such bonds during the first three (3) years following the date of such bonds to not more than the contract rate of interest. Provided, that any unexpended balance of the proceeds of the sale of any such bonds remaining after the completion of the project for which issued shall be put immediately into the Bond and Interest Redemption Fund for such bonds, and the same shall be used only for the payment of the principal of the bonds, or, in the alternative, to

acquire outstanding bonds of the general issue from which the proceeds were derived, by purchase of such bonds at a price (exclusive of accrued interest) not exceeding the face amount thereof. Any bonds so acquired by purchase shall be cancelled and shall not be reissued.

Validity of Signatures to Bonds

Sec. 14. In case any of the officers whose signatures or countersignatures appear on the bonds or coupons shall cease to be such officers before the delivery of such bonds, such signatures or countersignatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until such delivery.

Payment for Services Rendered City

Sec. 15. The reasonable cost and value of any service rendered to any such city by any such project or projects shall be charged against the city and shall be paid for monthly or otherwise, as the service accrues, from the current funds, or from the proceeds of taxes which such city, within constitutional limitations, is hereby authorized and required to levy in an amount sufficient for the purpose, and such funds, when so paid, shall be accounted for in the same manner as other revenues of such project or projects.

Additional Bonds for Extension of Projects

Sec. 16. Any city acquiring, constructing, reconstructing, reclaiming, improving, enlarging or repairing any project or projects as aforesaid pursuant to the provisions of this Act, may, at the time of the authorization of such bonds for any such purpose or purposes, provide in the authorizing ordinance for additional bonds for extensions and permanent improvements, which additional bonds may be issued and be negotiated from time to time as such proceeds for such purpose may be necessary. Such bonds, when so negotiated, shall have equal standing with the bonds of the same issue.

Refunding Bonds

Sec. 17. Where a city has outstanding any bonds issued under the provisions of this Act, it may thereafter issue and negotiate new bonds on such terms as the governing body of such city shall deem advisable for the purpose of providing for the payment of any such outstanding bonds. Such new bonds shall be designated "refunding bonds", and shall be secured to the same extent and shall have the same source of payment as the bonds which have been thereby refunded.

Rates or Charges for Services

Sec. 18. Rates or other charges for services and facilities afforded by the project and for sales of reclaimed area shall be sufficient to provide for the payment of the interest upon and principal of all such bonds as and when the same become due and payable, to create a Bond and Interest Redemption

Fund therefor, to provide for the payment of expenses of administration and operation and such expenses for maintenance of the project or projects necessary to preserve the same in good repair and working order, to build up a reserve for depreciation of the project or projects, and to build up a reserve for improvements, betterments and extensions thereto other than those necessary to maintain the same in good repair and working order, as herein provided. Such rates and/or charges shall be fixed and revised from time to time so as to produce these amounts, and the governing body shall covenant and agree in the ordinance authorizing the issuance of such bonds, and on the face of each bond at all times to maintain such rates and/or charges for services furnished by such project or projects as shall be sufficient to provide for the foregoing.

Cost of Operation as First Lien on Income

Sec. 19. The reasonable cost of administration and operation and the reasonable expense of maintaining such project or projects in good repair and working order shall be a first lien and charge against the income and revenues derived from the operation of such project or projects, superior to the lien of the mortgage or encumbrance on such project or projects.

Operation and Maintenance Account

Sec. 20. Out of the gross income and revenues of such project or projects there should be first set aside into an account to be known as the "Operation and Maintenance Account" monthly or oftener if necessary, sums sufficient to meet the cost and expenses set forth in Section 18 hereof. After provision for the "Operation and Maintenance Account" the ordinance authorizing the issuance of such bonds shall make provision for a "Bond and Interest Redemption Fund" into which there shall be set aside monthly or oftener if necessary such portion of the gross income and revenues of such project or projects as shall be sufficient to pay when due the principal of and interest upon the bonds provided, however, that in the segregation and separation of such gross income and revenues the governing body of the city may prescribe a reasonable excess amount to be placed in said Bond and Interest Redemption Fund from time to time during the earlier years of maturities of such bonds so as thereby to produce and provide a reserve fund for contingencies to meet any possible deficiencies therein in maturities of future years.

Ordinance to Determine Fiscal Year

Sec. 21. The ordinance authorizing the issuance of such bonds shall definitely determine whether such project or projects shall be operated upon a calendar, operating or fiscal year basis and the dates of the beginning and ending of same.

Disposition of Surplus

Sec. 22. The governing body of such city may make adequate and suitable provision for the disposition of any surplus accumulations in the Operation and Maintenance Account, or Depreciation Account, by causing same to be transferred to the Bond and Interest Redemption Fund, invested, or otherwise disposed of.

Provision for Redemption of Bonds Before Maturity

Sec. 23. The governing body of the city authorizing the bonds under the provisions of this Act may make provision for any such bonds to be called for payment on any interest payment date before maturity provided that the city shall have on hand in its Bond and Interest Redemption Fund sufficient moneys not otherwise appropriated or pledged, in excess of the interest and principal requirements within the next two succeeding calendar, operating or fiscal years.

Construction as Not Prohibiting Use of Available Incomes and Revenues

Sec. 24. Nothing in this Act shall be construed to prohibit the city, county or the State from appropriating and using any part of its available income and revenues derived from any source, other than in case of the city, from the operation of such project or projects, in paying any immediate expenses of operation or maintenance of any such project or projects or otherwise aiding in financing any part of the construction of said bridge or bridges, or reclaiming any submerged area or territory herein described.

Projects Not Subject to Regulation by State Agencies

Sec. 25. Rates of the city charged for services and/or facilities furnished by any such project or projects shall not be subject to supervision or regulation by any State bureau, board, commission or other like agency or instrumentality thereof; provided however, that the functions, powers and duties of the State Board of Health shall remain unaffected by this Act.

Separate Books and Records to be Kept

Sec. 26. Any city issuing bonds under the provisions of this Act shall install and maintain proper books of record and account (separate entirely from other records and account of such city) in which full and correct entries shall be made of all dealings or transactions of or in relation to the properties, business and affairs of the project or projects and the same shall be open for examination and inspection by any taxpayer, user of the services furnished by the project or projects, or any holder of the bonds issued under the provisions of this Act, or any one acting for or on behalf of such taxpayer, user of the services of the project or projects, or bond-holder.

Construction as Not Authorizing Impairing Other Obligations

Sec. 27. Nothing in this Act shall be construed as authorizing any city to impair or commit a breach of the obligation of any valid lien or contract created or entered into by it, the intention hereof being to authorize the pledging, setting aside and segregation of income and revenues as aforesaid only where consistent with outstanding obligations of such city.

Borrowing From Federal Agencies

Sec. 28. Any such city mentioned in Section 1 of this Act, in addition to the powers conferred under this Act, is hereby granted and shall hereafter have the power to borrow money from the Federal Government or any of its agencies created for the purpose of making such loan, for the purpose of constructing and maintaining said bridge and the other improvements herein provided for and to mortgage and encumber said properties and facilities and the net revenues and income from the operation thereof and everything pertaining thereto acquired or to be acquired to secure the payment of the funds necessary to said construction and improvement and as additional security therefor by the terms of such encumbrance may pledge and encumber the net income and revenues from the operation of all of said properties and facilities and may provide in such encumbrance for a grant to the purchaser under a sale or foreclosure thereunder of a franchise to operate the property and facilities so encumbered for a term of not over twenty (20) years after such purchase, subject to all laws regulating same then in force.

Permit From Navigation and Canal Commissioners

Sec. 29. Anything in this Act to the contrary notwithstanding, no such bridge shall be constructed, maintained or operated over any entrance channel to any port operated by any navigation district without a permit from the Navigation and Canal Commissioners of such District and all plans and specifications for said bridge shall be subject to the joint approval of the governing bodies of the city and district. Whenever any said toll bridge is constructed, maintained and operated over and across any entrance channel into a deep water port under the provisions of this Act, the Navigation and Canal Commissioners of the Navigation District governing said port shall have the power to prescribe reasonable rules and regulations for the operation of said bridge in aid of navigation and shall have and exercise direct control over the operation of the mechanical facilities of said bridge, providing for the clearance of the channel for the ingress and egress of vessels to said deep water port and to employ and direct all agencies in the management and operation of same, and said facilities shall be maintained and operated under the direct control and direction of said Navigation and Canal Commissioners; provided, that said Commissioners may ap-

propriate and use any available revenues of said District in defraying part of the cost of operation and maintenance of any bridge or bridges constructed hereunder. No city shall have the power to construct, maintain or operate any such bridge over any such entrance channel to any such deep water port except in conformity with this section.

County Appropriation Authorized

Sec. 30. Any county in which any such city is situated is hereby authorized to appropriate to any such city for use in constructing any such bridge or bridges, or reclaiming or reconstructing any such submerged area or territory, or constructing seawall or breakwater protection for its waterfront, any available revenues of such county, and any such county is authorized to appropriate and apply any part of its available income and revenues to the operation and maintenance of any such project or projects.

Appropriations by State Highway Department

Sec. 31. The State Highway Department of the State of Texas, with the approval of the Governor may appropriate and apply any available revenues of such department to aid in the construction, operation and maintenance of any bridge or bridges acquired or constructed under the provisions of this Act, together with any approaches thereto, or the acquisition of any properties in connection with or in furtherance thereof.

Partial Invalidity

Sec. 32. The invalidity of any section, sentence, clause, paragraph or portion of this Act shall not affect the validity of the remainder of this Act. [Acts 1933, 43rd Leg., p. 774, ch. 231.]

Art. 1187a-1. Bonds for International Bridge Across Rio Grande Validated; Additional Bonds for Repairs and Improvements

Sec. 1. This Act shall be applicable to any City operating under its Special Charter or Home Rule Charter, which has amended such Charter by a vote of the people so as to authorize the issuance of negotiable revenue bonds for the purpose of providing funds for paying the cost of the acquisition of the part of an International Bridge situated within the United States of America and extending from such City across the Rio Grande.

Sec. 2. All bonds authorized by the governing body of any such City for the purpose of acquiring the part of the International Bridge which is situated within the United States of America and which extends from such City across the Rio Grande, and which bonds are payable solely from the revenues derived from tolls charged for the use of such bridge are hereby validated, and when such bonds are approved by the Attorney General of the State of Texas, registered by the Comptroller of Public Accounts, sold and delivered, they shall constitute

valid, binding and negotiable obligations of such City payable only from the revenues pledged for their payment. The governing body of any such City within its discretion, is empowered to authorize and issue additional negotiable revenue bonds for the purpose of repairing and improving such bridge in an amount not exceeding ten per cent (10%) of the amount of the revenue bonds issued to acquire such property.

[Acts 1947, 50th Leg., p. 91, ch. 62, § 1.]

Art. 1187a-2. Home Rule Cities Owning Portion of Bridge Over Rio Grande River Financed by Revenue Bonds; Additional Bonds for Acquisition, Construction, Repair and Improvement

Sec. 1. This Act shall be applicable to any Home Rule City which owns the portion of an international toll bridge over the Rio Grande River which is situated within the United States of America and whose Home Rule Charter authorizes the City Council of any such city to issue bonds payable from the net revenues derived from the operation of such bridge for the purpose of providing funds to acquire such bridge and to construct, repair and improve such bridge, or for any of such purposes.

Sec. 2. Where any such city has bonds outstanding payable from the revenues of such bridge, additional bonds may be issued to the extent and under the conditions prescribed by the provisions of the outstanding bonds and the proceedings relating thereto, including the provisions of any trust indenture securing such outstanding bonds, and any such additional bonds may be secured by a pledge of and lien on the net revenues of the bridge on a parity with such outstanding bonds to the extent, in the manner, and under the conditions set out in the proceedings and the trust indenture authorizing and securing such previously issued and outstanding bonds.

Sec. 3. Any such city which, on or prior to the effective date of this Act, by ordinance duly passed by the governing body thereof and pursuant to published notice of intention as required by the charter to issue additional bonds for any one or more of the purposes specified in Section 1 hereof, or for capital improvements to such bridge, has authorized the issuance of any such additional bonds payable from the net revenues of such bridge and secured by a trust indenture or by a supplement to any previously executed indenture is authorized to issue, sell and deliver such additional bonds, and any such additional bonds when approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of Texas and sold and delivered in accordance with law, shall be valid and binding special obligations of such city. All proceedings authorizing and relating to the issuance of such bonds, including the execution and delivery of a trust indenture or supplemental trust indenture securing such bonds, and any provisions contained therein which by expression or reference provide for

the substitution of new bonds or coupons for any such bonds or coupons which may be lost, mutilated or stolen, provide for the issuance of refunding bonds, authorize the issuance of additional parity bonds for the purpose of constructing another bridge, restrict the rights of minority bondholders, grant to the trustee a lien on the revenues and funds coming into its possession to secure the payment of fees and charges justly due such trustee and providing under certain conditions for the modification of such trust indenture or supplement thereto, be and they are hereby in all things ratified, confirmed and validated.

[Acts 1955, 54th Leg., p. 9, ch. 8.]

Art. 1187b. Revenue Bonds for Certain Purposes in Certain Cities Authorized

Purposes for Which Bonds May Be Issued

Sec. 1. Any city in this State, whether organized and operating under General Law or under Special Charter granted by the Legislature of the State of Texas, or under charter adopted or amended under Section 5 of Article 11 of the Constitution of the State of Texas, which city is situated within the territorial limits of a navigation district organized under the General Laws of the State of Texas, and having a deep water port located within the limits of said navigation district, is hereby authorized and empowered to issue its negotiable bonds, notes, or warrants, payable from revenues other than taxation, for either one or any or all of the following purposes, to-wit:

(a) The construction, maintenance, and operation of a toll bridge or toll bridges over and across, or a tube, underpass, or tunnel under any stream, inlet, or arm of the Gulf of Mexico, or entrance channel to such port connecting up any of the public streets and thoroughfares of, or in, and to said city;

(b) The construction, maintenance, and operation, and/or extension of a sewage disposal plant within or without the limits of said city;

(c) The construction, maintenance, and/or extension, or improvement of sanitary sewer lines and/or storm sewer lines within or without the limits of said city;

(d) The construction, maintenance, and/or extension or improvement of water mains or water lines from the source of water supply of said city to any part of said city or within said city as may be found necessary by the governing body thereof;

(e) The acquisition, reclamation, reconstruction, elevation, and filling in of any submerged or lowlands along the water front of said city, and the construction of sidewalks, streets, and gas lines within the territory or area so acquired and/or reclaimed;

(f) The construction, maintenance, and/or extension or improvement of seawalls, breakwaters or

other shore protections to protect the water front of said city;

(g) The construction, reconstruction, maintenance, operation and dredging out of any channel or boat basin in connection with any such deep water port;

(h) The construction, maintenance, replacement, and operation of a basin and boat slips, dry docks, boat service stations, walls, piers, wharfs, and structures in connection with such boat basin and slips.

Bonds as Charge on Revenues of Improvements

Sec. 2. No such bonds, notes or warrants shall ever evidence any debt or obligation of such city, but shall be solely a charge upon the revenues and/or properties and improvements pledged to secure their payment, and shall never be reckoned in determining the power of such city to issue bonds, or otherwise lend its credit, for any purposes authorized by law.

Pledge of Revenues for Payment of Bonds, Notes or Warrants

Sec. 3. Any and all bonds, notes or warrants, as well as interest thereon, issued under authority of this Act, shall be redeemed or paid by an appropriation or pledge of all revenues derived from either one or all of the improvement projects herein authorized, and/or tolls collected from the operation of any existing bridge or bridges, if such tolls are so authorized, as hereinafter provided, and payment of such bonds, notes or warrants may be additionally secured by a mortgage on any such improvement project or projects, including any toll bridge or toll bridges and reclaimed lands; it being the intent hereof to authorize and to provide that all sources of income and revenue derived from any one or more of such improvement projects may be pledged and applied to the payment of the obligation or obligations issued for the purpose of constructing and providing for another one or more of such improvement projects; provided, that said city may provide for the construction, maintenance and operation of all of the improvement projects enumerated in Section 1 of this Act, and improvements in connection therewith, by the issuance and sale of one series of bonds, notes or warrants in the discretion of the governing body thereof.

Election for Issuance

Sec. 4. Any and all bonds, notes or warrants authorized by this Act shall never be issued unless a proposition for the issuance of such bonds, notes or warrants, as the case may be, shall have been first submitted to the qualified voters who are property taxpayers of such city. The method of ordering and holding such election shall be governed by the laws of this State regulating elections for the issuance of city bonds under Chapters 1 and 2, Title 22, Revised Statutes of 1925.¹ If at such election a majority of the property taxpaying voters, voting at such elec-

tion, cast their ballots in favor of the issuance of the bonds, notes or warrants, as the case may be, the governing body of said city, shall as soon thereafter as practicable, issue said bonds, notes or warrants.

¹ Articles 701 et seq. and 718 et seq.

Maturity and Denominations

Sec. 5. Such bonds, notes or warrants shall mature not later than thirty years from their date; they shall be issued in such denominations, and payable at such time or times as may be deemed most expedient by the governing body of such city, and shall bear interest not to exceed six per cent (6%) per annum. The General Laws relative to city bonds, not in conflict with the provisions of this Act, shall apply to the issuance, approval, certification and registration, and the sale of the bonds, notes or warrants provided for in this Act.

Contents of Bonds; Attorney General's Approval

Sec. 6. Each bond, note or warrant issued under authority of this Act shall contain this clause:

"The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation."

All bonds, notes or warrants issued hereunder shall be presented to the Attorney General for his approval as is provided for the approval of municipal bonds issued by cities or towns; and in event such bonds, notes or warrants are approved by the Attorney General, they shall be registered by the State Comptroller as in the case of municipal bonds.

Borrowing From Federal Agencies

Sec. 7. Any such city is hereby further expressly authorized and empowered to borrow money from the Government of the United States, from the Federal Emergency Administration of Public Works, and any and all other agencies of the Government of the United States, which now are or hereafter may be authorized to make loans to public corporate bodies and municipalities, or from any person, firm, or corporation, and which loans may be made on such terms and in such amounts as may be agreed upon between the Government of the United States or its lending agency, or such person, firm, or corporation, and the governing body of such city; and any and all such loans shall be evidenced by negotiable bonds, notes, or warrants issued under the provisions of this Act in cases where the project or projects are to be financed pursuant to the provisions of this Act.

Destruction of Existing Bridges or Other Structures

Sec. 8. Power and authority is hereby conferred upon the governing body of any such city to remove or demolish any existing bridge or other structure owned and operated by said city, if in the discretion of such governing body the removal or the demolishing of such bridge or structure may be necessary

in carrying out to completion any one or more of the improvement projects herein authorized.

Eminent Domain

Sec. 9. The right of eminent domain is hereby expressly conferred upon any such city operating under the provisions of this Act, for the purpose of enabling such city to acquire the fee simple title, easement or right-of-way to, over and through any and all lands, water, or lands under water, private or public (except land and property used for cemetery purposes), within or without the limits of any such city, necessary in the constructing and maintaining of either one or all of the improvements herein authorized. In the event of the condemnation, or the taking, damaging or destroying of any property for such purposes, the city shall pay to the owner thereof adequate compensation for the property taken, damaged or destroyed. All such condemnation and damages adjudicated in any condemnation proceedings, and all damages which may be done to the property of any person or corporation in the construction of any such improvement project, shall be paid out of funds derived from the sale of bonds, notes or warrants issued under the provisions of this Act. All procedure with reference to condemnation, the assessment of and estimating of damages, payment, appeal, the entering upon the property pending the appeal, etc., shall be in conformity with the procedure prescribed in Title 52, Articles 3264 to 3271, inclusive, Revised Civil Statutes of 1925, and any amendments thereto.

Conversion of Existing Bridges Into Toll Bridges

Sec. 10. Whenever the governing body of any such city finds that it will not be necessary and/or practicable to construct any toll bridge or toll bridges under authority of Subdivision (a) of Section 1 of this Act, then in that event any existing bridge or bridges owned and/or operated by any such city over and across any such stream, inlet or arm of the Gulf of Mexico, or such entrance channel to such port, connecting up any of the public streets and thoroughfares of or in and to such city, may be by ordinance converted into a toll bridge or toll bridges, and the governing body of such city is hereby authorized to assess and collect such tolls for the use of any such bridge or bridges as within its judgment are reasonable and sufficient in amount, together with other income and revenues derived from the improvement projects, to pay the principal of and interest on all bonds, notes or warrants issued under the provisions of this Act as the same shall mature; provided, however, that all such tolls or charges so collected shall be placed in the interest and sinking fund account created for the purpose of paying the interest on and principal of all bonds, notes or warrants issued under the provisions of this Act, and such tolls or charges shall be applied to no other purpose; and, provided further, that the authority to assess and collect such bridge tolls and the irrevocable application of the same to the payment of bonds, notes or war-

rants issued under the provisions of this Act shall be authorized at the election to be ordered by the governing body of such city to determine whether or not any such bonds, notes or warrants shall be issued and sold.

Execution of Mortgages or Deeds of Trust

Sec. 11. Before such bonds, notes or warrants shall be put on the market the Mayor and the person acting as City Treasurer or Finance Commissioner, pursuant to authority conferred by ordinance of the governing body, may execute a proper indenture, mortgage or deed of trust, making effective the mortgage lien on the properties pledged or mortgaged to secure payment of the principal of and interest on such bonds, notes or warrants, naming in such indenture, mortgage or deed of trust a bank or banking institution, with trust powers, and such indenture, mortgage or deed of trust shall be placed of record in the proper Deed of Trust and Mortgage Records of the county or counties in which any of such mortgaged properties may be situated, and may provide in such indenture, mortgage or deed of trust for a grant to the purchaser under sale or foreclosure thereunder, a franchise to operate the properties so encumbered for a term of not over twenty (20) years after such purchase, subject to all laws regulating same then in force; provided, however, that the city shall have the option at any five (5) year period within said twenty (20) years after purchase of the properties designated in the franchise, to repurchase said properties under reasonable terms and at reasonable prices, to be set forth in said mortgage or encumbrance, but this option shall not extend to any lands or properties in the reclaimed area which maybe acquired from the city by individual purchasers.

Costs of Administration and Operation as Lien

Sec. 12. The reasonable costs of administration and operation and the reasonable expense of maintaining such project or projects in good repair and working order shall be a first lien and charge against the income and revenues derived from the operation of such project or projects, superior to the lien of the indenture, mortgage or deed of trust on such project or projects.

Operation and Maintenance Account; Sinking Funds

Sec. 13. Out of the gross income and revenues of such project or projects, there shall be first set aside into an account to be known as the "Operation and Maintenance Account" monthly, or oftener if necessary, sums sufficient to meet the costs and expense set forth in Section 12 hereof. After provision for the "Operation and Maintenance Account," the ordinance authorizing the issuance of such bonds, notes or warrants shall make provision for a "Special Interest and Sinking Fund Account" into which there shall be set aside monthly, or oftener if necessary, such portion of the gross income and revenues of either one or all of such project or

projects as shall be sufficient to pay when due the principal of and interest on the bonds, notes or warrants.

Revenues Applied to Payment of Bonds

Sec. 14. No part of the income and revenues of either one or all of such project or projects shall be used or devoted to any purpose or purposes, save and except the purposes prescribed in Sections 12 and 13, hereof, so long as such notes, bonds or warrants shall be outstanding and unpaid; and the use or payment of such income and revenues, or any part thereof, for any other purpose shall be a diversion thereof and punishable as provided by Article 94 of the Penal Code of this State, Revision of 1925.¹

¹ Repealed; see, now, Penal Code, § 39.01.

Permits for Bridges

Sec. 15. No such bridge shall be constructed, maintained or operated over any entrance channel to any port operated by any navigation district without a permit from the Navigation and Canal Commissioners of such District and all plans and specifications for said bridge shall be subject to the joint approval of the governing bodies of the city and district. Whenever any said toll bridge is constructed, maintained and operated over and across any entrance channel into a deep water port under the provisions of this Act, the Navigation and Canal Commissioners of the navigation district governing said port shall have the power to prescribe reasonable rules and regulations for the operation of said bridge in aid of navigation and shall have and exercise direct control over the operation of the mechanical facilities of said bridge, providing for the clearance of the channel for the ingress and egress of vessels to said deep water port and to employ and direct all agencies in the management and operation of same, and said facilities shall be maintained and operated at the expense of said city but under the direct control and direction of said navigation and canal commissioners. No city shall have the power to construct, maintain or operate any such toll bridge over any such entrance channel to any such deep water port except in conformity with this section.

Construction Against Repeal of Existing Law

Sec. 16. This Act shall not be construed to repeal any existing laws with respect thereto, it being the purpose and intent of this Act to create an additional and alternative method for the purposes named herein.

Bridge Defined; Toll Bridges

Sec. 16a. That wherever the word "bridge" or the word "bridges" appears in said Senate Bill No. 43, Chapter 17,¹ passed at the Second Called Session of the Forty-third Legislature of the State of Texas, the same shall be construed to mean and include the words "tube, underpass, or tunnel," and said Act, in

authorizing the construction, maintenance, and operation of a toll bridge or toll bridges over and across any stream, inlet, or arm of the Gulf of Mexico, or entrance channel to such port connecting up any of the public streets or thoroughfares of or in and to said city, the same shall likewise authorize the construction, maintenance, and operation of a tube, underpass, or tunnel under any stream, inlet, or arm of the Gulf of Mexico, and entrance channel to such port connecting up any of the public streets or thoroughfares of or in and to said city, and the authority contained in said Chapter 17, passed at the Second Called Session of the Forty-third Legislature of the State of Texas, shall in all things authorize the construction, maintenance, and operation of a tube, underpass, or tunnel, and empower such city to charge tolls sufficient to pay from such revenues all bonds, notes, or warrants issued for the purposes enumerated in said Act.

¹ This article.

Partial Invalidity

Sec. 17. If any section, sub-section, sentence, clause or phrase of this Act is held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Act.

[Acts 1934, 43rd Leg., 2nd C.S., p. 48, ch. 17. Amended by Acts 1935, 44th Leg., 1st C.S., p. 1639, ch. 417, §§ 1 to 3.]

Art. 1187c. Municipal Fish Markets; Bonds Secured by Pledge of Properties

Powers Granted; Obligation Not a Debt

Sec. 1. That any City in this State with a population of over one thousand (1,000) people located on the Coast of Texas, or on any Gulf, Bay or Inlet, or within five (5) miles thereof, and in which commercial fishing and shrimping is an established industry, shall have the power to purchase and/or build a municipal fish market for the purpose of encouraging, developing and standardizing the fishing and shrimping industry, which among other services shall have sanitary facilities and equipment for cleaning, packing, shucking, canning and cold storage of shrimp, oysters and other sea food, and any such city shall have the right to borrow money, (and subject to the restrictions prescribed in Section 2 hereof to borrow money and to accept grants, either or both, from the United States of America or any agency thereof), for the purpose of building, purchasing or acquiring a municipal fish market and the necessary real property to be used as a site therefor; that any such city shall have the power to procure the funds for such purpose by issuing bonds or revenue notes for such purpose, and to secure the payment of such revenue bonds or revenue notes by mortgaging the physical properties so acquired, or to be acquired, and pledging the net revenues received therefrom, and by the terms of the encumbrance may grant to the purchaser under sale or foreclosure a permit to operate the same subject to such laws as may then be in force regulating the operation of such industry, or may secure

the revenue bonds or notes by pledge of revenues without a mortgage of the physical properties; such revenue bonds or revenue notes shall bear interest at a rate fixed by the governing body of such city not to exceed six per cent (6%) per annum, and shall mature serially in such installments as may be fixed by said governing body within forty (40) years from their date, and at the option of the holder, may be registered as to principal only. Such obligations as may be incurred under the terms of this Act shall never be a debt of such city but solely a charge upon the property so encumbered and the revenues therefrom, and such obligation shall never be reckoned in determining the power of such city to issue any bonds for purpose authorized by law.

Conditions Precedent to Loans or Grants From United States

Sec. 2. No such city shall have authority to accept a loan and grant, either or both, from the United States of America or any agencies thereof, for such purpose, except subject to the following conditions:

(a) The construction of the market must be approved by the Health Department of the State of Texas, as conducive to the health of the people of the State who consume food products from Texas Coast waters;

(b) The construction of the market must be approved by the Game, Fish and Oyster Commission, as feasible, and of economic importance to the fishing industry generally, in the entire district to be served by the market, as distinguished from the local or civic benefits to the derived therefrom by such city, and that the economic need for such project is not already adequately met by some other or similar institution accessible to the district to be served;

(c) Any such market shall be and shall remain subject to such rules and regulations as to health and sanitation as shall be prescribed by the State Health Department and by all agencies and departments of the United States of America having power to impose such rules and regulations.

Bonds and Notes Negotiable

Sec. 3. All revenue bonds and all revenue notes issued hereunder shall be considered and held to be negotiable under the Negotiable Instruments Law heretofore enacted by the Legislature of the State of Texas.

Disposition of Revenues

Sec. 4. The expense of operating and maintaining any such market including all salaries, labor, materials and repairs necessary to permit such market to render efficient service shall always be a first lien and charge against the revenues received from its operation. All of the gross revenues from the operation of such market, after the payment of such maintenance and operating expenses shall be

pledged and used exclusively to the payment of the principal and interest of such bonds or notes. Provided if in the judgment of the governing body of such city it is necessary to extend or enlarge such market, the city is authorized to make a junior pledge of the revenues of such market and of the extension to be constructed. In the event such subsequent pledge is made it shall be inferior in all respects to the pledge theretofore made, and the city may issue such junior revenue bonds or notes having interest rates, maturities and covenants as herein prescribed for the first issue of such bonds or notes. The city shall establish, deposit and secure the special funds to facilitate the payment of the principal and interest of all of such bonds and/or notes. It is the intent of this Act that all of the revenues from the operation of such market, after paying maintenance and operating expenses shall be used for debt service, and the surplus if any shall be used to buy in and cancel such revenue bonds or revenue notes before maturity or in the alternative shall be invested in such securities as shall be prescribed in the contracts under which money for such construction of such market may be furnished to the city.

Law Governing Notice, Referendum and Competitive Bidding

Sec. 5. Cities and town building municipal fish markets under the provisions of this Act shall be governed by the provisions of Article 2368-a Revised Civil Statutes of Texas, with reference to notice, right of referendum and competitive bidding.

Bonds Not Payable From Taxation

Sec. 6. Any and all revenue bonds and revenue notes issued pursuant to the provisions of this Act shall have stamped or printed thereon the following:

"The holder hereof shall never have the right to demand payment out of any funds raised or to be raised by taxation."

Refunding Bonds; Leases; Sale of Facilities

Sec. 7. Any city of the class described in Section 1 above, having outstanding municipal fish market revenue bonds may, by ordinance adopted by the governing body thereof, issue refunding bonds for the purpose of refunding all or any part of such outstanding bonds. Such refunding bonds shall be issued and the payment thereof secured in the same manner provided for the issuance of such original bonds, except that no election, notice or right of referendum shall be required. The governing body of such city shall be authorized to enter into lease contracts with persons, firms or corporations for the use of all or any part of the facilities of such municipal fish market and properties appurtenant thereto for such period of time not exceeding twenty (20) years and upon such terms and conditions as such governing body shall deem proper; and the governing body of such city shall be authorized to enter into sales contracts with persons, firms or

corporations conveying all or any part of the facilities of such municipal fish market and properties appurtenant thereto under such terms and conditions as such governing body shall deem proper; provided that authority to enter into such lease or sales contracts shall be subject to the prior covenants and agreements relating to any outstanding revenue bonds issued for the purpose of acquiring such municipal fish market.

[Acts 1934, 43rd Leg., 3rd C.S., p. 39, ch. 22. Amended by Acts 1949, 51st Leg., p. 682, ch. 354, § 1; Acts 1957, 55th Leg., p. 379, ch. 182, § 1.]

Art. 1187d. Municipalities Authorized to Encumber Abattoirs

Cities to Which Act Applies

Sec. 1. All cities situated not more than one hundred (100) miles from the Gulf of Mexico, and not more than fifty (50) miles from any stream forming an international boundary, shall have power to mortgage and encumber their abattoirs and everything pertaining thereto acquired, or to be acquired, to secure the payment of funds to construct the same, or to build, improve, enlarge, extend, repair or construct any kind or character of permanent improvements, including buildings and other structures, and as additional security therefor, by the terms of such mortgage or encumbrance, may grant to the purchaser under sale or foreclosure thereunder a franchise to operate such abattoirs, and the improvements thereof, for a term of not over thirty (30) years after such purchase, subject to all laws regulating the same then in force. No such obligation shall ever be a debt of such city, but solely a charge upon the properties so mortgaged or encumbered, and shall never be reckoned in determining the power of such city to issue any bonds for any purpose authorized by law.

Pledge of Income

Sec. 2. All cities situated not more than one hundred (100) miles from the Gulf of Mexico, and not more than fifty (50) miles from any stream forming an international boundary, shall have power to pledge the income from their abattoirs and everything pertaining thereto acquired, or to be acquired, to secure the payment of funds to construct the same or to build, improve, enlarge, extend, repair or construct any kind or character of permanent improvements including buildings and other structures, and as additional security therefor, by the terms of such pledge may grant to the purchaser under sale or foreclosure thereunder a franchise to operate such abattoirs, and the improvements thereof for a term of not over thirty (30) years after such purchase, subject to all laws regulating the same then in force. No such obligation shall ever be a debt of such city, but solely a charge upon the properties so mortgaged or encumbered, and shall never be reckoned in determining the power of any such city to issue any bonds for any purpose authorized by law.

Notes or Warrants Issued Without Referendum

Sec. 3. Such cities shall have the power to issue notes or warrants in any sum not to exceed the sum of Fifty Thousand Dollars (\$50,000.00), for such purposes without submitting such proposition to a vote of the qualified taxpaying voters. This law shall take precedence over all conflicting city charter provisions.

Repeals

Sec. 4. All laws and parts of laws in conflict herewith are hereby expressly repealed to the extent in conflict herewith.

Partial Invalidity

Sec. 5. If any section, portion, clause, or part of this Act be invalid or unconstitutional, the same shall not affect any remaining parts of this Act and it is expressly hereby declared that the Legislature would have passed such remaining parts of this Act with such invalid or unconstitutional section, portion, clause or part omitted.

[Acts 1934, 43rd Leg., 4th C.S., p. 53, ch. 21.]

Art. 1187e. Harbors, Ports or Navigational Facilities**Cities on Gulf Coast; Authority to Issue Negotiable Revenue Bonds, Refunding Bonds or to Accept Loans or Grants**

Sec. 1. (a) Any city located on the coast of the Gulf of Mexico, or on any channel, canal, bay or inlet connected with the Gulf of Mexico shall have the right, power and authority to issue negotiable revenue bonds or accept loans or grants from the Federal, State or County Governments or any of their agencies, or from any other source or sources, to build, acquire, purchase, construct, enlarge, extend, repair, maintain, improve, replace, develop, regulate, operate, lease, mortgage and encumber their harbors, ports, or navigational facilities in connection therewith or any aids thereto, including but not limited to boathouses, boat pilings, seawalls, breakwaters, shore protections, wharfs, docks, walks, piers, pavilions, ways, walls, lands, bulkheads, fills, canals, channels, slips, pools, waterways, turning basins, dry docks, service facilities, bridges, tubes, underpasses, tunnels, ferries, buildings, warehouses, structures, bunkering facilities, equipment, loading devices, floating plants, lighters, aids to navigation, improvements, towing facilities, and all other facilities or improvements or aids incident to or necessary or desirable in connection therewith, and as additional security therefor, by the terms of such mortgage or encumbrance, may grant to the purchaser under sale or foreclosure thereunder a franchise to operate such structures and facilities, and the improvements thereof, for a term of not over thirty (30) years after such purchase, subject to all laws regulating the same then in force.

(b) Such city shall have the right, power and authority to issue negotiable revenue bonds for the purposes mentioned herein payable from such revenues as are pledged by the governing body of such city to the payment of such bonds, and the applicable provisions of Chapter 1, Title 22, Revised Civil Statutes of 1925, as amended,¹ shall be applicable to the issuance of such bonds, except as otherwise provided in this Act.

(c) Such city shall have the right, power and authority to issue refunding bonds for the purpose of refunding any outstanding bonds authorized by this Act and interest thereon. Such refunding bonds may be issued to refund more than one series of outstanding bonds and combine pledges for the outstanding bonds for the security of the refunding bonds, and may be secured by other or additional revenues. The provisions of this law with reference to the approval by the Attorney General of Texas and the remedies of the holders shall be applicable to refunding bonds. Refunding bonds shall be registered by the Comptroller of Public Accounts upon surrender and cancellation of the bonds to be refunded, but in lieu thereof, the resolution authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the bank where the original bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the interest on the original bonds to their option date or maturity date, and the Comptroller of Public Accounts shall register them without concurrent surrender and cancellation of the original bonds. No election shall be necessary for the refunding of any bonds provided for in this Act. Refunding bonds may be issued for the purpose of refunding the bonds of a single series or issue or two or more consecutive issues or series of bonds, and such refunding bonds shall enjoy the same priority of lien on the revenues pledged to their payment as pledged to the bonds refunded, provided that when two or more consecutive series or issues of bonds are refunded in a single issue of refunding bonds, the lien on all such refunding bonds shall be equal if all of the outstanding bonds of the several series or issues of bonds to be refunded are surrendered in exchange for such new refunding bonds. No refunding bonds shall attain any degree of priority of lien greater than that enjoyed by the series or issue then to be refunded having the highest priority of lien. Such refunding bonds shall bear interest at the same or lower rate than borne by the bonds refunded, unless it is shown mathematically that a saving will result in the total amount of interest to be paid and that the annual principal and interest burden will not be increased so as to infringe upon or impair the rights of the holders of any bonds enjoying a prior or inferior lien.

¹ Article 701 et seq.

Series Bonds; Pledge of Revenues; Rates for Charges; Payment of Interest and Expenses; Default in Payment of Principal or Interest

Sec. 2. (a) Bonds and refunding bonds provided for in this Act may be issued in more than one series and from time to time.

(b) To secure payment of principal and interest of the revenue bonds authorized by this Act, such city may pledge the gross or net revenues of: (1) any or all of the installations, improvements, projects, or properties which are built, purchased, constructed, enlarged, extended, repaired, improved, replaced, developed, or financed by the proceeds of bonds authorized by this Act, and (2) any or all of the existing facilities, installations, improvements, projects, or properties of such city existing prior to the issuance of such bonds under the provisions of this Act which may be pledged, and (3) any or all contracts theretofore or thereafter made by such city which may be pledged, and (4) any or all other revenues specified by the ordinance or resolution authorizing the issuance of the bonds authorized by this Act which may be pledged. The ordinance or resolution authorizing the bonds and pledging revenues may reserve the right, under conditions therein specified, to issue additional bonds which will be on a parity with or subordinate to the bonds then being issued. The term "gross revenues," as used in this Section of the Act, shall mean the entire revenues of the installations, improvements, projects, or properties pledged. The term "net revenues," as used in this Section of the Act, shall mean the gross revenues of the installations, improvements, projects, properties, or facilities pledged by the ordinance or resolution authorizing the issuance of the bonds after deducting the amount necessary to pay the cost of maintaining and operating such installations, improvements, projects, properties, or facilities. Any revenues from contracts which are pledged shall be the entire amount due such city under such contract unless specified in the ordinance or resolution authorizing the bonds. Such city shall have the right, power and authority to transfer to the general fund of such city and use for general or special purposes, revenues pledged of the said installations, improvements, projects, properties, or facilities, by the ordinance or resolution authorizing the issuance of the bonds but only in the amount and to the extent as may be authorized and permitted in the ordinance or resolution authorizing the issuance of the bonds.

(c) When bonds payable from revenues are issued under this Act, it shall be the duty of the governing body of such city to fix, and from time to time to revise, the rates of compensation for charges, rates, rentals, tolls, leases, and services rendered by such city in connection with such installations, improvements, projects, properties, or facilities, of which the revenues are pledged which will be sufficient to pay the expense of operating and maintaining such installations, improvements, projects, properties, or facilities, and to pay the bonds as they mature and the interest as it accrues and to maintain the reserve and other funds as provided in the ordinance or resolution authorizing the bonds unless otherwise specifically provided for in the ordinance or resolution authorizing the bonds. When bonds payable from revenues are issued under this Act, the face of the bonds shall contain this clause: "The holder

hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation." Such bonds authorized under this Act shall never be a debt of such city but solely a charge upon the property and facilities and contracts as authorized by the ordinance or resolution authorizing the issuance of the bonds.

(d) From the proceeds from the sale of the bonds payable from revenues, such city may set aside an amount for the payment of interest expected to accrue during construction and a reserve interest and sinking fund, and such provision may be made in the ordinance or resolution authorizing the bonds.

(e) Proceeds from the sale of any bonds provided for in this Act may also be used for the payment of all expenses necessarily incurred in accomplishing the purposes for which the bonds are issued and in the issuance of the bonds, including but not limited to engineering fees, architectural fees, legal fees, fiscal agent fees, and the cost of printing, issuing and delivering the bonds.

(f) In the event of a default or a threatened default in the payment of principal or interest on bonds payable from revenues, any court of competent jurisdiction may, upon petition of the holders of twenty-five percent (25%) of the outstanding bonds of the issue thus in default or threatened with default, appoint a receiver with authority to collect and receive all income of the installations, improvements, projects, properties, facilities, or contracts of which the revenues were pledged, employ and discharge agents and employees, take charge of funds on hand, and manage the proprietary affairs of such installations, improvements, projects, properties, facilities, or contracts of which the revenues were pledged without consent or hindrance by the governing body of the city. Such receiver may also be authorized to rent or lease the installations, improvements, projects, properties, or facilities of which the revenues were pledged, renew such contracts with the approval of the court appointing him. The court may vest the receiver with such other powers and duties as the court may find necessary for the protection of the holders of the bonds.

Election Authorizing Bond Issue; Notice

Sec. 3. No bonds authorized by this Act, except refunding bonds, shall be issued unless authorized by an election at which only the qualified voters who reside in such city and who own taxable property therein and who have duly rendered the same for taxation and unless a majority of the votes cast is in favor of the issuance of the bonds. Such election shall be held and notice thereof given as is provided in the case of the issuance of municipal bonds by such city.

Examination of Bonds and Record by Attorney General; Approval; Registration; Incontestability

Sec. 4. After any bonds, including refunding bonds, are authorized under the provisions of this

Act, such bonds and the record relating to their issuance shall be submitted to the Attorney General of Texas for his examination as to validity thereof. If such bonds have been authorized in accordance with the Constitution and laws of the State of Texas, and subject to the limitation of Section 6(b) of this Act, he shall approve the bonds or refunding bonds and the bonds or refunding bonds then shall be registered by the Comptroller of Public Accounts. Thereafter, the bonds or refunding bonds shall be legal, valid and binding and shall be incontestable for any cause.

Legal and Authorized Investments

Sec. 5. All such bonds and refunding bonds of such city shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

Authority of Cities to Issue Bonds Payable from Taxes; Applicability of Act; Location of Installations

Sec. 6. (a) No such city nor any other city in the State of Texas shall have any right, power or authority to issue any bonds payable from taxes under the provisions of this Act.

(b) The provisions of this Act shall not apply to any city of the State of Texas having a population of twelve thousand (12,000) or more according to the last preceding United States census, and the Attorney General of Texas shall have no authority or duty to approve any bonds under the provisions of this Act for cities having a population of twelve thousand (12,000) or more according to the last preceding United States census.

(c) The installations, improvements, projects, properties, or facilities which are authorized by this Act to be built, acquired, purchased, constructed, enlarged, extended, repaired, maintained, improved, replaced, developed, or financed under the provisions of this Act shall be within the corporate limits of such city.

Exemption from Taxation of Installations and Bonds

Sec. 7. The accomplishment of the purposes stated in this Act being for the benefit of the people of such city and of this state and for the improvement of their properties and industries, such city in carrying out the purposes of this Act will be performing an essential public function under the Con-

stitution and shall not be required to pay any tax or assessment on such installations, improvements, projects, properties, or facilities, or any part thereof, and the bonds or refunding bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Cumulative Effect of Act

Sec. 8. This law is cumulative of all existing laws of the State of Texas that are applicable but to the extent that the provisions of any such laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail.

Severability

Sec. 9. If any provision of this Act or the application thereof to any person or circumstances shall be held to be invalid or unconstitutional, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

[Acts 1934, 43rd Leg., 4th C.S., p. 73, ch. 30. Amended by Acts 1959, 56th Leg., p. 134, ch. 80, § 1.]

Art. 1187f. Harbor and Port Facilities; Cities and Towns Over 5,000 on Gulf or Connecting Waters; Bonds

Application of Act; Authority of City

Sec. 1. This Act shall apply to every incorporated city or town (including Home Rule Cities) located on the coast of the Gulf of Mexico, or any channel, canal, bay or inlet connected therewith, having a population of more than five thousand (5,000) inhabitants according to the Federal Census last preceding the taking of any action by such city under the provisions of this Act. Every such city or town owning and operating port facilities (referred to hereinafter as "city") is hereby empowered and authorized to build, construct, purchase, acquire, lease as lessee, improve, enlarge, extend, repair, maintain, replace, develop, operate, lease, or cause to be built, constructed, purchased, acquired, leased, improved, enlarged, extended, repaired, maintained, replaced, developed, or operated, any and all improvements and facilities necessary or convenient for the proper operation of the ports or harbors of such city. These powers are public and governmental functions, exercised for a public purpose, and matters of public necessity. Without in any way limiting the generalization of the foregoing, it is expressly provided that such improvements and facilities mentioned above shall include lands, interests in lands, properties, wharves, piers, docks, roadways, belt railways, warehouses, grain elevators, transport facilities handling facilities, storage facilities, ship repair facilities, dumping facilities, bunkering facilities, floating plants and facilities, lightering facilities, towing facilities, any other facilities which a navigation district is or may be authorized to provide by general law or specific act,

any and all equipment and supplies, and all other structures, buildings, and facilities necessary or convenient for the proper operation of the ports or harbors of such city. The improvements and facilities mentioned in this Section 1 are hereinafter referred to as the "improvements and facilities." The improvements and facilities may be constructed on land acquired by purchase, lease, or otherwise and such land, or interest therein, or such improvements and facilities may be conveyed by lease, sublease or sale by installment or otherwise upon the terms and conditions as may be determined to be advantageous.

**Bonds or Other Obligations Payable From Taxes
or Revenues; Election**

Sec. 2. For the purpose of providing funds for any of the improvements and facilities provided in Section 1 hereof, the governing body of the city shall have the power and authority to issue from time to time bonds or other obligations payable from taxes or revenues or both; provided, however, that no bonds or other obligations payable from ad valorem taxes, except for refunding, shall be issued unless and until they have been authorized at an election at which a majority of the persons qualified to vote and voting at said election have voted in favor thereof, said election to be called and held under the provisions of and in accordance with Chapter 1 of Title 22, Revised Civil Statutes of Texas, 1925, as the same is now or may hereafter be amended.¹ Notwithstanding the provisions or restrictions of any general or special law or charter to the contrary, no election shall be required to authorize the issuance under this Act of bonds or other obligations payable solely from revenues if such bonds or other obligations do not constitute a debt of the city or a pledge of its faith and credit and if the owner or holder of any such bond or other obligation shall never have the right to demand payment out of any funds raised or to be raised by taxation.

¹ Article 701 et seq.

**Outstanding Bonds or Obligations; Management and
Control of Improvements and Facilities; Board
of Trustees**

Sec. 3. (a) While any revenue bonds or other obligations issued under the provisions of this Act or any interest thereon remain outstanding and unpaid, the management and control of such improvements and facilities (and the physical properties comprising the same) and of the income and revenue from them, including the authority to fix charges, prepare budgets, and authorize expenditures, by the terms of the ordinance authorizing the issuance of such bonds or other obligations may be placed in the hands of the governing body of the city or may be placed in the hands of a board of trustees to be named in such ordinance, consisting of not more than seven (7) members, one (1) of whom shall be a member of the governing body of such city; provided, if the city is operating under a

Home Rule Charter and said Charter contains provisions requiring that the improvements and facilities be managed or controlled by a board of trustees, then the provisions of such Charter shall be followed. The compensation of the members of the board of trustees, the terms of office of such members, their powers and duties, the manner of exercising the same, the election or appointment of their successors, and all matters pertaining to their organization and duties shall be specified in said ordinance; provided, if the city is operating under a Home Rule Charter as mentioned above and the Charter contains provisions relating to any of the foregoing matters mentioned in this sentence, it is expressly provided that the provisions of such ordinance relating to such matters shall be in accordance with and governed by the Charter provisions. In all matters where such ordinance or Charter are silent, the laws and rules governing the governing body of the city shall govern said board of trustees so far as applicable.

(b) If the management and control of the improvements and facilities is placed in the hands of a board of trustees by ordinance or Charter under Subsection (a) of this section, the board of trustees constitutes a body politic and corporate for the purpose of issuing bonds or other obligations and shall have and exercise, in addition to the powers enumerated in the ordinance or Charter, the following powers and authority:

(1) to exercise full management, control, maintenance, and operation of the improvements and facilities constituting the ports and harbors of the city;

(2) to employ a general manager and other officers, employees, and representatives as the board may consider appropriate and to fix their duties and compensation;

(3) to prepare and adopt budgets, fix charges for services and facilities, authorize expenditures, and manage and control the income and revenue of the city's ports and harbors;

(4) to determine policies and establish rules and procedures for the operation of the ports and harbors of the city;

(5) to acquire property and interest in property for the purposes set forth in Section 1 of this Act in the manner provided by this Act and to construct improvements and facilities on the property;

(6) to contract in its own name, but not in the name of the city. Except as otherwise provided by this Act, all such contracts involving the expenditure of more than \$5,000 shall be awarded only pursuant to competitive bids. However, competitive bids are not required for contracts for personal or professional services, real estate transactions, operation of port facilities or improvements under specific agreements for a limited term, or insurance, or if the board of trustees determines that the time delay posed by the competitive bidding process

would prevent or substantially impair the conduct of port operations;

(7) to issue in the name of the board, with the consent of the governing body of the city, revenue bonds or other obligations payable from revenues in the manner set out in this Act for the purpose of providing funds for any of the improvements and facilities provided by Section 1 of this Act or to refund any previously issued bonds or other obligations;

(8) to issue in the name of the board, with the consent of the governing body of the city, current expense warrants drawn against all or any part of the current revenues of the board to pay current expenses during the current fiscal year of the board or any part of the current fiscal year. However, in no event shall the aggregate amount of the warrants that are outstanding at any time during any fiscal year exceed 50 percent of the revenues budgeted for that fiscal year after subtracting from the budgeted revenues all principal and interest on bonds or obligations other than current expense warrants to be paid from the revenues during the fiscal year;

(9) to evidence contractual obligations to pay money by issuing in the name of the board, with the consent of the governing body of the city, certificates of participation in the contractual obligations;

(10) to sue and be sued in its own name;

(11) to adopt, use, and alter a corporate seal; and

(12) to establish a port security force and to commission one or more employees of the force as peace officers if they are certified as qualified to be peace officers by the Commission on Law Enforcement Officer Standards and Education, which peace officers commissioned under this Act are vested with all the rights, privileges, obligations, and duties of any other peace officer in this state while they are on the property under the control of the board of trustees, or in the actual course and scope of their employment.

**Payment; Security; Collection of Fees and Charges;
Sale of Bonds, Improvements and Facilities**

Sec. 4. (a) Revenue bonds and other obligations issued under this Act and payable from revenues may be paid from and secured solely by a pledge of the net revenues derived or to be derived from the operation of all or any designated part or parts of the improvements and facilities then in existence or to be improved, constructed, or otherwise acquired, with the duty of the issuer to charge and collect fees, tolls, and charges, so long as such bonds or other obligations or interest thereon are outstanding and unpaid, sufficient to pay all maintenance and operation expenses of the improvements and facilities (the net revenues of which are pledged), the interest on such bonds or other obligations as it accrues, the principal of such bonds or other obligations as it matures, and to make any and all other payments as may be prescribed in the bond ordi-

nance or resolution and other proceedings authorizing and relating to the issuance of such bonds or other obligations. "Net revenues" as used herein shall mean the gross revenues derived from the operation of those improvements and facilities the net revenues of which are pledged to the payment of the bonds or other obligations less (a) the reasonable expenses of maintaining and operating said improvements and facilities, and said maintenance and operation expenses shall include, among other things, necessary repair, upkeep, and insurance of said improvements and facilities, and (b) if the city is operating under a Home Rule Charter, any annual payment of the city as may be set out in said Charter. Revenue bonds and other obligations payable from revenues issued hereunder may be sold at public or private sale, notwithstanding the provisions or restrictions of any general or special law or Charter to the contrary.

(b) Revenue bonds or other obligations payable from revenues may be issued secured solely by a pledge of all or any part of the revenue from any leases, subleases, sales or contracts of sale entered into by the city or the board with respect to the improvements and facilities to be financed with such bonds or other obligations or may be additionally secured by a trust indenture and by a mortgage or deed of trust lien or security interest upon such improvements and facilities. In connection with the issuance of such revenue bonds or other obligations payable from revenues, the city or the board may lease as lessor, sublease as sublessor or sell to any person, firm, corporation, partnership, political subdivision of the State of Texas, or agency of the United States of America, all or any part of any improvements and facilities to be constructed or acquired with the proceeds of such bonds or other obligations, said lease, sublease, sale or contract of sale to contain such terms and provisions (including in the case of a lease, but not by way of limitation, provisions to sell the improvements and facilities at the termination of said lease and provisions relating to management and operation of the improvements and facilities by the lessee thereof) as the city or the board may determine to be advantageous. The terms of said lease or contract of sale may provide that the lessee or purchaser of the improvements and facilities is contractually unconditionally obligated to make payments for use or purchase of the facilities or improvements in amounts adequate to timely pay principal, interest, and premium on the revenue bonds or other obligations issued to finance the construction or acquisition of said facilities and improvements.

**Interest, Sinking and Reserve Funds; Additional
Bonds or Obligations; Surplus Revenues**

Sec. 5. The ordinance of the governing body or the resolution of the board authorizing the issuance of bonds or other obligations payable from revenues may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund, reserve fund or funds, and any other funds

provided for therein, and may provide where such funds shall be deposited, and may make such additional covenants with respect to the bonds or obligations and the pledged revenues and the operation, maintenance, and upkeep of those improvements and facilities (the net revenues of which are pledged), including provision for the leasing of all or any part or parts of said improvements and facilities and the use or pledge of moneys derived from leases thereof, as may be considered appropriate. Said ordinance or resolution and other proceedings may also prohibit the further issuance of bonds or other obligations payable from the pledged revenues, or may reserve the right to issue additional bonds or obligations to be secured by a pledge of and payable from said net revenues on a parity with, or subordinate to, the lien and pledge in support of the bonds or obligations being issued, subject to such conditions as are set forth in said ordinance or resolution or other proceedings. Said ordinance or resolution and other proceedings may provide for an annual payment to the general fund of the city of such an amount as may be specified in said ordinance, resolution, or proceedings or as may be specified in the Home Rule Charter of the city if it is operating under such a Charter, said annual payment to be made from revenues received from the operation of the improvements and facilities the net revenues of which are pledged. Said ordinance or resolution and other proceedings may also provide that surplus net revenues received from the operation of the improvements and facilities (the net revenues of which are pledged) may be used for the payment of interest on and principal of any tax bonds or obligations issued by the city under this Act. Such ordinance or resolution and other proceedings may contain such other provisions and covenants not prohibited by the Constitution of the State of Texas or by this Act (provided, however, that if the city is operating under a Home Rule Charter and said Charter contains provisions relating to the improvements and facilities, such ordinance or resolution and other proceedings shall be in keeping with such Charter provisions if such Charter provisions are not inconsistent with the provisions of this Act).

Ordinances and Resolutions Authorizing Obligation; Form of Obligation; Maturity; Interest; Examination and Approval; Registration

Sec. 6. (a) Obligations payable from taxes and issued pursuant to the provisions of this Act shall be authorized by ordinance of the governing body of the city, shall be issued in the name of the city, shall be signed by the mayor (or presiding officer) of the city and countersigned by the city secretary (or city clerk), and shall have the seal of the city impressed thereon; provided, that the ordinance may provide for the obligations to be signed by the facsimile signatures of said officers, either or both, and for the seal of the city on the obligations to be a printed facsimile seal; and provided further that any interest coupons attached to said obligations may also be

executed by the facsimile signatures of said officers. Said obligations shall mature serially or otherwise in not to exceed forty (40) years from their date or dates, and shall be sold at public or private sale at a price and under terms determined by the governing body to be the most advantageous and reasonably obtainable, provided that the obligations shall bear interest at a rate or rates not exceeding the maximum permitted by law, and within the discretion of the governing body such obligations may be callable prior to maturity at such time or times and at such price or prices as may be prescribed in the ordinance authorizing the obligations. Such obligations may be made registrable as to principal, or as to both principal and interest.

(b) Obligations that are payable from revenues and that are issued pursuant to this Act shall be authorized by ordinance of the governing body of the city, issued in the name of the city, and signed, countersigned, and sold and bear interest as provided by Subsection (a) of this section or, if management and control have been placed in the hands of a board of trustees pursuant to this Act, the obligations may be authorized by resolution of the board of trustees. If the obligations are authorized by resolution of the board of trustees, they shall be issued in the name of the board of trustees, shall be signed by the chairman (or presiding officer) of the board of trustees and countersigned by the secretary or assistant secretary, and shall have the seal of the board of trustees impressed on them. The resolution may provide for facsimile signatures and seals on the obligations and on any interest coupons attached to the obligations. The obligations shall mature serially or otherwise in not to exceed forty (40) years from their date or dates, and shall be sold at public or private sale at a price and under terms determined by the board of trustees to be the most advantageous reasonably obtainable. The obligations shall bear interest at a rate or rates not exceeding the maximum permitted by law, and may be made callable prior to maturity at such times and prices as may be prescribed in the resolution. The obligations may be made registrable as to principal, or as to both principal and interest.

(c) All obligations authorized under this Act (other than current expense warrants) and the record relating to their issuance shall be submitted to the Attorney General of the State of Texas for his examination as to the validity thereof, and if such obligations have been authorized in accordance with this Act, the said Attorney General shall approve the same. After such approval, such obligations shall be registered by the Comptroller of Public Accounts of the State of Texas. When such obligations have been approved by the Attorney General, registered by the Comptroller of Public Accounts, and delivered to the purchasers, they shall thereafter be incontestable except for forgery or fraud. When any revenue obligations recite that they are secured partially or otherwise by a pledge of the proceeds of a contract or contracts (including lease

contracts), a copy of such contract or contracts and of the proceedings authorizing the same shall be submitted to the Attorney General along with the record, and the approval by the Attorney General of the obligations shall constitute an approval of such contract or contracts, and thereafter the contract or contracts shall be incontestable except for forgery or fraud.

Proceeds of Sale

Sec. 7. From the proceeds of sale of any obligations issued under the provisions of this Act, there may be appropriated or set aside out of such proceeds (i) an amount for the payment of interest expected to accrue during the period of construction, (ii) an amount necessary to pay all expenses incurred and to be incurred in the issuance, sale, and delivery of the obligations, and, (iii) such amount or amounts as may be prescribed by the ordinance or resolution authorizing their issuance to be deposited into the reserve fund or funds and into any other funds specified in the ordinance or resolution.

Refunding Obligations

Sec. 8. (a) The governing body of the city shall have the power and authority to issue tax obligations for the purpose of refunding any outstanding tax obligations (original or refunding) issued by the city under the provisions of this Act under the procedures set out in this Act or in any other manner authorized by law.

(b) The governing body of the city or the board of trustees shall have the power and authority to issue obligations payable from revenues for the purpose of refunding any outstanding obligations payable from revenues (original or refunding) issued under the provisions of this Act, or heretofore issued for any of the purposes covered by Section 1 of this Act or payable from the revenues of any of the improvements and facilities covered by said Section 1, under the procedures set out in this Act or in any other manner authorized by law. Revenue refunding obligations may be combined with new or original revenue obligations into one series or issue. Such revenue refunding obligations may be issued to refund obligations of more than one series or issue and combine pledges for the outstanding obligations for the security of the refunding obligations, and may be secured by pledges of other net revenues and additional net revenues; provided, that such refunding will not impair the contract rights of the holders of any of the outstanding revenue obligations which are not to be refunded. Revenue refunding obligations may bear interest at a rate higher than that borne by the obligations refunded; provided, that such interest rate shall not exceed the rate specified in this Act.

(c) Refunding obligations shall be authorized and shall be executed and mature as is provided in this Act for original obligations. They shall be approved by the Attorney General of the State of

Texas as in the case of original obligations, and shall be registered by the Comptroller of Public Accounts of the State of Texas upon surrender and cancellation of the obligations to be refunded; but in lieu thereof, the ordinance or resolution authorizing their issuance may provide that they shall be sold at public or private sale and the proceeds thereof deposited in any place or places where any of the underlying obligations are payable, or with the State Treasurer, in which case the refunding obligations may be issued in an amount sufficient, not only to pay the principal of the underlying obligations, but also to pay the interest on the underlying obligations to their option or maturity dates, and the Comptroller of Public Accounts shall register them without the surrender and cancellation of the underlying obligations. In those situations where the proceeds of revenue refunding obligations are deposited in a place or places where the underlying obligations are payable, or with the State Treasurer, they shall be so deposited under an escrow agreement so that such proceeds and interest earned from the investment of such proceeds as hereinafter provided, will be available for the payment of the interest on and principal of said underlying obligations as such interest and principal respectively become due; and such escrow agreement may provide that such proceeds may, until such time as the same are needed to pay interest and principal as the same become due, be invested in direct obligations of the United States of America, in which instances the interest earned on such investments may be pledged to the payment of the principal of and interest on the underlying obligations, the refunding obligations or shall be considered as revenues of the improvements and facilities.

(d) When any refunding obligations have been approved by the Attorney General and registered by the Comptroller of Public Accounts, they shall thereafter be incontestable except for forgery or fraud.

(e) All the provisions of this Act relating to original obligations, insofar as the same may be made applicable, shall also apply to refunding obligations issued hereunder.

Applicability of Statutes; Mortgage of Properties

Sec. 9. Insofar as the same may be applicable, the provisions of Article 1111 to 1118, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto, shall apply to revenue obligations issued under the provisions of this Act, and any city covered by this Act shall have, with respect to revenue obligations issued hereunder, all the powers granted by said Statutes. However, where the provisions of said Statutes are in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall govern and prevail. Further, it is expressly provided that the city shall have no power or authority to mortgage or encumber the physical properties of the improve-

ments and facilities being financed in whole or in part by obligations payable from ad valorem taxes, unless authorized at the election required by Section 2 of this Act.

Legal and Authorized Investments

Sec. 10. All obligations issued under the provisions of this Act shall be, and are hereby declared to be, investment securities under Chapter 8 of the Business & Commerce Code and shall be, and are hereby declared to be, legal and authorized investments for banks, savings banks, trust companies, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such obligations shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas, and such obligations shall be lawful and sufficient security for said deposits to the extent of their face value when accompanied by all unmatured interest coupons appurtenant thereto.

Issuance; Approval

Sec. 11. Notwithstanding any provision of this Act to the contrary, a board of trustees created under this Act shall have no power to issue bonds or other obligations or to sell any real property unless the governing body of the city approves such issue or such sale by ordinance.

Cumulative Effect

Sec. 11A. This Act is cumulative of all existing laws of the State of Texas that are applicable, but when any action is taken under the provisions of this Act, to the extent that such existing laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall govern and prevail.

Validation of Bonds and Proceedings

Sec. 12. Any revenue bonds heretofore issued by a city which are payable from the revenues of any of the improvements and facilities covered by Section 1 hereof, and all the proceedings relating to such bonds, are hereby in all things validated. It is provided, however, that the validation provisions of this Section 12 shall have no application to litigation pending upon the effective date hereof questioning the validity of the matters hereby validated if such litigation is ultimately determined against the validity of the same.

[Acts 1961, 57th Leg., p. 724, ch. 341. Amended by Acts 1969, 61st Leg., 2nd C.S., p. 130, ch. 29, § 1, eff. Sept. 19, 1969; Acts 1973, 63rd Leg., p. 21, ch. 18, § 1, eff. March 22, 1973; Acts 1975, 64th Leg., p. 874, ch. 332, § 1, eff. June 6, 1975; Acts 1977, 65th Leg., p. 149, ch. 73, §§ 1, 2, eff. April 25, 1977; Acts 1979, 66th Leg., p. 478, ch. 219, § 1, eff. May 17, 1979; Acts 1979, 66th Leg., p. 1904, ch. 772, §§ 1 to 4, eff. June 13, 1979; Acts 1983, 68th Leg., p. 4886, ch. 867, § 1, eff. June 19, 1983.]

Sections 5 and 6 of the 1979 amendatory act provided:

"Sec. 5. The provisions of Sections 60.038, 61.116, and 61.117 of the Water Code, relating to the disposition of lands or flats heretofore purchased from the State of Texas under Article 8225, Revised Civil Statutes of Texas, 1925, or granted by the State of Texas in any general or special act, shall continue to be applicable to the disposition of such lands or flats by any city acting under the authority of Chapter 341, Acts of the 57th Legislature, Regular Session, 1961, as amended (Article 1187f, Vernon's Texas Civil Statutes).

"Sec. 6. In case any one or more of the sections, provisions, clauses, or words of this Act, or the application thereof to any situation or circumstance, shall for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other sections, provisions, clauses, or words of this Act, or the application thereof to any other situation or circumstance, and it is intended that this Act shall be severable and shall be construed and applied as if any such invalid or unconstitutional section, provision, clause, or word had not been included herein."

Art. 1187g. City of Port Arthur; Lake Sabine; Regulations

Sec. 1. The governing body of the City of Port Arthur, with respect to the waters of Lake Sabine within the corporate limits of the city, may designate or otherwise regulate by ordinance certain areas of said lake as bathing, fishing, swimming, recreational, or otherwise restricted areas and may make rules and regulations relating to same.

Sec. 2. Notwithstanding any law or regulation of any state agency permitting the taking of crabs or other sea or water life by the use of traps, the governing body of the City of Port Arthur, with respect to the waters of Lake Sabine within the corporate limits of the city, may designate or otherwise regulate by ordinance the location and placement of traps within said lake.

Sec. 3. Repealed by Acts 1981, 67th Leg., p. 2725, ch. 741, § 2(1), eff. Jan. 1, 1982.

Sec. 4. The governing body of the City of Port Arthur may, by ordinance, regulate, notwithstanding any other state law or regulation, the speed of boats within and upon Lake Sabine within corporate limits of the city.

Sec. 5. In the event any one or more of the sections or provisions of this Act, or the application of such sections or provisions to any situation, circumstances, or persons, shall for any reason be held to be unconstitutional, such unconstitutionality shall not affect any other sections or provisions of this Act, or the application of such sections or provisions to any situation, circumstances, or persons, and it is intended that this Act shall be construed as if such sections or provisions had not been included herein for any constitutional application.

[Acts 1977, 65th Leg., p. 1788, ch. 716, §§ 1 to 5, eff. Aug. 29, 1977.]

Art. 1187-1. Designation of Annexed Territory as an Industrial District

The governing body of any incorporated city which has heretofore annexed or which shall hereafter annex territory under authority of and for the limited purposes described in Articles 1183 through

1187 of the Revised Civil Statutes of Texas, 1925, shall have the right, power, and authority to designate all or any part of such area so annexed and remaining in such limited purpose annexation status as an industrial district, as the term is customarily used, and to treat with such area from time to time as such governing body may deem to be in the best interest of the city. Included in such rights and powers of the governing body of any such city is the permissive right and power to enter into contracts or agreements with the owner or owners of land in such industrial district to guarantee the continuation of the limited purpose annexation status of such district, and its immunity from general purpose annexation by the city for a period of time not to exceed ten years, and upon such other terms and conditions as the parties might deem appropriate. Such contract or agreement shall be evidenced in writing and may be renewed or extended for successive periods not to exceed ten years each by such governing body and the owner or owners of land in such industrial district.

[Acts 1967, 60th Leg., p. 842, ch. 353, § 1, eff. Aug. 28, 1967.]

CHAPTER FIFTEEN. CONSOLIDATION OF CITIES

- Art.
1188. Authority.
1188-(a). Consolidation of Cities, Towns or Villages Under 5000 With Cities Over 5000.
1189. Petition; Elections; Contests; Time Limitations.
1190. Election.
1191. "Consolidation."
1191a. Qualified Electors.
1192. Registration.
1193. Merger.
1193a. Validating Extension of Corporate Limits of Certain Cities and Towns.
1193b. Validating Extension of Limits of Certain Cities.

Art. 1188. Authority

When two (2) or more incorporated towns or cities in this State adjoining and contiguous to each other in the same county shall be desirous of being consolidated, it shall be lawful for them to do so by calling and holding an election for such purpose so as to consolidate under one government and take the name of the largest city, unless provided otherwise at the time of such consolidation, in the manner and subject to the provisions of Chapter 15, Title 28, Revised Civil Statutes of 1925.

[Acts 1925, S.B. 84. Amended by Acts 1947, 50th Leg., p. 261, ch. 155, § 1; Acts 1957, 55th Leg., p. 380, ch. 183, § 1.]

Art. 1188-(a). Consolidation of Cities, Towns or Villages Under 5000 With Cities Over 5000.

Upon complying with the provisions hereinafter prescribed in this Chapter, any city, town or village

of less than five thousand (5,000) population according to the last preceding Federal Census may be consolidated under one government with an adjoining and contiguous city having a population of more than five thousand (5,000) inhabitants according to the last preceding Federal Census, when both of said municipalities are situated in the same county having a population of more than three hundred thousand (300,000) inhabitants according to the last preceding Federal Census.

This section is hereby declared retroactive to the following extent: All petitions purporting to be signed by qualified voters and presented to the governing body and all ordinances, resolutions, notices, declarations or other acts by the governing body of any city, town or village coming within the applicable provisions of this section, purporting to be in compliance with the statutory provisions contained in Chapter 15 of Title 28, Revised Civil Statutes of 1925; and any notice, declaration, certificate or other act required to be done or purporting to have been done by any Mayor, Councilman, Commissioner, Alderman, City Secretary or City Clerk in compliance with the statutory requisites of Chapter 15 of Title 28, Revised Civil Statutes of 1925, shall have the same legal effect as if there had then existed a law authorizing each act to have been done and authorizing cities, towns and villages of less than five thousand (5,000) population to consolidate. Any election held prior to the enactment of this Act submitting the question of consolidation to the qualified voters of cities or towns authorized to consolidate by this Act, shall in all things be deemed a legal and valid election as if this law had been in existence on the date of such election; provided the requirements of law applicable to consolidation of cities and towns have otherwise been complied with.

[Acts 1945, 49th Leg., p. 71, ch. 50, § 1.]

Art. 1189. Petition; Elections; Contests; Time Limitations

(a) Whenever as many as one hundred (100) qualified voters of each of said cities shall petition the governing body of their respective cities to order an election for the purpose of voting on the consolidation of such cities into one city, said bodies may order an election to be held at the usual voting places in the city on such proposition. If any such petition be signed, however, by qualified voters equal to fifteen percent (15%) of the total vote cast at the last preceding general election for city officials in any of said cities, next preceding the filing of said petitions, the respective governing bodies receiving such a petition shall order an election to be held on such proposition, except as hereinafter provided.

(b) The election on consolidation shall first be held in the city having the smallest population according to the last preceding Federal Census. When a petition for consolidation has been presented to the governing body of the city having the smallest population, such governing body may, on a

petition signed by one hundred (100) qualified voters, order an election for such purpose within forty-five (45) days after the receipt thereof. Upon the presentation of a petition in the city having the smallest population signed by qualified voters equal to fifteen percent (15%) of the total vote cast at the last preceding general election for the city officials in such city next preceding the filing thereof, the governing body of the city shall order an election within forty-five (45) days after the filing of the petition. Any such election shall be held within not less than thirty (30) nor more than ninety (90) days from the date of the election order.

(c) When the proposition has received a majority vote in favor of consolidation at an election in any city, the larger city or cities where no election has been held, in inverse order of rank in population according to the last preceding Federal Census, may or shall, depending on the number of qualified signatures on the petition presented in each such city, order an election on the same proposition within forty-five (45) days after the election returns have been canvassed in the next smaller city in which a majority have voted in favor of consolidation. Any such election shall be held within not less than thirty (30) nor more than ninety (90) days from the date of the election order. If the proposition for consolidation fails to receive a majority of the votes in an election held for that purpose in any city, the larger city or cities which have not held an election shall not order an election for consolidation.

(d) If an election contest is timely filed in any such election, the governing body of each larger city which has not held its consolidation election may defer holding the election until the election contest is finally terminated. If no election contest is timely filed in any such election, the governing body of the next larger city may, when acting on a petition filed by one hundred qualified voters, and shall, when acting on a petition filed by voters equal to fifteen percent (15%) of the total vote cast at the last preceding general election for city officials, order an election for such purpose.

(e) If the proposition for consolidation fails to receive a majority of votes in favor thereof in an election in any of such cities, no consolidation election involving the same identical cities on the consolidation proposition which is defeated shall be held within two (2) years from the date of the defeat of such proposition in a consolidation election in any such city.

[Acts 1925, S.B. 84. Amended by Acts 1971, 62nd Leg., p. 68, ch. 35, § 1, eff. March 22, 1971.]

Art. 1190. Election

The governing body of each of said cities shall appoint from among the qualified voters of their respective cities, judges and clerks of said elections, and such elections shall be conducted under the ordinances of said cities, and in conformity with the general laws of this State. All persons voting at

such election in favor of consolidation shall have written or printed on their ballots the words "For Consolidation," and all persons voting at such election not in favor of consolidation shall have written or printed on their ballots the words, "Against Consolidation."

[Acts 1925, S.B. 84.]

Art. 1191. "Consolidation"

The term "consolidation," as used in this Chapter, means the adoption by the smaller city or cities of the charter and ordinances and name of the larger of said cities, and the inclusion within the larger city of all of the territory of the smaller city or cities so consolidated with it, and the area of the smaller city or cities shall become subject to all the laws and regulations of the larger city.

[Acts 1925, S.B. 84. Amended by Acts 1957, 55th Leg., p. 380, ch. 183, § 2.]

Art. 1191a. Qualified Electors

All those Electors qualified to vote for city officers shall be eligible to vote in the elections herein provided.

[Acts 1957, 55th Leg., p. 380, ch. 183, § 3.]

Art. 1192. Registration

If a majority of the qualified voters at said election in each of said cities shall vote in favor of consolidation, the mayor or chief executive officer exercising like or similar powers of each of said cities as soon as practicable after the returns of said election have been made, shall certify to the Secretary of State an authenticated copy under the seal of the said cities showing the approval of the qualified voters of the consolidation of the two cities. The Secretary of State shall thereupon file and record the same in a separate book to be kept in his office for such purpose. The returns of such election shall be recorded at length in the record books of the respective cities, and the consolidation of such cities shall be held thereupon to be consummated.

[Acts 1925, S.B. 84.]

Art. 1193. Merger

After the consummation of such consolidation, all record books, public property, money on hand, credits, accounts and all other assets of the smaller of the annexed cities shall be turned over to the officers of the larger city, who shall be retained in office as the officials of the consolidated city during the remainder of their respective terms, and by such consolidation the offices existing in the smaller municipality shall be abolished and declared vacant, and the persons holding such offices shall not be entitled after the consummation of such consolidation, to further remuneration or compensation. All outstanding liabilities of the two cities so consolidated shall be assumed by the consolidated city. Whenever at the time of any such consolidation the

respective cities shall have on hand any bond funds voted for public improvements not already appropriated or contracted for, such money shall be kept in a separate fund and devoted to public improvements in the territory for which such bonds were voted, and shall not be diverted to any other purpose.

[Acts 1925, S.B. 84.]

Art. 1193a. Validating Extension of Corporate Limits of Certain Cities and Towns

Sec. 1. That this Act shall affect all cities in the State of Texas having a population of not less than 11,000 and not more than 11,500, according to the 1920 United States Census, and which are located in counties situated on a boundary of the State of Texas.

Sec. 2. In every instance wherein a city coming under the provisions of this Act has attempted to extend its corporate limits by including all of the territory of an adjoining city of less than 5,000 population, and has attempted to accomplish such extension of boundaries under Statutes providing for the consolidation of cities of more than 5,000 population, and/or in every instance wherein said extension of territory was attempted under Charter provisions which provide for the annexation of adjoining territory without reference to the fact that the adjoining territory is included in an incorporated city, all actions, resolutions, elections and ordinances taken, held, made or passed in reference thereto or pursuant thereto, are hereby confirmed, ratified and validated irrespective of any irregularities, and in like manner as if said consolidation or annexation had been authorized in the first instance.

[Acts 1930, 41st Leg., 4th C.S., p. 2, ch. '2.]

Art. 1193b. Validating Extension of Limits of Certain Cities

That all ordinances and proceedings, and all actions and proceedings and contracts, taken or made in pursuance thereof, of any city having a population of more than twenty-five hundred (2500) inhabitants as shown by the last preceding Federal Census, which have been heretofore passed since the passage of Chapter 110 of the 41st Legislature of the State of Texas of 1929,¹ providing for the extension of corporate limits of such city, are hereby ratified and confirmed, such extensions and actions, proceedings and contracts, taken or made in pursuance thereof, shall be deemed and held valid in all respects to the same extent as if done under legislative authority, previously given.

[Acts 1931, 42nd Leg., Spec.L., p. 280, ch. 143, § 1.]

¹ Article 1182a.

CHAPTER SIXTEEN. MUNICIPAL COURT

GENERAL PROVISIONS

- Art. 1194. Creation of Court.
- 1194A. Change of Name.

- Art. 1195. Jurisdiction.
- 1196. Judge of the Municipal Court.
- 1196(a). Home Rule Cities; Judge of Municipal Court.
- 1197. Judge in Other Cities.
- 1197a. Recorder.
- 1198. Term of Office.
- 1199. Vacancy.
- 1199a. Temporary Replacement.
- 1200. Clerk.
- 1200a. Two Courts Authorized in Cities Having Over 250,000 Population.
- 1200b. Home Rule Cities of 31,000 to 32,500 May Establish Two Courts.
- 1200c. Cities of 350,000 Population in Counties Having 500,000 But Less Than 650,000 Population.
- 1200d. Cities Over 130,000 and Not More Than 235,000.
- 1200e. Panels or Divisions of Municipal Court; Temporary or Relief Judges.
- 1200f. Continuing Legal Education of Municipal Court Judges.
- 1200g. Proceedings Outside Corporate Limits; Municipalities of 700 or Less.
- 1200h. Jurors Must be Residents.

PARTICULAR MUNICIPAL COURTS

- 1200aa. Wichita Falls
- 1200bb. Midland.
- 1200cc. Cities Over 1,200,000.
- 1200dd. Sweetwater.
- 1200ee. El Paso.
- 1200ee-1. Repealed.
- 1200ee-2. El Paso Courts Act.
- 1200ff. Repealed.
- 1200ff-1. Fort Worth.
- 1200gg. Lubbock.
- 1200hh. Longview.
- 1200ii. San Antonio.
- 1200jj. Dallas.
- 1200kk. Odessa.
- 1200ll. Marshall.
- 1200mm. Austin.

The name of the "Corporation Court" was changed to the "Municipal Court" by Acts 1969, 61st Leg., p. 1689, ch. 547. See art. 1194A.

GENERAL PROVISIONS

Art. 1194. Creation of Court

There is hereby created and established in each of the incorporated cities, towns, and villages of this State, a court to be known as the "Corporation Court."

[Acts 1925, S.B. 84.]

Art. 1194A. Change of Name

The name "Corporation Court" is changed to the "Municipal Court." All other statutory references to the Corporation Court shall be construed to mean the Municipal Court.

[Acts 1969, 61st Leg., p. 1689, ch. 547, § 1, eff. Sept. 1, 1969.]

Art. 1195. Jurisdiction

A municipal court shall have exclusive original jurisdiction within the territorial limits of the city, town or village, in all criminal cases arising under the ordinances of the city, town or village in which punishment is by fine only and where the maximum of such fine does not exceed \$1,000 in all cases arising under the ordinances of such city, town or village that govern fire safety, zoning and public health and sanitation other than vegetation and litter violations and where the maximum of such fine does not exceed \$200 in all other cases arising under the ordinances of such city, town or village, and shall also have concurrent jurisdiction with any justice of the peace in any precinct in which the city, town or village is situated in all criminal cases arising under the criminal laws of this State, in which punishment is by fine only, and where the maximum of such fine may not exceed \$200, and arising within such territorial limits.

[Acts 1925, S.B. 84. Amended by Acts 1983, 68th Leg., p. 3839, ch. 601, § 2, eff. Sept. 1, 1983.]

Art. 1196. Judge of the Municipal Court

Such court shall be presided over by a judge to be known as the "judge of the municipal court" and such alternate judges who, in cities, towns or villages incorporated under special charter shall be selected under the provisions of the charter concerning the election or the appointment of the judges to preside over the municipal court. All such provisions are hereby made applicable to the judges of the municipal court herein provided for. All other statutory references to the "recorder" shall be construed to mean the "judges of the municipal court."

[Acts 1925, S.B. 84. Amended by Acts 1971, 62nd Leg., p. 2423, ch. 771, § 1, eff. Aug. 30, 1971; Acts 1977, 65th Leg., p. 1135, ch. 426, § 2, eff. Aug. 29, 1977.]

Art. 1196(a). Home Rule Cities; Judge of Municipal Court

The Municipal Court in any city heretofore or hereafter incorporated, which city has adopted or amended its Charter, or which may hereafter adopt or amend the same, under Article 11, Section 5, of the Constitution of the State of Texas, commonly known and referred to as the "Home Rule Amendment", shall be presided over by a judge to be known as the "Judge of the Municipal Court", or other title as such official may be called in the charter of any such city, and who shall be selected under the provisions of the City Charter or ordinance concerning the election or appointment of the judge to preside over the Municipal Court.

All judges now holding office and presiding over any such Municipal Court in any such city and heretofore appointed or elected in accordance with the provisions of the Charter or ordinance of such city are hereby declared to be the duly constituted, appointed or elected judge of such Court and shall hold office until his successor shall have been duly

selected in accordance with the provisions hereof and shall have qualified according to law.

[Acts 1949, 51st Leg., p. 323, ch. 156, § 1. Amended by Acts 1977, 65th Leg., p. 1993, ch. 796, § 1, eff. June 16, 1977.]

Sections 3 and 4 of the 1977 Act provided as follows:

"Sec. 3. If any section, subsection, subdivision, paragraph, sentence, clause, phrase, or word of this Act is for any reason held to be invalid or unconstitutional in its application to particular persons or circumstances, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

"Sec. 4. This Act shall be cumulative as to all laws, charter provisions, and ordinances relating to the municipal court in home-rule cities in this state."

Art. 1197. Judge in Other Cities

In cities, towns and villages, not incorporated under special charter, the mayor shall be ex-officio recorder of the "corporation court," unless the governing body shall by ordinance authorize the election of a recorder, in which case a recorder shall be elected in the same manner and for the same time as the mayor is elected.

[Acts 1925, S.B. 84.]

Art. 1197a. Recorder

The governing body of any city, town or village not incorporated under special charter nor incorporated under or adopting or amending its charter under Article 11, Section 5, of the Constitution of the State of Texas, commonly known and referred to as the "Home Rule Amendment," may by ordinance provide for the appointment and qualifications of the recorder of the Corporation Court in any such city, town or village.

In any such city, town or village so providing by ordinance for the appointment of the recorder of such Corporation Court and which has not theretofore provided for the election of such recorder in the manner authorized by Article 1197, Revised Civil Statutes of Texas, 1925, the mayor of such city, town or village shall cease to be the ex-officio recorder of such Court upon the enactment of such ordinance and the recorder first appointed shall hold his term of office corresponding to the unexpired term of said mayor, and every two (2) years thereafter a recorder shall be appointed for a term of two (2) years.

In any such city, town or village so providing for the appointment of the recorder of such Corporation Court and which has theretofore provided for the election of such recorder, the recorder first appointed shall be appointed at the expiration of the term of office of the then recorder so elected and shall hold his term of office for two (2) years, and every two (2) years thereafter a recorder shall be appointed for a term of two (2) years.

All recorders of such Corporation Courts in such cities, towns and villages shall hold their terms of

office for the term appointed and until their successors have been appointed and qualified.

[Acts 1953, 53rd Leg., p. 39, ch. 31, § 1.]

Art. 1198. Term of Office

Wherever in any such city, town or village, the office of the presiding magistrate of the municipal court therein shall not have expired when the recorder is elected, the recorder first elected shall hold his term of office corresponding to the unexpired term of said magistrate; and every two years thereafter such recorder shall be elected for a term of two years.

[Acts 1925, S.B. 84.]

Art. 1199. Vacancy

A vacancy in the office of recorder or clerk of the court in any city, town or village, shall be filled by the governing body for the unexpired term only.

[Acts 1925, S.B. 84.]

Art. 1199a. Temporary Replacement

While a municipal judge is temporarily unable to act for any reason, the governing body of the city, town, or village incorporated and operating under the general laws of this state may appoint an additional person or persons meeting the qualifications for such position to sit for the regular municipal judge. The appointee shall have all the powers and duties of the office and shall receive the compensation set by the governing body of the city, town, or village.

[Acts 1977, 65th Leg., p. 1135, ch. 426, § 1, eff. Aug. 29, 1977. Amended by Acts 1983, 68th Leg., p. 2192, ch. 408, § 1, eff. June 17, 1983.]

Art. 1200. Clerk

A clerk for said corporation court shall be elected by the governing body of each such city, town or village, at the same time at which the recorder is elected; but it may be provided by ordinance that the city secretary shall be ex-officio clerk of the said court, who may be authorized to appoint a deputy with the same power as the secretary. Such clerk shall hold his office for two years. In case of ex-officio clerk, he shall hold his office during his term as city secretary. The clerk shall keep minutes of the proceedings of the said court, issue all process, and generally perform all the duties of the clerk of a court as prescribed by law for a county clerk in so far as the same may be applicable.

[Acts 1925, S.B. 84.]

Art. 1200a. Two Courts Authorized in Cities Having Over 250,000 Population

Establishment; Judges

Sec. 1. All incorporated cities of this State having a population in excess of two hundred and fifty thousand (250,000) according to the latest preceding United States census, may, by an ordinance legally

adopted, provide for the establishment of two (2) Corporation Courts. The Mayor of any such city shall have the power to appoint two (2) or more Judges for such Corporation Courts and designate the seniority of the Judges, with the confirmation of the governing body of the city, so that either or both Courts may be in concurrent or continuous session, either day or night.

Jurisdiction

Sec. 2. Each of such Corporation Courts, when established, shall have and exercise concurrent jurisdiction within the corporate limits of the city establishing them, and such jurisdiction shall be the same as is now or hereafter may be conferred upon all Corporation Courts by the General Laws of this State.

Ordinance; Provisions Authorized

Sec. 3. The governing body of the city establishing such Courts may provide by ordinance:

(1) Prescribe the qualifications of the persons to be eligible to appointment as Recorder of said Court or Courts.

(2) That such Courts and the Recorders thereof may transfer cases from one Court to another, and that any Recorder of any of such Courts may exchange benches and preside over any of such Courts.

(3) That there shall be a Corporation Court Clerk who shall be Clerk for all of such Corporation Courts, together with such number of deputies as may be needed.

(4) That complaints shall be filed with such Corporation Court Clerk in such manner as to provide for an equal distribution of cases among such Courts.

Procedure

Sec. 4. Except as modified by the terms of this Act, the procedure before such Courts and appeals therefrom shall be governed by the General Law applicable to all Corporation Courts.

Conflicting Laws Repealed

Sec. 5. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict only, and this Act shall supersede any provisions of any special charters of cities which are contrary to the terms hereof.

Partial Invalidity

Sec. 6. If any section, subsection, sentence, clause, or phrase of this Act is for any reason held to be unconstitutional, the validity of the remaining portions shall not be affected thereby, it being the intent of the Legislature in adopting this Act that

no portion shall become inoperative by reason of the invalidity of any other portion.

[Acts 1939, 46th Leg., p. 92. Amended by Acts 1947, 50th Leg., p. 226, ch. 130, § 1.]

**Art. 1200b. Home Rule Cities of 31,000 to 32,500
May Establish Two Courts**

Establishment

Sec. 1. All Home Rule cities of this State having a population of more than thirty-one thousand (31,000) and not more than thirty-two thousand, five hundred (32,500) inhabitants according to the 1940 Federal Census, may, by an ordinance legally adopted, provide for the establishment of two (2) corporation Courts.

Jurisdiction

Sec. 2. Each of such corporation Courts, when established, shall have and exercise concurrent jurisdiction within the corporate limits of the city establishing them, and such jurisdiction shall be the same as is now or hereafter may be conferred upon all corporation Courts by the General Laws of this State.

Ordinance; Provisions Authorized

Sec. 3. The governing body of the city establishing such Courts may provide by ordinance:

(1) Prescribe the qualifications of the persons to be eligible to appointment as Recorder of said Court or Courts, one of which shall be designated the City Judge.

(2) Such Courts and the Recorder thereof may transfer cases from one Court to another, and that any recorder of any such Court may exchange benches and preside over any of such Courts.

(3) There shall be a corporation Court Clerk who shall be Clerk for all of such corporation Courts together with such number of deputies as may be needed.

Procedure

Sec. 4. Except as modified by the terms of this Act, the procedure before such Courts and appeals therefrom shall be governed by the General Law applicable to all corporation Courts.

Conflicting Laws Repealed

Sec. 5. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict only and this Act shall supersede any charter provision of such cities which are contrary to the terms hereof.

Partial Invalidity

Sec. 6. If any section, subsection, sentence, clause or phrase of this Act is for any reason held to be unconstitutional, the validity of the remaining portions shall not be affected thereby, it being the intent of the Legislature in adopting this Act that

no portion shall become inoperative by reason of the invalidity of any other portion.

[Acts 1947, 50th Leg., p. 287, ch. 177.]

Art. 1200c. Cities of 350,000 Population in Counties Having 500,000 But Less Than 650,000 Population

Establishment; Number; Judges

Sec. 1. All incorporated cities of this State having a population in excess of three hundred fifty thousand (350,000) and being in a county having a population in excess of five hundred thousand (500,000) but less than six hundred fifty thousand (650,000), according to the last preceding United States Census may, by an ordinance legally adopted, provide for the establishment of two (2) or more corporation courts, not to exceed one (1) court for each eighty thousand (80,000) population according to the last preceding census. The Mayor of any such city shall have the power to appoint two (2) or more judges for each such court and designate the seniority of the judges, with the confirmation of the governing body of the city, so that any of such courts may be in concurrent or continuous session either day or night.

Jurisdiction

Sec. 2. Each of such corporation Courts, when established, shall have and exercise concurrent jurisdiction within the corporate limits of the city establishing them, and such jurisdiction shall be the same as is now or hereafter may be conferred upon all corporation Courts by the General Laws of this State.

Ordinances, Provisions Of

Sec. 3. The governing body of the city establishing such Courts may provide by ordinance:

(1) Prescribe the qualifications of the persons to be eligible to appointment as Recorder of said Court or Courts.

(2) That such Courts and the Recorders thereof may transfer cases from one Court to another, and that any Recorder of any of such Courts may exchange benches and preside over any of such Courts.

(3) That there shall be a corporation Court Clerk who shall be Clerk for all of such corporation Courts, together with such number of deputies as may be needed.

(4) That complaints shall be filed with such corporation Court Clerk in such manner as to provide for an equal distribution of cases among such Courts.

Appeals

Sec. 4. Except as modified by the terms of this Act, the procedure before such Courts and appeals therefrom shall be governed by the General Law applicable to all corporation Courts.

Repeals

Sec. 5. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict only, and this Act shall supersede any provisions of any special charters of cities which are contrary to the terms hereof.

Partial Invalidity

Sec. 6. If any section, subsection, sentence, clause, or phrase of this Act is for any reason held to be unconstitutional, the validity of the remaining portions shall not be affected thereby, it being the intent of the Legislature in adopting this Act that no portion shall become inoperative by reason of the invalidity of any other portion.

[Acts 1949, 51st Leg., p. 493, ch. 269. Amended by Acts 1961, 57th Leg., p. 396, ch. 199, § 1; Acts 1967, 60th Leg., p. 109, ch. 53, § 1, eff. Aug. 28, 1967.]

Art. 1200d. Cities Over 130,000 and Not More Than 285,000**Establishment; Judges**

Sec. 1. All incorporated cities of this State having a population over one hundred and thirty thousand (130,000) and not over two hundred and eighty-five thousand (285,000), according to the last preceding United States census, may, by ordinance legally adopted, provide for the establishment of one (1) or more Corporation Courts, not exceeding four (4). The judges of such courts shall have the same qualifications, and be selected in the same manner, as may be provided for the judge of the existing Corporation Court in the charter of such city, or as may be provided in any future charter or charter amendment. If the present charter of such city requires the election of the judge by vote of the people, the governing body may designate a person as judge of each newly created court until the next regular city election. Such courts may be in concurrent or continuous session, either day or night.

Jurisdiction

Sec. 2. Each of such Corporation Courts, when established, shall have and exercise concurrent jurisdiction within the corporate limits of the city establishing them, and such jurisdiction shall be the same as is now or hereafter may be conferred upon all Corporation Courts by the General Laws of this State.

Ordinance; Provisions Authorized

Sec. 3. Except as otherwise provided by the charter of such city, the governing body of the city, establishing such Courts may provide by ordinance:

(1) Prescribe the qualifications of the persons to be eligible to appointment as judge of said Court or Courts.

(2) That such Courts and the judges thereof may transfer cases from one (1) Court to another, and

that any judge of any of such Courts may exchange benches and preside over any of such Courts.

(3) That there shall be a Corporation Court Clerk who shall be Clerk for all of such Corporation Courts, together with such number of deputies as may be needed.

(4) That complaints shall be filed with such Corporation Court Clerk in such manner as to provide for an equal distribution of cases among such Courts.

Procedure

Sec. 4. Except as modified by the terms of this Act, the procedure before such Courts and appeals therefrom shall be governed by the General Law applicable to all Corporation Courts.

[Acts 1955, 54th Leg., p. 465, ch. 130.]

Art. 1200e. Panels or Divisions of Municipal Court; Temporary or Relief Judges

(a) In lieu of one judge for the municipal court in a home-rule city, as provided in Article 1196(a), Vernon's Texas Civil Statutes, the municipal court in any such city may by charter or ordinance be divided into two or more panels or divisions, one of which shall be presided over by a presiding judge, and each additional panel or division shall be presided over by an associate judge who shall be a magistrate with the same powers as those conferred on the presiding judge. Each such panel or division of the municipal court, when established, shall have and exercise concurrent jurisdiction with the other panels or divisions of such court within the corporate limits of the city establishing them, and such jurisdiction shall be the same as is now or hereafter may be conferred upon all municipal courts by the general laws of this state. Such panels or divisions of the municipal court may be in concurrent and continuous session, either day or night.

(b) Except as otherwise provided by the charter of such city, the governing body of the city establishing panels or divisions for such court may by ordinance:

(1) prescribe the qualifications of the persons to be eligible to appointment as judge or judges of said court or of its panels or divisions;

(2) provide that such court, its panels or divisions, and the judges thereof may transfer cases from one panel or division to another, and that any judge or any of such panels or divisions may exchange benches and preside over any of the panels or divisions of such court;

(3) provide for a municipal court clerk who shall be clerk for all of the panels or divisions of such municipal court, together with such number of deputies as may be needed. The clerk and the deputies under his direction and supervision shall keep minutes of the proceedings of said court and its panels and divisions, if any, administer oaths, issue all process, and generally perform all the duties of the

clerk of a court as prescribed by law for a county clerk insofar as the same may be applicable;

(4) provide that complaints shall be filed with such municipal court clerk in such manner as to provide for an equal distribution among the panels or divisions of such court.

(c) Any such city may provide by charter or ordinance for the appointment of one or more temporary or relief judges to sit for the regular judge of the municipal court or for the presiding judge or any of the associate judges of such court, while such judge or judges, any or all, are temporarily unable to act for any reason. Such temporary or relief judge shall possess the same qualifications required of the judge for whom he is sitting. Any temporary or relief judge shall have all the powers and duties of the judge for whom he is sitting while so acting.

(d) Except as modified by the terms of this Act, the procedure before such court and its panels or divisions, if any, and appeals therefrom shall be governed by the general law applicable to all municipal courts.

[Acts 1977, 65th Leg., p. 1993, ch. 796, § 2, eff. June 16, 1977.]

Sections 3 and 4 of the 1977 Act provided as follows:

"Sec. 3. If any section, subsection, subdivision, paragraph, sentence, clause, phrase, or word of this Act is for any reason held to be invalid or unconstitutional in its application to particular persons or circumstances, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

"Sec. 4. This Act shall be cumulative as to all laws, charter provisions, and ordinances relating to the municipal court in home-rule cities in this state."

Art. 1200f. Continuing Legal Education of Municipal Court Judges

Judges Not Licensed as Attorneys

Sec. 1. Each municipal court judge in the State of Texas who is not a licensed attorney in this state must complete successfully within one year from the date he is first elected or appointed a 24-hour course in the performance of his duties. The judge must complete a minimum of 12 hours each calendar year following the calendar year in which the initial course was taken. The course may be completed in an accredited state-supported school of higher education or in a continuing education course, program, seminar, or law school or law enforcement school approved by the Texas Judicial Council.

Judges Licensed as Attorneys

Sec. 2. Each municipal court judge in the State of Texas who is a licensed attorney and in good standing with the State Bar must complete successfully within one year from the date he is first elected or appointed a 12-hour course in the performance of his duties. The judge must complete a 12-hours course each calendar year following the

calendar year in which the initial course was taken. The course may be completed in an accredited state-supported school of higher education or in a continuing education course, program, or seminar approved by the Texas Judicial Council.

Administration of Act

Sec. 3. The Texas Judicial Council shall have general supervisory authority over the administration of this Act. The Texas Judicial Council shall accredit courses, programs, and seminars which will satisfy the educational requirements of this Act. The Texas Judicial Council may make and adopt rules and regulations not inconsistent with this Act governing the conduct of business and the performance of its duties.

Written Reports; Waivers or Extensions

Sec. 4. (a) Not later than the 60th day after the date on which an accredited course is completed each municipal court judge successfully completing the course shall make a written report of that fact to the Texas Judicial Council in the manner and form prescribed by the council.

(b) In individual cases, the Texas Judicial Council on proper application may grant waivers or extensions of the minimum educational or reporting requirements.

Judicial Council; Annual Report

Sec. 5. The Texas Judicial Council shall prepare an annual report containing a list of all accredited courses for the previous year, a list of all municipal court judges who attended the courses, and a list of all municipal court judges who did not attend the courses. The council shall submit the report to the chief justice of the supreme court, the attorney general, and the mayor of each municipality in which a judge who did not attend a course presides.

Municipal Court Judges and Personnel Training Fund

Sec. 6. (a) The municipal court judges and personnel training fund is established in the state treasury to be administered by the criminal justice division of the governor's office. The fund shall be used to provide grants to statewide professional associations of municipal court judges and municipal court personnel to provide continuing education courses or seminars for those judges and personnel. A course or seminar for municipal court judges created under this program must conform to Sections 1 and 2 of this Act and must be approved by the Texas Judicial Council.

(b) A person shall pay 50 cents as a court cost, in addition to other court costs, on conviction of any criminal offense in a municipal court. A conviction that arises under Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), or under the Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes) is specifically

included, except that a conviction arising under a law that regulates pedestrians or the parking of motor vehicles is excluded.

(c) Court costs due under this section shall be collected in the same manner as other fines or costs are collected in the case.

(d) The officer collecting the costs shall keep separate records of the funds collected as costs under this section, and shall deposit the funds in the municipal treasury.

(e) Each officer collecting court costs under this section shall file the reports required under Articles 944 and 945, Code of Criminal Procedure, 1925 (Articles 1001 and 1002, Part II, Vernon's Texas Code of Criminal Procedure, 1965). If no funds due as costs under this section have been collected in any quarter, the report required for each quarter shall be filed in the regular manner, and the report shall state that no funds due under this section were collected.

(f) The custodian of a municipal treasury shall keep records of the amount of funds on deposit collected under this section, and shall remit to the comptroller of public accounts on or before the last day of the month following each calendar quarter period of three months the funds collected under this section during the preceding quarter. The city may retain as a collection fee 10 percent of the funds collected under this section. Funds collected are subject to audit by the comptroller and funds expended are subject to audit by the state auditor and by the governor's division of planning coordination.

(g) The comptroller shall deposit the funds received under this section in the municipal court judges and personnel training fund.

(h) On requisition of the criminal justice division of the governor's office, the comptroller shall draw a warrant on the fund for the amount specified in the requisition for a grant authorized by Subsection (a) of this section. A warrant may not exceed the amount in the fund at the time the requisition is made. At the end of each state fiscal year, any unexpended balance in the fund shall be paid into the general revenue fund.

[Acts 1977, 65th Leg., p. 1122, ch. 418, eff. Aug. 29, 1977. Amended by Acts 1983, 68th Leg., p. 2339, ch. 422, § 1, eff. Jan. 1, 1984.]

Art. 1200g. Proceedings Outside Corporate Limits; Municipalities of 700 or Less

The municipal court of a city, town, or village with a population of 700 or less, according to the most recent federal census, may conduct the proceedings of the court outside of the corporate limits of the municipality if the proceedings are conducted within the corporate limits of a contiguous incorporated municipality.

[Acts 1981, 67th Leg., p. 538, ch. 221, § 1, eff. May 28, 1981.]

Art. 1200h. Jurors Must be Residents

Sec. 1. As a qualification for service on a jury of a municipal court, including a municipal court of record, a person must be a resident of the municipality for which the court is established.

Sec. 2. This Act applies only to persons who are summoned as jurors after August 31, 1983.

[Acts 1983, 68th Leg., p. 1836, ch. 348, §§ 1, 2, eff. Sept. 1, 1983.]

PARTICULAR MUNICIPAL COURTS

Art. 1200aa. Wichita Falls

Creation; Formation by Ordinance; Additional Courts

Sec. 1. There is created in the City of Wichita Falls a court of record to be known as the "Municipal Court," to be held in that city if the governing body of the city, by legally adopted ordinance, finds and determines that the conditions of the dockets of the other courts of the county are such as to require the formation of the municipal court in order to properly dispose of the cases arising in the city. The governing body of the city may by ordinance determine that more than one municipal court is required in order to dispose of the cases arising in the city, in which case the governing body of the city may establish as many municipal courts as it deems necessary and the ordinance establishing the municipal courts shall designate the municipal courts as Municipal Court No. 1, Municipal Court No. 2, and as each municipal court is established it shall be designated with the next succeeding number.

Criminal Jurisdiction; Writs; Terms; Exchange of Benches

Sec. 2. (a) Municipal courts in Wichita Falls shall have concurrent jurisdiction in all criminal cases arising under the charter and ordinances of the city and shall also have concurrent jurisdiction in all criminal cases arising under the laws of the State of Texas and arising within the territorial limits of the city, in which punishment is by fine only, and where the maximum of such fine may not exceed \$200.

(b) The judge of a municipal court may grant writs of mandamus, injunction, attachment, and all other necessary writs necessary to the enforcement of the jurisdiction of the court, and to issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court.

(c) Municipal courts shall hold no terms and may sit at any time for the transaction of the business of the courts.

(d) Where more than one municipal court is established by the governing body of the city, the judges of the municipal courts may, at any time, exchange benches and may, at any time, sit and act for and with each other in any case, matter, or proceeding pending in their courts; and any and all acts thus

performed by any of the judges shall be valid and binding upon all parties to such cases, matters, and proceedings.

Criminal Jurisdiction; Conformance to This Act

Sec. 3. The jurisdiction of all courts exercising criminal jurisdiction is conformed to the terms and provisions of this Act.

Judges; Qualifications; Appointment; Compensation; Removal; Vacancies; Bond and Oath

Sec. 4. Municipal courts shall be presided over by a judge, who shall be known as the "municipal judge," who shall be a licensed attorney in good standing with two or more years of experience in the practice of law in this state, a citizen of the United States and of this state. He need not be a resident of the city at the time of his appointment, but he shall maintain his residence within the city during his tenure of office. He shall devote his entire time to the duties of his office, and shall not engage in the private practice of law while in office. He shall be selected and appointed to office by the Board of Aldermen.

(a) Municipal court judges shall receive a salary to be set by the governing body of the city which may not be diminished during his term of office. A municipal judge may not be removed from office during the term for which he was appointed except for cause to the same extent and under the same rules that judges of the county courts may be removed from office.

(b) At the end of the term of office for which a municipal judge is appointed, the governing body of the city may appoint the person serving as municipal judge to another two-year term, or the governing body of the city may declare the office of municipal judge vacant.

(c) Any vacancy in the office of municipal judge by death, resignation, or otherwise shall be filled in the same manner as original appointments.

(d) Pending such nomination as hereinabove provided, as well as during any period during which a municipal judge is temporarily unable to act for any reason, the mayor of the city, by and with the consent of the governing body of said city, is authorized to appoint some qualified person to act in the place and stead of the municipal judge, and the appointee shall have all the powers and discharge all the duties of the office, and shall receive the same compensation therefor as is payable to the regular municipal judge while he is so acting.

(e) Municipal judges shall execute a bond and take the oath of office as required by law relating to county judges.

Complaints by City Attorney, Assistant or Deputy

Sec. 5. All proceedings in municipal courts shall be commenced upon original complaint approved for filing by the city attorney of the city, his assistant or deputy, and filed with the court clerk, provided,

however, that parking tickets, including red meter tickets, need not be signed by the city attorney, his assistant or deputy, unless a complaint is tried in court. All such complaints shall be prepared under the direction of the city attorney, his assistant or deputy.

Filing of Original Papers; Notations on Case Folder

Sec. 6. The clerk of the municipal courts under the direction of the presiding judge shall file the original complaint and the original of all judgments, orders, motions, or other papers and proceedings in each case in a folder for permanent record. No separate minute book for the court is required, but the original papers filed with the court shall constitute the records of the courts, provided however, that such records may be kept by the clerk on microfilm when over one year old and shall be admissible in evidence as provided by Articles 3731a, 3731b, and 3731c, Vernon's Texas Civil Statutes, in civil cases. The clerk of the municipal courts shall cause to be noted on the outside of each case folder the following information:

- (1) The style of the action;
- (2) The nature of the offense charged;
- (3) The date the warrant was issued and return made thereon;
- (4) The time when the examination or trial was had, and if a trial, whether it was by a jury or before the judge of the court;
- (5) Trial settings;
- (6) The verdict of the jury, if any;
- (7) Judgment of the court, if any;
- (8) Motion for a new trial, if any, and the decision thereon;
- (9) If an appeal was taken; and
- (10) The time when, and the manner in which the judgment and sentence was enforced.

Orders or judgments, showing disposition of parking tickets as well as red meter tickets, not tried in court, need not be signed by the court.

Clerk of Municipal Courts; Appointment; Duties

Sec. 7. The clerk of the municipal courts shall be appointed by the governing body of the city. It shall be the duty of the clerk or his deputies to keep the records of proceedings of the court and to issue all processes and generally to do and to perform the duties now prescribed by law for clerks of county court at law exercising criminal jurisdiction insofar as the same may be applicable. The clerk of the municipal courts shall hold his office at the pleasure of the governing body of the city, and shall perform his duties under the direction and control of the municipal judge.

Court Reporter; Qualifications; Appointment; Duties

Sec. 8. For the purpose of preserving a record in all cases tried before the municipal courts, the governing body of the city shall appoint an official shorthand reporter, who shall be well skilled in his profession and have the qualifications required of a court reporter in the county courts or county courts at law as provided by the general laws of Texas. The reporter shall be a sworn officer of the court and shall hold his office at the pleasure of the governing body of the city at a salary to be fixed by the governing body. The court reporter of the court is not required to take testimony in cases where neither the defendant, prosecutor, nor the judge demands it. The governing body of the city may authorize and appoint more than one court reporter for each court established so as to dispose of the business of the courts without delay. The court reporter shall perform his duties under the direction and control of the municipal judge.

Evidence; Admissibility in Other Proceedings

Sec. 8a. That testimony, exhibits or evidence given by any witness in the course of any proceeding in such municipal courts shall be solely for the purpose of such proceeding or appeal therefrom and, in any other civil proceeding, evidence relating to such testimony, exhibits, evidence or reproductions thereof shall be privileged and not admissible for any purpose.

Costs

Sec. 9. No court costs shall be assessed or collected by any municipal court in any case tried in the courts, except warrant fees or capias fees as authorized by the Code of Criminal Procedure, 1965, for corporation courts and fees for the Criminal Justice Planning Fund as authorized by Chapter 935, Acts of the 62nd Legislature, Regular Session, 1971 (Article 1083, Code of Criminal Procedure, 1965).

Service of Process

Sec. 10. All processes issuing out of municipal courts may be served by a policeman of the city or by any peace officer under the same rules as are provided for service by sheriffs and constables of process issuing out of a county court so far as applicable.

Prosecutions by City Attorney; Bailiff

Sec. 11. All prosecutions in municipal courts shall be conducted by the city attorney of the city, or his assistant or deputy. The chief of police of the city shall in person or by deputy attend the court and perform the duties of a bailiff.

Complaint; Form

Sec. 12. Proceedings in municipal courts shall be commenced by complaint which shall begin: "In the name and by authority of the State of Texas"; and shall conclude "Against the peace and dignity of the

State." All complaints shall be prepared under the direction of the city attorney, his assistant or deputy, and may be signed by any credible person upon information and belief sworn to before the city attorney, or his assistant or deputy, or the clerk of the court or his deputy, each of whom, for that purpose, shall have power to administer oaths. The complaint shall be in writing and shall state:

(1) The name of the accused, if known, and if unknown, shall describe him as accurately as practicable;

(2) The offense with which he is charged in plain and intelligible words;

(3) It must appear that the place where the offense is charged to have been committed is within the jurisdiction of the municipal court; and

(4) It must show, from the date of the offense stated therein that the offense is not barred by limitations. All pleadings in the municipal courts shall be in writing and filed with the clerk of such courts.

Right to Jury Trial; Selection of Jurors

Sec. 13. (a) Every person brought before the municipal courts and charged with an offense shall be entitled to be tried by a lawful jury of six persons. The municipal judge may set certain days of each week or month for the trial of jury cases. Juries for the court shall be selected as follows: On the adoption of this Act by the governing body of the city and between the 1st and 15th days of August of each year thereafter, the clerk of the municipal court or one of his deputies, and the city clerk, or one of his deputies, shall meet together and select from the list of qualified jurors in the city, the jurors for service in the municipal courts for the ensuing year. The list of jurors shall be taken from the voters registration list of the City of Wichita Falls. The officers shall write the names of all persons who are known to be qualified jurors under the law residing in the city on separate cards of uniform size and color, writing also on the cards, whenever possible, the post-office address of each juror so selected. The cards containing the names shall be deposited in a jury wheel to be provided for that purpose by the governing body of the city. The wheel shall be constructed of any durable material, shall be so constructed so as to freely revolve on its axle, and may be equipped with a motor to revolve the wheel so as to thoroughly mix the cards. The wheel shall be locked at all times, except when in use as hereinafter provided, by the use of two separate locks so arranged that the key to one will not open the other lock. The wheel and the clasps into which the locks are fitted shall be arranged so that the wheel cannot be opened unless both of the locks are unlocked. The keys to the locks shall be kept one by the city clerk and the other by the clerk of the municipal court. The city clerk and the clerk of the municipal court shall not open the wheel nor permit it to be opened by any person except at the

time and in the manner and by the persons herein specified. The city clerk shall keep the wheel when not in use in a safe and secure place where it cannot be tampered with.

(b) Not less than 10 days before January 1 and July 1 of each year, the clerk of the municipal court, or one of his deputies, and the city clerk or one of his deputies, in the presence and under the direction of the municipal judge shall draw from the wheel containing the names of jurors, after the wheel has been turned and the cards thoroughly mixed, one by one the names of jurors to provide the number directed by the judge for each week of the six months next ensuing for which a jury may be required, and shall record the names as they are drawn upon a separate sheet of paper for each week for which jurors may be required. At the drawing no person other than those above named shall be permitted to be present. The officers attending the drawing shall not divulge the name of any person that may be drawn as a juror to any person. If at any time during the next six months and prior to the next drawing date it appears that the list already drawn will be exhausted before the expiration of six months, additional lists for as many additional weeks as the judge may direct will be drawn in the same manner. The several lists of names so drawn shall be certified under the hand of the clerk of the municipal court, or the deputy, doing the drawing and the municipal judge in whose presence the names were drawn, to be the lists drawn by him for that semiannual period and shall be sealed up in separate envelopes endorsed "List No. _____ of the Petit Jurors drawn on the _____ day of _____, 19____, for the Municipal Court of Wichita Falls, Texas." The clerk doing the drawing shall write his name across the seals of the envelopes and deliver them to the judge who shall inspect the envelopes to see that they are properly endorsed and shall then deliver them to the clerk or his deputy, and the clerk shall then immediately file them away in some safe and secure place in his office under lock and key. When the names are drawn for jury service, the cards containing the names shall be sealed in separate envelopes endorsed "Cards containing the names of jurors list No. _____ of the Petit Jurors drawn on the _____ day of _____, 19____, for the Municipal Court of Wichita Falls, Texas." Each envelope shall be retained unopened by the clerk until after the jury selected from the corresponding list has been impaneled. After the jurors so impaneled have served four or more days, the envelope containing the cards bearing the names of the jurors on that list shall then be opened by the clerk or his deputy and those cards bearing the names of persons who have not been impaneled and who have not served as many as four days shall be immediately returned to the wheel by the clerk or his deputy; and the cards bearing the names of the persons serving as many as four days shall be put in a box provided for that purpose for the use of the officers who shall next select the jurors from the wheel. If any of the lists drawn are not used, the clerk or his

deputy shall open the envelopes containing the cards bearing the names of the unused lists immediately after the expiration of the six-month period and return the cards to the wheel. A juror serving on a jury in the court shall receive not less than \$5 for each day and for each fraction of a day he attends the court as a juror and in no event less than that paid in county courts.

(c) In lieu of the preceding method of jury selection, the judges of the municipal courts of Wichita Falls may adopt a plan for the selection of persons for jury service with the aid of mechanical or electronic means. If such a plan is adopted, the laws relating to the selection of petit juries by jury wheel shall not apply. Any such plan so adopted shall conform to the following requirements:

(1) The names taken for jury purposes shall be of registered voters in the City of Wichita Falls.

(2) It shall provide a fair, impartial, and objective method of selecting persons for jury service with the aid of mechanical or electronic equipment.

(3) It shall designate the clerk of the court as the official to be in charge of the selection process and shall define his duties.

(4) It shall specify that a true and complete written list showing the names and addresses of the persons summoned to begin jury services on a particular date shall be filed of record with the clerk of the court at least 10 days prior to the date such persons are to begin jury service.

Ordinances and Corporate Limits; Judicial Notice

Sec. 14. Municipal courts shall take judicial notice of all the city ordinances and the corporate limits of Wichita Falls in all cases tried in the courts.

Code of Criminal Procedure; Applicability

Sec. 15. Except as modified by this Act, the trial of cases before municipal courts shall be governed by the Code of Criminal Procedure of the State of Texas applicable to county courts.

Bonds

Sec. 16. All bonds taken in proceedings in the courts shall be payable to the State of Texas for the use and benefit of Wichita Falls.

Judgment and Sentence

Sec. 17. The judgment and sentence, in case of conviction before municipal courts shall be in the name of the State of Texas, and shall recover of the defendant the fine and costs for the use and benefit of the city; except when otherwise ordered by the court, the court shall require that the defendant remain in custody of the chief of police of such city until the fine and costs are paid; and order that execution issue to collect the fines and penalties.

Appeals

Sec. 18. Appeals from municipal courts shall be heard by the county court except in cases where the county court has no jurisdiction of appeals from justice courts, in which cases, the appeals shall be heard by the court having jurisdiction of appeals from justice courts.

Right of Appeal; State

Sec. 19. The state shall have no right of appeal.

Right of Appeal; Defendant; Motion for New Trial

Sec. 20. A defendant has the right of appeal from a judgment of conviction in a municipal court under the rules hereinafter prescribed, and a motion for a new trial shall be prerequisite to the right of appeal from a municipal court.

Motion for New Trial; Time; Filing

Sec. 21. A motion for a new trial must be made within 10 days after the rendition of judgment and sentence, and not afterward. Such motion must be in writing and filed with the clerk of the municipal court.

New Trial; State

Sec. 22. In no case shall the state be entitled to a new trial.

Notice of Appeal; Bond; Time

Sec. 23. An appeal may be taken by giving notice of appeal in open court, which shall be noted on the docket of the court or embodied in the order overruling the motion for new trial. The notice must be given or filed within 10 days after the order overruling the motion for a new trial is rendered. If the defendant is not in custody, an appeal may not be taken until the required appeal bond has been given and approved by the court. The appeal bond must be filed with the court within 10 days after the order of the court refusing a new trial has been rendered, and not afterwards.

Bail on Appeal

Sec. 24. In appeals from the judgments and sentence of a municipal court, the defendant shall, if he be in custody, be committed to jail unless he gives bail, to be approved by the judge of the municipal court, in an amount not less than double the amount of fine and costs adjudged against him, payable to the State of Texas for the use and benefit of the city; provided the bail shall not in any case be for a less sum than \$100. The bond shall recite that in the cause the defendant shall make his personal appearance before the court to which the appeal is taken instanter, if the court is in session; and if the court is not in session, then at its next session, and there remain from day to day and answer in the cause.

Perfecting Appeal; Filing of Bond

Sec. 25. Appeals from municipal courts may be perfected by filing the appeal bond provided for in the preceding section upon approval by the municipal court, subject to compliance with the provisions of Section 34.

Record and Briefs on Appeal

Sec. 26. In view of the crowded conditions of the dockets of the courts, the record and briefs on appeal in a case appealed from a municipal court shall be limited so far as possible to the questions relied on for reversal.

Record on Appeal

Sec. 27. The record on appeal in a case appealed from a municipal court shall consist of a transcript, and where necessary to the appeal, a statement of facts.

Assignments of Error; Waiver

Sec. 28. The motion for a new trial in a case appealed from a municipal court shall constitute the assignments of error on appeal. A ground of error not distinctly set forth in a motion for new trial shall be considered as waived.

Record on Appeal; Stipulation

Sec. 29. The city attorney, or his assistant or deputy, and the defendant, or his attorney, by written stipulation filed with the clerk of the municipal court may designate the parts of the record, proceedings, and evidence to be included in the record on appeal.

Contents of Transcript

Sec. 30. The clerk of the municipal court, under written instructions of the defendant, or his attorney, shall prepare under his hand and seal of the court for transmission to the appellate court a true copy of the proceedings in the municipal court, and, unless otherwise designated by agreement of the parties, shall include the following: (1) the complaint upon which the trial was had; (2) the order of the court upon any motions or exceptions; (3) the judgment of the court and the verdict of the jury; (4) any findings of fact or conclusions of law by the court; (5) the judgment of the court; (6) the motion for new trial and the order of the court thereon; (7) the notice of appeal; (8) any statement of the defendant or the city attorney as to the matter to be included in the record; (9) the appeal bond; (10) certified bill of cost; (11) any signed paper designated as material by the defendant, or his attorney, or the city attorney or his assistant or deputy. The defendant, or his attorney, may file with the clerk and deliver or mail to the city attorney a copy of the written instruction, and the city attorney may file and deliver or mail a written direction to the clerk to include in the transcript additional portions of proceedings in the trial court.

Statement of Facts

Sec. 31. (a) The statement of facts of the testimony of the witnesses need not be in narrative form but may be in question and answer form. The defendant, or his attorney, may prepare and file with the clerk a condensed statement in narrative form of all or part of the testimony and deliver a true copy thereof to the city attorney and if the city attorney is dissatisfied with the narrative statement, he may require the testimony in question and answer form to be substituted for all or part thereof.

(b) All matters not essential to the decision or the questions presented in the motion for new trial, shall be omitted from a statement of facts. Formal parts of all exhibits and more than one copy of any document appearing in the transcript or the statement of facts shall be excluded. All documents shall be abridged by omitting or abbreviating a formal portion thereof.

(c) It shall be unnecessary for the statement of facts to be approved by the trial court or judge thereof when agreed to by the defendant, or his attorney, and the city attorney.

(d) A written request for a statement of facts shall be made to the court reporter of the municipal court by the defendant or his attorney.

Agreed Statement of Case

Sec. 32. The defendant, or his attorney, and the city attorney may agree upon a brief statement of the case and upon the facts proven as will enable the appellate court to determine where there is error in the judgment of the trial court. Such statements shall be copied into the transcript in lieu of the proceedings themselves.

Transcript and Statement of Facts; Filing

Sec. 33. The transcript and the statement of facts shall be filed with the clerk of the municipal court within 60 days from the date of the order overruling the motion for new trial, and shall be promptly forwarded by the clerk of the municipal court to the clerk of the court to which the appeal is taken.

Preparation of Transcript and Statement of Facts; Fee

Sec. 34. The defendant shall pay a fee of \$10 to the clerk of the municipal court for the preparation of the transcript and statement of facts, at the time of request therefor. If the case is reversed on appeal, the \$10 fee shall be refunded to the defendant.

Briefs; Filing

Sec. 35. The defendant shall file his brief with the clerk of the appellate court within 15 days from the date of the filing of the transcript and statement of facts with the clerk of the appellate court, who shall notify the prosecuting attorney of the filing. The prosecuting attorney shall file his brief

with the clerk of the appellate court within 15 days after the defendant files his brief with the clerk. Each party, on filing his brief with the clerk of the appellate court, shall cause a true copy of his brief to be delivered to the opposing party.

Procedure on Appeal

Sec. 36. The court to which the appeal is taken shall hear and determine appeals from municipal courts at the earliest time it may be done, with due regard to the rights of parties and proper administration of justice. Oral arguments before the court shall be under such rules as the court may determine, and the parties may submit the case on the records and briefs without oral arguments.

Disposition on Appeal; Presumptions; Decision

Sec. 37. The court, having jurisdiction of appeals from municipal courts, may affirm the judgment of the municipal court, or may reverse or remand for a new trial, or may reverse and dismiss the case, or may reform or correct the judgment, as the law and the nature of the case may require. The court shall presume (1) that the venue was proven in the court below; (2) that the jury was properly impaneled and sworn; (3) that the defendant was arraigned and that he pleaded to the complaint; (4) that the court's charge was certified by the judge and filed by the clerk before it was read to the jury; unless such matters were made an issue in the municipal court, or it affirmatively appears to the contrary from the transcript or statement of facts. In each case decided by the court having jurisdiction of appeals, the court shall deliver a written opinion either sustaining or overruling each assignment of error presented. If an assignment of error is overruled no reason need be given by the court, but cases relied upon by the court may be cited. If an assignment of error is sustained, the court shall set forth the reasons for such decision. Copies of the decision of the court shall be mailed by the clerk of the court to the parties and the judge of the municipal court as soon as rendered by the court.

Certificate of Appellate Proceedings; Filing of Record; Enforcement of Judgment

Sec. 38. When the judgment of the court having jurisdiction of appeal from municipal courts becomes final, the clerk of the court shall make out a proper certificate of the proceedings had and the judgment rendered and mail the certificate to the clerk of the municipal court from which the appeal was taken. When the record is received by the clerk of the municipal court, he shall file it with the papers in the case and note it upon the docket of the municipal court. Where the judgment has been affirmed no proceedings need be had after filing the record in the municipal court to enforce the judgment of the court, except to forfeit the bond of the defendant, to issue a *capias* for the defendant, or an execution against his property.

New Trial

Sec. 39. Where the appeal court awards a new trial to the defendant, the cause shall stand as it would have stood if a new trial had been granted by the municipal court.

Appeals to Court of Appeals; Applicability of Code of Criminal Procedure; Record

Sec. 40. Appeals to the Court of Appeals from the decision of the court having jurisdiction of appeals from municipal courts, when permitted by law, shall be governed by the Code of Criminal Procedure of Texas, except that when an appeal is permitted by law, the transcript, briefs, and statement of facts filed in the court having jurisdiction of appeals from municipal courts shall constitute the transcript, briefs, and statement of facts before the Court of Appeals or as the rules of the court of criminal appeals may provide in such cases.

Places and Quarters for Court, Etc., Salaries

Sec. 41. (a) The municipal court shall be held in the city at a place or places within the corporate limits of the city as may be designated by the governing body of the city in the ordinances establishing the court.

(b) The governing body of the city shall provide suitable quarters for the court, and all costs of providing a court and office space for the court, the clerk, and court reporter shall be paid for by the governing body of the city. All salaries paid to the judge, clerk, court reporter, and employees of the municipal court shall be paid by the governing body of the city.

Payment and Deposit of Fines, Etc.

Sec. 42. All fines, fees, costs, and cash bonds in municipal courts shall be paid to the clerk of the municipal court. The clerk of the municipal court shall deposit all fines, fees, costs, and cash bonds directly into the general fund of the city.

Judges, Clerks and Court Reporters: Civil Service Ordinance; Retirement; Vacation; Sick Leave; Etc.

Sec. 43. The judges of municipal courts, the clerks and deputy clerks of the courts, and the court reporters of the municipal courts shall not be considered to be classified employees under the city civil service ordinance. However, the governing body of the city may provide by ordinance that all other employees of the municipal courts may be hired and paid as classified employees of the city under the city civil service ordinance. The judges, clerks, deputy clerks, and court reporters may be authorized or required by the governing body of the city to participate in the retirement program of the city. The judges, clerks, deputy clerks, and court reporters of municipal courts shall receive the same vacation, sick leave, and other benefits as are provided for other nonclassified employees of the city under such regulations as may be provided by the governing body of the city by ordinance.

Vacation of Court; Transfer of Pending Cases

Sec. 44. After the establishment of a municipal court if the governing body of the city shall by legally adopted ordinance find and determine that the condition of the dockets of the other courts of the county is such as not to require the existence of the municipal court in order to properly dispose of the cases arising in the city, then the office of municipal judge, clerk of the municipal court, court reporter, and other employees of the court shall be declared vacated as of the end of the term for which the municipal court judge was last appointed. In that event, any case pending in the municipal court shall be transferred to the proper court having jurisdiction of the offense.

[Acts 1969, 61st Leg., p. 2255, ch. 762, eff. Sept. 1, 1969. Amended by Acts 1971, 62nd Leg., pp. 2501 to 2504, ch. 822, §§ 1 to 6, eff. Aug. 30, 1971; Acts 1977, 65th Leg., p. 1076, ch. 393, §§ 1 to 7, eff. June 15, 1977; Acts 1981, 67th Leg., p. 764, ch. 291, § 5, eff. Sept. 1, 1981.]

Section 149 of the 1981 amendatory act provides:

"This Act takes effect on September 1, 1981. Appeals to the courts of appeals filed on or after that date shall be filed in the court of appeals having jurisdiction. At least 1,800 appeals including death penalty appeals pending in the Court of Criminal Appeals prior to September 1, 1981, shall be retained by that court for disposition in accordance with laws in effect prior to the effective date of this Act, and for that purpose, all laws repealed or amended by this Act shall remain in force and effect for those appeals pending in the Court of Criminal Appeals. The remaining appeals pending in the Court of Criminal Appeals shall be transferred to the various courts of appeals on which the number of judges is increased by the 67th Session of the legislature; provided, no more than 75 nondeath penalty appeals shall be transferred for each newly created judgeship and such a transfer shall not be made until such justice assumes office."

Art. 1200bb. Midland**Creation; Formation by Ordinance**

Sec. 1. There is created in the city of Midland a court of record to be known as the "City of Midland Municipal Court," to be held in that city if the governing body of the city of Midland, by ordinance, finds and determines that the formation of a municipal court of record is necessary in order to provide a more efficient disposition of appeals arising from the municipal court.

The authority of the governing body of the city of Midland to create a municipal court of record in the city of Midland includes the authority to establish, in the manner set forth in this section, more than one municipal court of record if the governing body determines that it is necessary in order to dispose of the cases arising in the city. If more than one municipal court of record is created, the judges of the municipal courts may at any time exchange benches and sit and act for and with each other in a case, matter, or proceeding pending in a municipal court, and any and all acts thus performed by a judge are valid and binding on all parties to the case, matter, and proceeding.

The municipal court of record authorized in this section is referred to in this Act as the "municipal court."

**Application of Other Laws Regarding
Municipal Courts**

Sec. 2. The general laws of the state regarding municipal courts, and regarding justice courts on matters where there is no law for municipal courts, and the valid charter provisions and ordinances of the city of Midland relating to the municipal court apply to the municipal court authorized in this Act, unless the laws, charter provisions, and ordinances are in conflict or inconsistent with the provisions of this Act.

Judge; Qualifications

Sec. 3. The municipal court shall be presided over by a judge, who shall be a licensed attorney in good standing in this state and a citizen of the United States and of this state. He need not be a resident of the city at the time of his appointment, but he shall maintain his residence in the city during his tenure of office. He shall devote his entire time to the duties of his office and shall not engage in the private practice of law while in office. He shall be appointed by the governing body of the city. He shall be paid a salary to be determined by the governing body of the city. The salary shall not be based on or in any way contingent on the fines, fees, or costs collected by the municipal court.

If more than one municipal court is created by the governing body of the city, a judge shall be appointed for each court and the governing body of the city shall designate a judge to be the presiding judge.

Court Clerk

Sec. 4. The governing body of the city shall provide a clerk of the municipal courts, and such deputy clerks, warrant officers, and other municipal court personnel, including at least one bailiff for each court, as are necessary for the proper operation of the municipal courts. It is the duty of the clerk to keep the records of proceedings of the municipal courts and to issue all processes and generally to perform the duties now prescribed by law for clerks of the county courts at law exercising criminal jurisdiction insofar as the same may be applicable. The clerk of the municipal courts and all other personnel shall perform the duties of the office under the direction and control of the municipal court judge.

Court Reporter

Sec. 5. For the purpose of preserving a record in the cases tried before the municipal court, the city shall provide a court reporter, who shall be appointed by the municipal court judge and whose compensation shall be determined by the governing body of the city. The qualifications of the court reporter shall be determined by the judge, or if there is more than one judge, by the presiding judge.

The record of proceedings may be preserved by the court reporter by written notes, transcribing

equipment, recording equipment, or any combination of them. The court reporter is not required to take testimony in cases where neither the defendant, the prosecutor, nor the judge demands it.

Ordinances; Judicial Notice

Sec. 6. The municipal court shall take judicial notice of the ordinances of the city.

Appeal; Appellate Courts

Sec. 7. A defendant has the right of appeal from a judgment of conviction in the municipal court under the rules prescribed in this Act. The County Court of Midland County has jurisdiction over the appeals from the municipal court.

Appeals on the Record; No de Novo Appeals

Sec. 8. Each appeal from a conviction in the municipal court shall be determined by the appellate court solely on the basis of errors pointed out in the defendant's motion for new trial and presented in the transcript and statement of facts prepared from the municipal court proceedings leading to the conviction. No appeal from the municipal court may be by trial de novo.

Motion for New Trial

Sec. 9. In order to perfect an appeal, a written motion for new trial must be filed by the defendant no later than the 10th day after the rendition of the judgment of conviction, and may be amended by leave of court at any time before it is acted on within 20 days after it is filed. The motion for new trial shall be presented to the court within 10 days after the filing of the original or amended motion, and shall be determined by the court within 20 days after the filing of the original or amended motion. For good cause shown the time for filing or amending may be extended by the court. An original or amended motion shall be deemed overruled by operation of law at the expiration of the 20 days allowed for determination of the motion if it is not acted on by the court within that time. The motion shall set forth the points of error complained of by the defendant. For purposes of appeal, a point of error not distinctly set forth in the motion for new trial shall be considered as waived.

Notice of Appeal

Sec. 10. In order to perfect an appeal, the defendant shall give timely notice of appeal. In the event the defendant requests a hearing on his motion for new trial, the notice of appeal may be given orally in open court upon the overruling of the motion for new trial; otherwise, the notice of appeal shall be in writing and filed with the municipal court no later than the 10th day after the motion for new trial is overruled.

Appeal Bond

Sec. 11. If the defendant is not in custody, an appeal may not be taken until the required appeal

bond has been filed with and approved by the municipal court. The appeal bond must be filed no later than the 10th day after the motion for new trial is overruled. If the defendant is in custody, he shall be committed to jail unless he posts the required appeal bond. The appeal bond shall be in an amount not less than double the amount of fine and costs adjudged against the defendant. However, the bond may not in any case be for a less sum than \$100. The bond shall recite that in the cause the defendant shall make his personal appearance before the court to which the appeal is taken instantly, if the court is in session, and if the court is not in session, then at its next session, and there remain from day to day and answer in the cause.

Record on Appeal

Sec. 12. The record on appeal in a case appealed from the municipal court consists of a transcript and, where necessary to the appeal, a statement of facts.

Contents of Transcript

Sec. 13. (a) The municipal court clerk, upon written request from the defendant, shall prepare under his hand and seal of the court for transmission to the appellate court a true transcript of the proceedings in the municipal court that shall always include the following:

- (1) the complaint;
- (2) material docket entries made by the court;
- (3) the jury charge and verdict, if the trial is by jury;
- (4) the judgment;
- (5) the motion for new trial;
- (6) the notice of appeal;
- (7) all written motions and pleas and orders of the court; and
- (8) bills of exception, if any are filed.

(b) The municipal court clerk may include in the transcript additional portions of the proceedings in the municipal court if so instructed in writing by either the defendant or the prosecuting attorney.

Bills of Exception

Sec. 14. Either party may include bills of exception in the transcript on appeal, subject to complying with the applicable provisions of the Code of Criminal Procedure governing the preparation of bills of exception and their inclusion in the record on appeal to the Court of Appeals, except that the bills of exception shall be filed with the municipal court clerk within 60 days after the giving or filing of the notice of appeal.

Statement of Facts; Agreed Statement; Designated Items and Payment

Sec. 15. (a) A statement of facts, when included in the record on appeal, shall consist of:

(1) a transcription of all or any part of the municipal court proceedings in the case that are shown by the notes of the court reporter to have occurred before, during, or after the trial if such transcription is requested of the court reporter by the defendant; or

(2) a brief statement of the facts of the case proven at the trial, as agreed to by the defendant and the prosecuting attorney; or

(3) a partial transcription and the agreed statement of the facts of the case proven at the trial.

(b) The court reporter shall transcribe any portion of his notes of the court proceedings in the case at the request of the defendant. The defendant shall pay for the transcription. The cost to the defendant for the transcription shall not exceed the fees or charges normally being made by court reporters in the county for similar transcriptions. The municipal court shall order the court reporter to make the transcriptions without charge to the defendant if the court finds, after hearing in the response to affidavit by the defendant, that he is too poor to pay or give security for the transcriptions.

Filing of Transcript and Statement of Facts; Time Limits; Completion and Approval of Record; Transfer of Record to Clerk of Appellate Court

Sec. 16. (a) Within 60 days of the giving or filing of the notice of appeal, the parties shall file with the municipal court clerk:

- (1) the statement of facts;
- (2) a written designation of all matter that is to be included in the transcript in addition to matter required to be in the transcript by Section 13 of this Act; and

(3) any matter designated to be included in the transcript that is not then in the custody of the municipal court clerk.

(b) On completing the record as designated by the parties in Subdivision (2), Subsection (a) of this section, the municipal court judge shall approve the record in the manner provided by law for record completion notification and approval in appeals to the Court of Appeals.

(c) On the municipal court judge's approval of the record, the municipal court clerk shall promptly forward it to be filed with the appellate court clerk, who shall notify the defendant and the prosecuting attorney that the record has been filed.

Brief on Appeal: Contents and Filing

Sec. 17. (a) A brief on appeal from the municipal court shall present points of error in the same manner required by law for a brief on appeal to the Court of Appeals, except that the points of error on appeal shall be confined to those points of error set forth in the defendant's motion for new trial.

(b) The defendant shall file his brief with the clerk of the appellate court within fifteen days from the date of the filing of the transcript and statement of facts with the appellate court clerk, who shall notify the prosecuting attorney of the filing. The prosecuting attorney shall file his brief with the clerk of the appellate court within 15 days after the defendant files his briefs with the clerk. Each party, on filing his brief with the clerk of the appellate court, shall cause a true copy of his brief to be delivered to the opposing party.

Procedure on Appeal; Review or Error

Sec. 18. The appellate court shall hear and determine appeals from the municipal court at the earliest practical time it may be done, with due regard to the rights of parties and proper administration of justice, and no affirmance or reversal of a case shall be determined on mere technicalities or on technical errors in the preparation and filing of the record on appeal. Oral arguments before the appellate court shall be under the rules which the appellate court may determine, and the parties may submit the case on the records and briefs without oral arguments.

Disposition on Appeal; Presumptions; Decision

Sec. 19. (a) The appellate court may affirm the judgment of the municipal court, or may reverse or remand for a new trial, or may reverse and dismiss the case, or may reform or correct the judgment, as the law and the nature of the case may require.

(b) The appellate court shall presume (1) that the venue was proven in the court below; (2) that the jury was properly impaneled and sworn; (3) that the defendant was arraigned and that he pleaded to the complaint; and (4) that the court's charge was certified by the municipal court judge before it was read to the jury; unless such matters were made an issue in the trial court, or it affirmatively appears to the contrary from the transcript or statement of facts.

(c) In each case decided by the appellate court, the court shall deliver a written opinion or order either sustaining or overruling each assignment of error presented. If an assignment of error is overruled no reason need be given by the appellate court, but cases relied on by the court may be cited. If an assignment of error is sustained, the appellate court shall set forth the reasons for the decision. Copies of the decision of the appellate court shall be mailed by the clerk of the appellate court to the parties and the judge of the municipal court as soon as the decision is rendered by the appellate court.

Certificate of Appellate Proceedings; Filing of Record; Enforcement of Judgment

Sec. 20. When the judgment of the appellate court becomes final, the clerk of the appellate court shall make out a proper certificate of the proceedings had and the judgment rendered and shall mail the certificates to the clerk of the municipal court.

When the certificate is received by the clerk of the municipal court, he shall file it with the papers in the case and note it on the docket. If the judgment has been affirmed, no proceeding need be had after filing the certificate in the municipal court to enforce the judgment of the court, except to forfeit the bond of the defendant, to issue a *capias* for the defendant, or issue an execution against his property.

New Trial

Sec. 21. If the appellate court awards a new trial to the defendant, the cause shall stand as it would have stood if a new trial had been granted by the municipal court.

Appeals to the Court of Appeals; Record

Sec. 22. When a judgment is affirmed by the appellate court, the defendant shall have the right to appeal to the Court of Appeals if the fine assessed against the defendant in the municipal court exceeded \$100. The appeals to the Court of Appeals shall be governed by provisions in the Code of Criminal Procedure relating to direct appeals from county and district courts to the Court of Appeals except that:

(1) the record and briefs on appeal in the appellate court, plus the transcript of proceedings in the appellate court, shall constitute the record and briefs on appeal to the Court of Appeals unless the rules of the Court of Criminal Appeals provide otherwise; and

(2) the record and briefs shall be filed directly with the Court of Appeals.

Conflicting Laws Conformed

Sec. 23. All laws in conflict or inconsistent with the provisions of this Act are hereby conformed to the provisions of this Act.

[Acts 1975, 64th Leg., p. 228, ch. 87, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 764, ch. 291, § 6, eff. Sept. 1, 1981.]

Section 149 of the 1981 amendatory act provides:

"This Act takes effect on September 1, 1981. Appeals to the courts of appeals filed on or after that date shall be filed in the court of appeals having jurisdiction. At least 1,800 appeals including death penalty appeals pending in the Court of Criminal Appeals prior to September 1, 1981, shall be retained by that court for disposition in accordance with laws in effect prior to the effective date of this Act, and for that purpose, all laws repealed or amended by this Act shall remain in force and effect for those appeals pending in the Court of Criminal Appeals. The remaining appeals pending in the Court of Criminal Appeals shall be transferred to the various courts of appeals on which the number of judges is increased by the 67th Session of the legislature; provided, no more than 75 nondeath penalty appeals shall be transferred for each newly created judgeship and such a transfer shall not be made until such justice assumes office."

Art. 1200cc. Cities Over 1,200,000

Creation of Municipal Courts of Record; Vacation of Additional Municipal Courts

Sec. 1. (a) A municipal court of record is created in any city with a population of more than

1,200,000 as determined by the last preceding federal census.

(b) Additional municipal courts of record may be created and judges for such courts may be authorized in any city with a population of more than 1,200,000 as determined by the last preceding federal census by action of the governing body of the city through a legally adopted ordinance that specifies that the condition of dockets in the other municipal courts of the city is such as to require additional municipal courts in order to properly dispose of the cases on the dockets of these courts, and that enumerates the number of additional municipal courts necessary to properly dispose of those cases. Municipal courts that are in existence on the effective date of this Act and that were created pursuant to any Article in Title 28, Revised Civil Statutes of Texas, 1925, as amended,¹ shall on such date become municipal courts of record and may, subject to meeting other requirements provided by law for municipal courts, continue their operation under the authority of this Act without passage of such ordinance.

(c) After the establishment of an additional municipal court or courts, if the governing body of the city determines that the continued existence of some or all of the additional municipal courts is not required in order to properly dispose of cases on the dockets of all the municipal courts, the governing body shall by legally adopted ordinance declare the offices of some or all of the additional municipal judges vacated at the end of the term or terms for which such judge or judges were last selected. In that event, any cases pending in a vacated municipal court shall be transferred to the proper court having jurisdiction of the offense.

¹ Article 961 et seq.

Jurisdiction

Sec. 2. Municipal courts created under the provisions of this Act shall have jurisdiction within the territorial limits of the city in all criminal cases arising under the ordinances of the city and shall also have concurrent jurisdiction with any justice of the peace in any precinct in which the city is situated in criminal cases arising within such territorial limits under the criminal laws of this state in which punishment is only by fine not exceeding \$200.

Judges; Additional Judges; Presiding Judge; Qualifications

Sec. 3. (a) Municipal courts shall be presided over by judges to be known as "municipal judges."

(b) The city shall provide by charter or by ordinance for the selection of its municipal judges, provided the selection shall be for a definite term in office of not less than two nor more than four years, whose duration within these limits shall be determined by charter, ordinance, or the method prescribed in Article XI, Section 11, of the Texas Constitution. Any definite term or indefinite period in office that a municipal judge has begun on the

effective date of this Act shall terminate no later than four years after such effective date. A municipal judge may continue in office after the end of his term for not more than 90 days or until his successor is selected and qualified, whichever occurs first.

(c) If there is more than one municipal judge in the city the mayor and city council of the city shall appoint one of the judges to be the presiding municipal judge of the city. If the city has a municipal judge who is either its only municipal judge or its only municipal judge who is not serving in a temporary or part-time capacity, such judge shall be the presiding municipal judge for all purposes of this Act.

(d) The presiding judge shall:

(1) maintain a central docket for all cases filed in the geographical limits of the city over which the municipal courts of the city have jurisdiction;

(2) provide for the distribution of cases from the central docket to the individual municipal judge in order that the business of the courts will be continually equalized and distributed among them;

(3) temporarily assign various judges of the municipal courts to exchange benches for other such judges and to sit and act for each other in any case, matter, or proceeding pending in their courts, when necessary for the expeditious disposition of the business of the courts;

(4) cause all dockets, books, papers, and other records of the municipal courts to be permanently kept and permit these records to be available for inspection at all reasonable times by any interested party;

(5) cause to be maintained as part of the records of the municipal courts an index of municipal-court judgments such as county clerks are required by law to prepare for criminal cases arising in county courts;

(6) where necessary for the proper functioning of the municipal courts, provide for the preservation by microfilm of the records under the custody of county clerks; and

(7) supervise and have control over all of the operations and clerical functions of the administrative section or department of such municipal courts and be responsible for the supervision of all clerical personnel of the administrative department of such municipal court.

(e) A judge of a municipal court created under the provisions of this Act shall be a licensed attorney in good standing in this state. No person may serve in the office of municipal judge while he holds any other office or employment in the government of such city, and the holding of such other office or employment by any person serving in the office of municipal judge shall create an immediate vacancy in the judicial office.

Salary

Sec. 4. A municipal judge is entitled to compensation by the city on a salary basis. The amount of the salary shall be determined by the governing body of the city and may not be diminished during the judge's term of office. The salary may not be based, directly or indirectly, on fines, fees, or costs that the municipal judge is required by law to collect during his term of office. The governing body shall predetermine the salary of the municipal judge prior to his appointment, if he is appointed, or at least two weeks prior to the deadline for filing for election, if he is elected.

Vacancies; Temporary Replacements; Removal

Sec. 5. (a) When a vacancy in the office of municipal judge occurs, the governing body of the city shall appoint a person meeting the qualifications required by law for such position to fill the office of municipal judge for the unexpired term of the judge serving in that office prior to the vacancy.

(b) While a municipal judge is temporarily unable to act for any reason, the governing body of the city may appoint a person meeting the qualifications required by law for such position to sit for the regular municipal judge. The appointee shall have all the powers and duties of the office and shall receive the same compensation as is payable to the regular municipal judge while he is so acting.

(c) A municipal judge may be removed from office only under the procedures outlined in Article V, Section 1-a, of the Texas Constitution.

Court Facilities

Sec. 6. The governing body of the city shall provide such courtrooms, juryrooms, offices and office furniture, libraries, legal books and materials, and other supplies and facilities as the governing body determines are necessary for the proper operation of the municipal courts.

Appeals; Appellate Courts

Sec. 7. A defendant has the right of appeal from a judgment of conviction in the municipal court under the rules prescribed in this Act. The county criminal court of such county where said court is situated shall have jurisdiction over the appeals from the municipal court.

Appeals on the Record; No de Novo Appeals

Sec. 8. Each appeal from a conviction in the municipal court shall be determined by the appellate court solely on the basis of errors pointed out in the defendant's motion for new trial and presented in the transcript and statement of facts prepared from the municipal court proceedings leading to the conviction. No appeal from the municipal court may be by trial de novo.

Motion for New Trial

Sec. 9. In order to perfect an appeal, a written motion for new trial must be filed by the defendant no later than the 10th day after the rendition of the judgment of conviction, and may be amended by leave of court at any time before it is acted on within 20 days after the filing of the original or amended motion. For good cause shown the time for filing or amending may be extended by the court. An original or amended motion shall be deemed overruled by operation of law at the expiration of the 20 days allowed for determination of the motion if it is not acted on by the court within that time. The motion shall set forth the points of error complained of by the defendant. For purposes of appeal, a point of error not distinctly set forth in the motion for new trial shall be considered as waived.

Notice of Appeal

Sec. 10. In order to perfect an appeal, the defendant shall give timely notice of appeal. In the event the defendant requests a hearing on his motion for new trial, the notice of appeal may be given orally in open court upon the overruling of the motion for new trial; otherwise, the notice of appeal shall be in writing and filed with the municipal court no later than the 10th day after the motion for new trial is overruled.

Appeal Bond

Sec. 11. If the defendant is not in custody, an appeal may not be taken until the required appeal bond has been filed with and approved by the municipal court. The appeal bond must be filed no later than the 10th day after the motion for new trial is overruled. If the defendant is in custody, he shall be committed to jail unless he posts the required appeal bond. The appeal bond shall be in an amount not less than double the amount of fine and costs adjudged against the defendant. However, the bond may not in any case be for a less sum than \$50. The bond shall recite that in the cause the defendant shall make his personal appearance before the court to which the appeal is taken instantly, if the court is in session, and if the court is not in session, then at its next session, and there remain from day to day and answer in the cause.

Record on Appeal

Sec. 12. The record on appeal in a case appealed from the municipal court consists of a transcript and, where necessary to the appeal, a statement of facts, which may be prepared by a certified court reporter of such court or from mechanical recordings of the proceedings or from video-tape recordings of the proceedings. If the court finds, after hearing in response to affidavit by defendant that he is unable to pay or give security for the record on appeal, the court will order the reporter to make such transcription without charge to the defendant.

Contents of Transcript

Sec. 13. (a) The municipal court clerk, upon written request from the defendant, shall prepare under his hand and seal of the court for transmission to the appellate court a true transcript of the proceedings in the municipal court that shall include the following:

- (1) the complaint;
- (2) material docket entries made by the court;
- (3) the jury charge and verdict, if the trial is by jury;
- (4) the judgment;
- (5) the motion for new trial;
- (6) the notice of appeal;
- (7) all written motions and pleas and orders of the court; and
- (8) bills of exception, if any are filed.

(b) The municipal court clerk may include in the transcript additional portions of the proceedings in the municipal court prepared from mechanical recordings or video-tape recordings of the proceedings.

Bills of Exception

Sec. 14. Either party may include bills of exception in the transcript on appeal, subject to complying with the applicable provisions of the Code of Criminal Procedure governing the preparation of bills of exception and their inclusion in the record on appeal to the Court of Appeals, except that the bills of exception shall be filed with the municipal court clerk within 60 days after the giving or filing of the notice of appeal.

Statement of Facts; Agreed Statement; Designated Items and Payment

Sec. 15. A statement of facts, when included in the record on appeal, shall consist of:

- (a) a transcription of all or any part of the municipal court proceedings, in the case, as provided herein, that are shown by the notes of the court reporter to have occurred before, during, or after the trial if such transcription is requested of the court reporter by the defendant; or
- (b) a brief statement of the facts of the case proven at the trial, as agreed to by the defendant and the prosecuting attorney; or
- (c) a partial transcription and the agreed statement of the facts of the case proven at the trial; or
- (d) a transcription of all or any part of the municipal court proceedings in the case that are prepared from the mechanical recordings or video-tape recordings of said proceedings.

Filing of Transcript and Statement of Facts; Time Limits; Completion and Approval of Record; Transfer of Record to Clerk of Appellate Court

Sec. 16. (a) Within 60 days of the giving or filing of the notice of appeal, the parties shall file with the municipal court clerk:

- (1) the statement of facts;
- (2) a written designation of all matter that is to be included in the transcript in addition to matter required to be in the transcript by Section 13 of this Act; and
- (3) any matter designated to be included in the transcript that is not then in the custody of the municipal court clerk.

(b) On completing the record as designated by the parties in Subdivision (2), Subsection (a) of this section, the municipal court judge shall approve the record in the manner provided by law for record completion notification and approval in appeals to the Court of Appeals.

(c) On the municipal court judge's approval of the record, the municipal court clerk shall promptly forward it to be filed with the appellate court clerk, who shall notify the defendant and the prosecuting attorney that the record has been filed.

Brief on Appeal: Contents and Filing

Sec. 17. (a) A brief on appeal from the municipal court shall present points of error in the same manner required by law for a brief on appeal to the Court of Appeals.

(b) The defendant shall file his brief with the clerk of the appellate court within 15 days from the date of the filing of the transcript and statement of facts with the appellate court clerk, who shall notify the prosecuting attorney of the filing. The prosecuting attorney shall file his brief with the clerk of the appellate court within 15 days after the defendant files his brief with the clerk. Each party, on filing his brief with the clerk of the appellate court, shall cause a true copy of his brief to be delivered to the opposing party.

Disposition on Appeal; Presumptions; Decision

Sec. 18. (a) The appellate court may affirm the judgment of the municipal court, or may reverse or remand for a new trial, or may reverse and dismiss the case, or may reform or correct the judgment, as the law and the nature of the case may require.

(b) The appellate court shall presume (1) that the venue was proven in the court below; (2) that the jury was properly impaneled and sworn; (3) that the defendant was arraigned and that he pleaded to the complaint; and (4) that the court's charge was certified by the municipal court judge before it was read to the jury; unless such matters were made an issue in the trial court, or it affirmatively appears to the contrary from the transcript or statement of facts.

(c) In each case decided by the appellate court, the court shall deliver a written opinion or order either sustaining or overruling each assignment of error presented. If an assignment of error is overruled no reason need be given by the appellate court, but cases relied on by the court may be cited. If an assignment of error is sustained, the appellate court shall set forth the reasons for the decision. Copies of the decision of the appellate court shall be mailed by the clerk of the appellate court to the parties and the judge of the municipal court as soon as the decision is rendered by the appellate court.

Certificate of Appellate Proceedings; Filing of Record; Enforcement of Judgment

Sec. 19. When the judgment of the appellate court becomes final, the clerk of the appellate court shall make out a proper certificate of the proceedings had and the judgment rendered and shall mail the certificates to the clerk of the municipal court. When the certificate is received by the clerk of the municipal court, he shall file it with the papers in the case and note it on the docket. If the judgment has been affirmed, no proceeding need be had after filing the certificate in the municipal court to enforce the judgment of the court, except to forfeit the bond of the defendant, to issue a *capias* for the defendant, or issue an execution against his property.

New Trial

Sec. 20. If the appellate court awards a new trial to the defendant, the cause shall stand as it would have stood if a new trial had been granted by the municipal court.

Appeals to the Court of Appeals; Record

Sec. 21. When a judgment is affirmed by the appellate court, the defendant shall have the right to appeal to the Court of Appeals if the fine assessed against the defendant in the municipal court exceeded \$100. The appeals to the Court of Appeals shall be governed by provisions in the Code of Criminal Procedure relating to direct appeals from county and district courts to the Court of Appeals except that:

(1) the record and briefs on appeal in the appellate court, plus the transcript of proceedings in the appellate court, shall constitute the record and briefs on appeal to the Court of Appeals unless the rules of the Court of Criminal Appeals provide otherwise; and

(2) the record and briefs shall be filed directly with the Court of Appeals.

Court Personnel

Sec. 22. (a) Each municipal judge in his discretion is authorized to appoint a court reporter to transcribe the trial proceedings, including testimony, voir dire examination, objections, and final arguments and shall appoint a court reporter when the defendant or the state requests it prior to trial.

Each reporter shall be a sworn officer of the court when transcribing testimony and shall be well skilled in his profession. Each reporter shall be compensated by the city in such manner as the governing body of the city shall determine.

(b) It shall be the duty of the clerk to perform such clerical duties, insofar as they are applicable, as are prescribed by law for the municipal judge and for the county clerk of a county court at law.

(c) The governing body of the city shall provide the municipal courts with such other municipal court personnel as the governing body determines is necessary for the proper operation of the court. Such personnel shall perform their duties under the direction and control of the municipal judge to whom assigned. The governing body shall determine the salaries of such personnel.

Seal

Sec. 23. The governing body of the city shall provide each municipal court with a seal with a star of five points in the center and the words "Municipal Court in _____, Texas." The impress of the seal shall be attached to all papers, except subpoenas, issued out of the court and shall be used by each municipal judge or his clerk to authenticate all official acts of the clerk and the municipal judge.

Effective Date

Sec. 24. This Act is effective beginning January 1, 1976.

Repealer

Sec. 25. To the extent that any local, special, or general law, including Acts of the 64th Legislature, Regular Session, 1975, conflicts with any provision of this Act, that law is repealed.

[Acts 1975, 64th Leg., p. 1299, ch. 489, eff. Jan. 1, 1976. Amended by Acts 1977, 65th Leg., p. 357, ch. 175, § 1, eff. Aug. 29, 1977; Acts 1981, 67th Leg., p. 765, ch. 291, § 7, eff. Sept. 1, 1981.]

Section 2 of the 1977 amendatory act provided: "All acts or charter provisions in conflict herewith are expressly repealed."

Section 149 of the 1981 amendatory act provides:

"This Act takes effect on September 1, 1981. Appeals to the courts of appeals filed on or after that date shall be filed in the court of appeals having jurisdiction. At least 1,800 appeals including death penalty appeals pending in the Court of Criminal Appeals prior to September 1, 1981, shall be retained by that court for disposition in accordance with laws in effect prior to the effective date of this Act, and for that purpose, all laws repealed or amended by this Act shall remain in force and effect for those appeals pending in the Court of Criminal Appeals. The remaining appeals pending in the Court of Criminal Appeals shall be transferred to the various courts of appeals on which the number of judges is increased by the 67th Session of the legislature; provided, no more than 75 nondeath penalty appeals shall be transferred for each newly created judgeship and such a transfer shall not be made until such justice assumes office."

Art. 1200dd. Sweetwater

Creation; Formation by Ordinance

Sec. 1. There is created in the city of Sweetwater a court of record to be known as the "City of

Sweetwater Municipal Court," to be held in that city if the governing body of the city of Sweetwater, by ordinance, finds and determines that the formation of a municipal court of record is necessary in order to provide a more efficient disposition of appeals arising from the municipal court.

The authority of the governing body of the city of Sweetwater to create a municipal court of record in the city of Sweetwater includes the authority to establish, in the manner set forth in this section, more than one municipal court of record if the governing body determines that it is necessary in order to dispose of the cases arising in the city. If more than one municipal court of record is created, the judges of the municipal courts may at any time exchange benches and sit and act for and with each other in a case, matter, or proceeding pending in a municipal court, and any and all acts thus performed by a judge are valid and binding on all parties to the case, matter, and proceeding.

The municipal court of record authorized in this section is referred to in this Act as the "municipal court."

Application of Other Laws Regarding Municipal Courts

Sec. 2. The general laws of the state regarding municipal courts, and regarding justice courts on matters where there is no law for municipal courts, and the valid charter provisions and ordinances of the city of Sweetwater relating to the municipal court apply to the municipal court authorized in this Act, unless the laws, charter provisions, and ordinances are in conflict or inconsistent with the provisions of this Act.

Judge; Qualifications

Sec. 3. The municipal court shall be presided over by a judge, who shall be a licensed attorney in good standing in this state and a citizen of the United States and of this state. He need not be a resident of the city at the time of his appointment, but he shall maintain his residence in the city during his tenure of office. He shall be appointed by the governing body of the city. He shall be paid a salary to be determined by the governing body of the city. The salary shall not be based on or in any way contingent on the fines, fees, or costs collected by the municipal court.

If more than one municipal court is created by the governing body of the city, a judge shall be appointed for each court and the governing body of the city shall designate a judge to be the presiding judge.

Court Clerk

Sec. 4. The governing body of the city shall provide a clerk of the municipal courts, and such deputy clerks, warrant officers, and other municipal court personnel, including at least one bailiff for each court, as are necessary for the proper operation of the municipal courts. It is the duty of the

clerk to keep the records of proceedings of the municipal courts and to issue all processes and generally to perform the duties now prescribed by law for clerks of the county courts at law exercising criminal jurisdiction insofar as the same may be applicable. The clerk of the municipal courts and all other personnel shall perform the duties of the office under the direction and control of the municipal court judge.

Court Reporter

Sec. 5. For the purpose of preserving a record in the cases tried before the municipal court, the city shall provide a court reporter, who shall be appointed by the municipal court judge and whose compensation shall be determined by the governing body of the city. The qualifications of the court reporter shall be determined by the judge, or if there is more than one judge, by the presiding judge.

The record of proceedings may be preserved by the court reporter by written notes, transcribing equipment, recording equipment, or any combination of them. The court reporter is not required to take testimony in cases where neither the defendant, the prosecutor, nor the judge demands it.

Ordinances; Judicial Notice

Sec. 6. The municipal court shall take judicial notice of the ordinances of the city.

Appeal; Appellate Courts

Sec. 7. A defendant has the right of appeal from a judgment of conviction in the municipal court under the rules prescribed in this Act. The County Court of Nolan County has jurisdiction over the appeals from the municipal court.

Appeals on the Record; No de Novo Appeals

Sec. 8. Each appeal from a conviction in the municipal court shall be determined by the appellate court solely on the basis of errors pointed out in the defendant's motion for new trial and presented in the transcript and statement of facts prepared from the municipal court proceedings leading to the conviction. No appeal from the municipal court may be by trial de novo.

Motion for New Trial

Sec. 9. In order to perfect an appeal, a written motion for new trial must be filed by the defendant no later than the 10th day after the rendition of the judgment of conviction, and may be amended by leave of court at any time before it is acted on within 20 days after it is filed. The motion for new trial shall be presented to the court within 10 days after the filing of the original or amended motion, and shall be determined by the court within 20 days after the filing of the original or amended motion. For good cause shown the time for filing or amending may be extended by the court. An original or amended motion shall be deemed overruled by oper-

ation of law at the expiration of the 20 days allowed for determination of the motion if it is not acted on by the court within that time. The motion shall set forth the points of error complained of by the defendant. For purposes of appeal, a point of error not distinctly set forth in the motion for new trial shall be considered as waived.

Notice of Appeal

Sec. 10. In order to perfect an appeal, the defendant shall give timely notice of appeal. In the event the defendant requests a hearing on his motion for new trial, the notice of appeal may be given orally in open court upon the overruling of the motion for new trial; otherwise, the notice of appeal shall be in writing and filed with the municipal court no later than the 10th day after the motion for new trial is overruled.

Appeal Bond

Sec. 11. If the defendant is not in custody, an appeal may not be taken until the required appeal bond has been filed with and approved by the municipal court. The appeal bond must be filed no later than the 10th day after the motion for new trial is overruled. If the defendant is in custody, he shall be committed to jail unless he posts the required appeal bond. The appeal bond shall be in an amount not less than double the amount of fine and costs adjudged against the defendant. However, the bond may not in any case be for a less sum than \$100. The bond shall recite that in the cause the defendant shall make his personal appearance before the court to which the appeal is taken instantly, if the court is in session, and if the court is not in session, then at its next session, and there remain from day to day and answer in the cause.

Record on Appeal

Sec. 12. The record on appeal in a case appealed from the municipal court consists of a transcript and, where necessary to the appeal, a statement of facts. If the court finds, after hearing in response to affidavit by defendant that he is unable to pay or give security for the record on appeal, the court will order the reporter to make such transcription without charge to the defendant.

Contents of Transcript

Sec. 13. (a) The municipal court clerk, upon written request from the defendant, shall prepare under his hand and seal of the court for transmission to the appellate court a true transcript of the proceedings in the municipal court that shall always include the following:

- (1) the complaint;
- (2) material docket entries made by the court;
- (3) the jury charge and verdict, if the trial is by jury;
- (4) the judgment;

- (5) the motion for new trial;
 - (6) the notice of appeal;
 - (7) all written motions and pleas and orders of the court; and
 - (8) bills of exception, if any are filed.
- (b) The municipal court clerk may include in the transcript additional portions of the proceedings in the municipal court if so instructed in writing by either the defendant or the prosecuting attorney.

Bills of Exception

Sec. 14. Either party may include bills of exception in the transcript on appeal, subject to complying with the applicable provisions of the Code of Criminal Procedure governing the preparation of bills of exception and their inclusion in the record on appeal to the Court of Appeals, except that the bills of exception shall be filed with the municipal court clerk within 60 days after the giving or filing of the notice of appeal.

Statements of Facts; Agreed Statement; Designated Items and Payment

Sec. 15. (a) A statement of facts, when included in the record on appeal, shall consist of:

- (1) a transcription of all or any part of the municipal court proceedings in the case that are shown by the notes of the court reporter to have occurred before, during, or after the trial if such transcription is requested of the court reporter by the defendant; or
- (2) a brief statement of the facts of the case proven at the trial, as agreed to by the defendant and the prosecuting attorney; or
- (3) a partial transcription and the agreed statement of the facts of the case proven at the trial.

(b) The court reporter shall transcribe any portion of his notes of the court proceedings in the case at the request of the defendant. The defendant shall pay for the transcription. The cost to the defendant for the transcription shall not exceed the fees or charges normally being made by court reporters in the county for similar transcriptions. The municipal court shall order the court reporter to make the transcriptions without charge to the defendant if the court finds, after hearing in the response to affidavit by the defendant, that he is too poor to pay or give security for the transcriptions.

Filing of Transcript and Statement of Facts; Time Limits; Completion and Approval of Record; Transfer of Record to Clerk of Appellate Court

Sec. 16. (a) Within 60 days of the giving or filing of the notice of appeal, the parties shall file with the municipal court clerk:

- (1) the statement of facts;
- (2) a written designation of all matter that is to be included in the transcript in addition to matter

required to be in the transcript by Section 13 of this Act; and

(3) any matter designated to be included in the transcript that is not then in the custody of the municipal court clerk.

(b) On completing the record as designated by the parties in Subdivision (2), Subsection (a) of this section, the municipal court judge shall approve the record in the manner provided by law for record completion notification and approval in appeals to the Court of Appeals.

(c) On the municipal court judge's approval of the record, the municipal court clerk shall promptly forward it to be filed with the appellate court clerk, who shall notify the defendant and the prosecuting attorney that the record has been filed.

Brief on Appeal: Contents and Filing

Sec. 17. (a) A brief on appeal from the municipal court shall present points of error in the same manner required by law for a brief on appeal to the Court of Appeals, except that the points of error on appeal shall be confined to those points of error set forth in the defendant's motion for new trial.

(b) The defendant shall file his brief with the clerk of the appellate court within 15 days from the date of the filing of the transcript and statement of facts with the appellate court clerk, who shall notify the prosecuting attorney of the filing. The prosecuting attorney shall file his brief with the clerk of the appellate court within 15 days after the defendant files his briefs with the clerk. Each party, on filing his brief with the clerk of the appellate court, shall cause a true copy of his brief to be delivered to the opposing party.

Procedure on Appeal; Review or Error

Sec. 18. The appellate court shall hear and determine appeals from the municipal court at the earliest practical time it may be done, with due regard to the rights of parties and proper administration of justice, and no affirmance or reversal of a case shall be determined on mere technicalities or on technical errors in the preparation and filing of the record on appeal. Oral arguments before the appellate court shall be under the rules which the appellate court may determine, and the parties may submit the case on the records and briefs without oral arguments.

Disposition on Appeal; Presumptions; Decision

Sec. 19. (a) The appellate court may affirm the judgment of the municipal court, or may reverse or remand for a new trial, or may reverse and dismiss the case, or may reform or correct the judgment, as the law and the nature of the case may require.

(b) The appellate court shall presume (1) that the venue was proven in the court below; (2) that the jury was properly impaneled and sworn; (3) that the defendant was arraigned and that he pleaded to the

complaint; and (4) that the court's charge was certified by the municipal court judge before it was read to the jury; unless such matters were made an issue in the trial court, or it affirmatively appears to the contrary from the transcript or statement of facts.

(c) In each case decided by the appellate court, the court shall deliver a written opinion or order either sustaining or overruling each assignment of error presented. If an assignment of error is overruled no reason need be given by the appellate court, but cases relied on by the court may be cited. If an assignment of error is sustained, the appellate court shall set forth the reasons for the decision. Copies of the decision of the appellate court shall be mailed by the clerk of the appellate court to the parties and the judge of the municipal court as soon as the decision is rendered by the appellate court.

Certificate of Appellate Proceedings; Filing of Record; Enforcement of Judgment

Sec. 20. When the judgment of the appellate court becomes final, the clerk of the appellate court shall make out a proper certificate of the proceedings had and the judgment rendered and shall mail the certificates to the clerk of the municipal court. When the certificate is received by the clerk of the municipal court, he shall file it with the papers in the case and note it on the docket. If the judgment has been affirmed, no proceeding need be had after filing the certificate in the municipal court to enforce the judgment of the court, except to forfeit the bond of the defendant, to issue a writ of habeas corpus for the defendant, or issue an execution against his property.

New Trial

Sec. 21. If the appellate court awards a new trial to the defendant, the cause shall stand as it would have stood if a new trial had been granted by the municipal court.

Appeals to the Court of Appeals; Record

Sec. 22. When a judgment is affirmed by the appellate court, the defendant shall have the right to appeal to the Court of Appeals if the fine assessed against the defendant in the municipal court exceeded \$100. The appeals to the Court of Appeals shall be governed by provisions in the Code of Criminal Procedure relating to direct appeals from county and district courts to the Court of Appeals except that:

(1) the record and briefs on appeal in the appellate court, plus the transcript of proceedings in the appellate court, shall constitute the record and briefs on appeal to the Court of Appeals unless the rules of the Court of Criminal Appeals provide otherwise; and

(2) the record and briefs shall be filed directly with the Court of Appeals.

Conflicting Laws Conformed

Sec. 23. All laws in conflict or inconsistent with the provisions of this Act are hereby conformed to the provisions of this Act.

[Acts 1977, 65th Leg., p. 1233, ch. 477, eff. Aug. 29, 1977. Amended by Acts 1981, 67th Leg., p. 766, ch. 291, § 8, eff. Sept. 1, 1981.]

Section 149 of the 1981 amendatory act provides:

"This Act takes effect on September 1, 1981. Appeals to the courts of appeals filed on or after that date shall be filed in the court of appeals having jurisdiction. At least 1,800 appeals including death penalty appeals pending in the Court of Criminal Appeals prior to September 1, 1981, shall be retained by that court for disposition in accordance with laws in effect prior to the effective date of this Act, and for that purpose, all laws repealed or amended by this Act shall remain in force and effect for those appeals pending in the Court of Criminal Appeals. The remaining appeals pending in the Court of Criminal Appeals shall be transferred to the various courts of appeals on which the number of judges is increased by the 67th Session of the legislature; provided, no more than 75 nondeath penalty appeals shall be transferred for each newly created judgeship and such a transfer shall not be made until such justice assumes office."

Art. 1200ee. El Paso.**Establishment of Municipal Courts**

Sec. 1. The city of El Paso may, by ordinance legally adopted, provide for the establishment of municipal courts as needed. The judges of the additional courts shall have the same qualifications, and be selected in the same manner, as is provided for the judges of the existing municipal courts in the charter of the city, or as may be provided in any future charter or charter amendment. If the charter of the city requires the election of the judge by vote of the people, the governing body may designate a person as judge of each newly created court until the next regular city election. The courts may be in concurrent or continuous session, either day or night.

Jurisdiction

Sec. 2. Each municipal court shall have and exercise concurrent jurisdiction within the corporate limits of the city, and the jurisdiction shall be the same as is now or may be hereafter conferred on all municipal courts by the general laws of this state.

Administration

Sec. 3. Except as otherwise provided by the charter of the city, the governing body of the city may provide by ordinance:

- (1) the qualifications of persons eligible for appointment as judge;
- (2) that a judge of any of these courts may transfer cases from one court to any other of these courts and may exchange benches and preside over any other of these courts;
- (3) that there shall be a municipal court clerk who is clerk of all of the municipal courts, together with such number of deputies as may be needed; and

(4) that complaints shall be filed with the municipal court clerk in a manner to provide for an equal distribution of cases among the courts.

Procedures

Sec. 4. Except as modified by the terms of this Act, the procedure before the courts and appeals therefrom shall be governed by the general law applicable to all municipal courts.

[Acts 1977, 65th Leg., p. 1748, ch. 697, eff. Aug. 29, 1977.]

Art. 1200ee-1. Repealed by Acts 1983, 68th Leg., p. 4315, ch. 685, § 2, eff. Sept. 1, 1983

See, now, art. 1200ee-2.

Art. 1200ee-2. El Paso Courts Act**ARTICLE I. SHORT TITLE; GENERAL PROVISIONS****Short Title**

Sec. 1.01. This Act may be cited as the El Paso Courts Act.

Appellate Court

Sec. 1.02. A reference in this Act to "appellate court" means the El Paso Municipal Court of Appeals.

Municipal Court

Sec. 1.03. A reference in this Act to a "municipal court" means a municipal court of record of the City of El Paso.

Duties of Judges

Sec. 1.04. The judge of the appellate court and the municipal judge of the municipal courts are authorized to conduct marriage ceremonies in the City of El Paso.

ARTICLE II. MUNICIPAL COURTS OF RECORD**Creation**

Sec. 2.01. The governing body of the City of El Paso may by ordinance establish the city's existing municipal courts as municipal courts of record in accordance with this Act. The governing body may by ordinance create additional courts as it deems necessary, but each subsequent court must be a municipal court of record.

Jurisdiction

Sec. 2.02. (a) A municipal court of record created under this Act has jurisdiction within the territorial limits of the city in all criminal cases arising under the ordinances of the city.

(b) The court has concurrent jurisdiction with a justice of the peace in any precinct in which the city is located in criminal cases within the justice court jurisdiction that:

(1) arise within the territorial limits of the city; and

(2) are punishable only by fine not to exceed \$200.

(c) The court has jurisdiction over cases arising outside the territorial limits of the city under ordinances authorized by Subdivision 19, Article 1175, Revised Statutes.

Writ Power

Sec. 2.03. The judge of a municipal court of record created under this Act may grant writs of mandamus, injunction, attachment, and other writs necessary to the enforcement of the jurisdiction of the court and may issue writs of habeas corpus in cases in which the offense charged is within the jurisdiction of the court.

Application of Other Laws Regarding Municipal Courts

Sec. 2.04. The general law regarding municipal courts and justice courts and the valid charter provisions and ordinances of the City of El Paso relating to the municipal courts of record apply to a municipal court created under this Act, unless the law, charter provision, or ordinance is in conflict or inconsistent with this Act. Except as modified by this Act, the trial of a case before a municipal court is governed by the Code of Criminal Procedure, 1965.

Judges

Sec. 2.05. (a) A municipal court of record created under this Act shall be presided over by a municipal judge and one or more associate municipal judges. A municipal judge or an associate municipal judge must be a licensed attorney in good standing with two or more years of experience in the practice of law in this state who is a citizen of this state.

(b) A municipal judge is elected by the qualified voters of the city for a term of two years, unless the city by charter amendment provides for a four-year term as provided by Article XI, Section 11, of the Texas Constitution.

(c) A vacancy in the office of a municipal judge shall be filled by appointment of the governing body of the city, and the person appointed serves until the next regular municipal election, at which time his successor shall be elected. An appointee may succeed himself.

(d) Each associate municipal judge shall be appointed by the governing body of the city for a two-year term.

(e) The municipal judges shall select by a majority vote of those judges a presiding judge of the municipal courts of record.

(f) The presiding municipal judge of the municipal courts of record may, when necessary for the expeditious disposition of the business of the courts and with the approval of the governing body of the city, divide a municipal court of record into one or more

divisions. A division shall be presided over by an associate municipal judge. A division has concurrent jurisdiction with the other divisions and municipal courts of record. Divisions of the municipal courts of record may be in concurrent and continuous session, either day or night, at the discretion of the presiding municipal judge. The presiding municipal judge may assign and transfer any case pending in any of the courts or divisions to any other of the courts or divisions. The presiding judge may direct the manner in which cases are filed and docketed. He may assign a case or proceeding pending in any of the courts to the judge of another court or division. He may assign the judge of any of the courts or divisions to try a case or hear a proceeding pending in another court or division.

(g) A municipal judge or an associated municipal judge is entitled to compensation from the city to be set by the governing body of the city. The compensation may not be diminished but may be increased during a judge's term of office. The compensation may not be based directly or indirectly on fines, fees, or costs that the municipal judge is required by law to collect during his term of office. The salary of the presiding judge must be set at an amount that is at least 20 percent more than the salary of the regular municipal judges.

(h) A municipal judge or an associate municipal judge may not be removed from office during the term for which he was elected or appointed except for cause to the same extent and under the same rules that the county judge may be removed from office.

(i) The municipal judges or associated municipal judges may at any time exchange benches and may at any time sit and act for or with each other in any case, matter, or proceeding pending in any court or division. An act performed by a judge sitting for another judge is valid and binding on all parties to the case, matter, or proceeding.

(j) A municipal judge or an associate municipal judge shall take the oath of office as required of city officials.

(k) A municipal judge or an associate municipal judge is a magistrate as that term is defined by the Code of Criminal Procedure, 1965.

Court Clerk

Sec. 2.06. The governing body of the city shall provide a clerk of the municipal courts of record, deputy clerks, and other municipal court personnel, including at least one bailiff for each court, as necessary for the proper operation of the municipal courts. The clerk shall keep the records of proceedings of the municipal courts, issue all processes, and perform the duties prescribed by law for clerks of the county courts at law exercising criminal jurisdiction to the extent that law applies. The clerk of the municipal courts of record and other personnel shall

perform the duties of their office under the direction and control of the presiding municipal judge.

Court Reporter; Use of Transcripts

Sec. 2.07. (a) To preserve a record in cases tried before the municipal courts of record, the city shall provide a court reporter. The governing body of the city shall determine the qualifications and compensation of the court reporter.

(b) The court reporter may preserve the record of proceedings by written notes, transcribing equipment, recording equipment, or any combination of those methods. The court reporter is not required to take or record testimony in cases in which the defendant, the prosecutor, or the judge does not demand it.

(c) Testimony, exhibits, and evidence given by a witness in a proceeding in a municipal court of record are solely for the purposes of the proceeding or appeal from the proceeding, and in any other civil proceeding, evidence relating to the testimony, exhibits, evidence, or reproductions of testimony, exhibits, or evidence is privileged and not admissible except for impeachment purposes.

Prosecutions by City Attorney

Sec. 2.08. The city attorney or his assistant shall conduct all prosecutions in the municipal courts.

Complaint; Form

Sec. 2.09. (a) Proceedings in municipal courts must be commenced by a complaint that begins: "In the name and by authority of the State of Texas," and concludes: "Against the peace and dignity of the State of Texas." Complaints before the municipal courts of record may be signed by any credible person on information and belief sworn to before an officer authorized to administer oaths or before a municipal judge, an associate municipal judge, the city attorney, an assistant city attorney, the clerk of the court, or any deputy clerk, each of whom, for that purpose, has authority to administer the oath. The complaint must be in writing and is sufficient if it contains the following:

(1) the name of the accused, if known, and if unknown, a description of the accused, as accurate as practicable;

(2) the offense with which the accused is charged in plain and intelligible words;

(3) a statement that the place where the offense is charged to have been committed is within the jurisdiction of the municipal courts of record; and

(4) a statement showing that the offense is not barred by limitations.

(b) All pleadings in the municipal courts of record must be in writing and filed with the clerk of the courts.

Right to Jury Trial

Sec. 2.10. (a) A person brought before the municipal courts of record and charged with an offense is entitled to be tried by a jury of six persons, unless that right is waived according to law.

(b) A juror in the municipal courts of record must have the same qualifications as jurors in the other courts in El Paso County as provided by Article 2133, Revised Statutes, and must be a registered voter in the City of El Paso. Jurors in the municipal courts of record are subject to the law governing exemption and excuse from jury service as are the jurors in the other courts in the county.

(c) The laws that govern the drawing, selection, service, and pay of jurors for county courts apply to the municipal courts. A general panel of jurors or jurors impaneled for a week by a district court in El Paso County or summoned for the county court or county court at law may, on request of any municipal court judge, be made available in the requested numbers for service in the municipal court and shall serve in the municipal court as if summoned for the municipal court to which they are transferred. The City of El Paso shall pay the jurors on the jury panel and the petit jury that are transferred to the municipal court under this section. El Paso County is not responsible for the pay of the transferred jurors.

Judicial Notice

Sec. 2.11. The municipal court and the appellate court created by this Act shall take judicial notice of city ordinances and of the corporate limits of the city. The courts of appeals shall take judicial notice of the city charter and of ordinances that created municipal courts, but may not take judicial notice of other ordinances of the city. In appeals from the appellate court to a court of appeals, the appellate court shall supplement the record on appeal with all city ordinances that relate to the conviction and punishment in the municipal court. The prosecutor and appellant shall be given notice of the supplementation of the record under rules set by the appellate court so that each party to the appeal is afforded due process of law. If a record on appeal before a court of appeals does not contain a city ordinance that may be necessary for a proper decision on the appeal, the court of appeals may abate the appeal and direct the appellate court to supplement the record on appeal with the city ordinance. The appellate court, the courts of appeals, and the court of criminal appeals shall presume that judicial notice of all ordinances of the city was taken in the court below unless the matter was made an issue in the court below, or it otherwise affirmatively appears to the contrary from the record.

Seal

Sec. 2.12. The governing body of the city shall provide each municipal court of record with a seal with a star of five points in the center and the

words "Municipal Court in El Paso, Texas." The impress of the seal shall be attached to papers, except subpoenas, issued out of the courts and shall be used by each municipal judge, clerk of the court, or deputy clerk to authenticate all official acts of the clerk and the municipal judge.

ARTICLE III. MUNICIPAL COURT OF APPEALS

Creation

Sec. 3.01. The El Paso Municipal Court of Appeals is created on the date determined by Section 4.02 of this Act.

Jurisdiction

Sec. 3.02. (a) The appellate court has exclusive jurisdiction over all appeals from the municipal courts of record of the City of El Paso. The county courts at law of El Paso County have no jurisdiction over appeals from municipal courts.

(b) The appellate court and the judge of that court have the power in criminal law matters to issue to the municipal courts and judges of those courts the writs of mandamus, procedendo, prohibition, injunctions, and other writs necessary to protect the appellate court's jurisdiction or enforce its judgments.

(c) The appellate court has the power on affidavit or otherwise to ascertain matters of fact necessary to the exercise of its jurisdiction.

(d) The judge of the appellate court is a magistrate within the meaning of the Code of Criminal Procedure, 1965.

Term of Court

Sec. 3.03. The appellate court may sit for the transaction of business at any time during the year and each term begins and ends with the calendar year. The appellate court may use the city council chambers or other appropriate location as its courtroom for argument of cases and other court matters.

Appellate Court Clerk

Sec. 3.04. In addition to his other duties, the city clerk serves as the clerk of the appellate court.

Judge

Sec. 3.05. (a) The judge of the appellate court shall be elected by the qualified voters of the city for a term of two years, unless the city by charter amendment provides for a four-year term as provided by Article XI, Section 11, of the Texas Constitution. The judge of the appellate court must be a citizen of the United States and of this state who has been a practicing attorney of this state for at least five years immediately preceding his election or appointment.

(b) A vacancy in the appellate court shall be filled by appointment by the governing body of the city.

The appointee serves until the next regular municipal election, and at that election the vacancy for the unexpired or full term shall be filled by election by the qualified voters of the city.

(c) The appellate judge shall take the oath of office required for a municipal judge.

(d) An appointed or elected judge of the appellate court may not be removed from office except in the same manner and for the same causes as provided by law for county judges and as provided by Article V, Section 1-a, of the Texas Constitution.

(e) The judge of the appellate court is entitled to compensation from the city as set by the governing body of the city. The judge's compensation may not be diminished but may be increased during his term of office.

(f) The City of El Paso shall provide the appellate court with necessary clerical help. The judge of the appellate court and the city may agree that the judge of the appellate court will provide for his own clerical help, and in that event the judge is entitled to additional reasonable compensation as agreed on with the city.

Seal

Sec. 3.06. The seal of the appellate court shall be the same as that provided by law for municipal courts, except that the seal shall contain the words "Municipal Court of Appeals of the City of El Paso," and the seal shall be judicially noticed.

Special Appellate Judge

Sec. 3.07. (a) If the judge of the appellate court is unable to act, the governing body of the city may appoint a person or the appellant and the city attorney, in a particular case, may agree on a person to serve as the special appellate court judge. The special appellate court judge has the powers and duties of the office and is entitled to receive the same compensation as is payable to the regular appellate court judge for serving as a special appellate court judge.

(b) A municipal judge or associate municipal judge may not be appointed or selected as a special appellate court judge.

(c) Except as provided by Subsection (d) of this section, an appointment of a special appellate court judge automatically terminates when the regular appellate court judge returns to duty.

(d) If a judge of the appellate court is disqualified from hearing a particular case, the governing body of the city may appoint a person or the appellant and the city attorney may agree on a person to serve as the special appellate court judge. A special appellate court judge appointed or selected under this subsection is entitled to receive the same daily compensation as is payable to the regular appellate court judge for each day he works on the case he was appointed or selected to hear. An appointment automatically terminates at the time

the mandate or mandates issue in the case he was appointed to hear.

(e) A special appellate court judge must have the qualifications required of the regular appellate court judge and shall, before he begins serving as a special appellate court judge, take the oath of office required for a municipal judge.

Rules

Sec. 3.08. The judge of the appellate court may make and publish rules of appellate procedure as to criminal appeals and matters related to those appeals not inconsistent with this Act or law.

New Trial

Sec. 3.09. (a) A motion for a new trial is not necessary to authorize an appeal.

(b) If a motion for new trial is made, it must be filed not later than the 10th day after the date of the rendition of the judgment of conviction.

(c) One or more amended motions for new trial may be filed without leave of court before any preceding motion for new trial filed by the movant is overruled if the motion is filed not later than 15 days after the date of the rendition of the judgment of conviction.

(d) If an original or amended motion for new trial is not determined by written order signed not later than 20 days after the date of the rendition of the judgment of conviction, the motion is overruled by operation of law.

Right of Appeal

Sec. 3.10. A defendant has the right of appeal from a judgment of conviction in the municipal court under the rules prescribed in this Act. The El Paso Municipal Court of Appeals has jurisdiction over appeals from the municipal courts, and all appeals from convictions in the municipal court must be prosecuted in the appellate court, the court of appeals, or the court of criminal appeals by the city attorney or his assistants.

No De Novo Appeals

Sec. 3.11. An appeal from the municipal court may not be taken to a trial de novo in the appellate court.

Perfecting Appeal

Sec. 3.12. (a) A defendant, as a condition of perfecting an appeal to the appellate court, must file an appeal bond, unless the defendant is in custody. An appeal may be perfected by timely filing with the municipal court clerk an appeal bond that meets the requirements of this Act. It is not necessary to file a notice of appeal. If the defendant is in custody, the appeal is perfected when notice of appeal is given as provided by Article 44.08, Code of Criminal Procedure, 1965.

(b) At the same time the defendant files the appeal bond, the defendant shall pay to the clerk of the municipal court a \$25 appellate court docket fee. The clerk collects the fee on behalf of the appellate court.

(c) The appeal bond must be filed not later than the 10th day after overruling of the motion or amended motion for new trial, or if there is no motion or amended motion for new trial, not later than the 10th day after the rendition of the judgment of conviction.

(d) For good cause shown, not later than the 100th day after the date of rendition of the judgment of conviction, the appellate court or the court of appeals may permit the filing of an appeal bond or the giving of notice of appeal in the municipal court even though the time limits set under this section have expired.

(e) Except for the limitation contained in Subsection (d) of this section, for good cause shown, the appellate court may extend any time limits set in this Act for the appellate process.

(f) In a case in which an appellant or the prosecutor files a motion in the appellate court, the opposite party shall be given an opportunity to answer the motion under time limits and conditions set by the appellate court rules.

(g) The appellate court shall waive the \$25 appellate court docket fee if the appellate court finds after hearing that the defendant is unable to pay the fee. The defendant must file and personally sign an affidavit that he is unable to pay. The defendant must file the affidavit not later than the 10th day after the record on appeal is filed in the appellate court. The affidavit of inability to pay must contain reasonable information as the appellate court may require by rules. The prosecutor may controvert, under time limits and conditions set by the appellate court rules, the affidavit of inability to pay the docket fee and may call the appellant as a witness on that issue.

Appeal Bonds and Forfeitures

Sec. 3.13. (a) If the defendant is not in custody, an appeal is not perfected unless an appeal bond is filed within the time limits set under Section 3.12 of this Act or any extension of a time limit as provided by Section 3.12 of this Act. The trial court has no jurisdiction to grant extensions of any time limits set by this Act.

(b) The appeal bond must be set in an amount that is at least \$50, but not more than double the amount of the fine and costs adjudged against the defendant.

(c) The appeal bond is sufficient if:

- (1) it is made payable to the State of Texas;
- (2) the defendant and his sureties bind themselves that the defendant will appear before any court or magistrate before whom the case is pend-

ing at any time and place where his presence may be required under the Code of Criminal Procedure, 1965, or by the court or magistrate;

(3) the bond is signed by name or mark by the principal personally and the sureties, if any;

(4) the defendant's name and full residential mailing address and the name and residence or business mailing address of the sureties, if any, are printed or typed legibly on the appeal bond; and

(5) it meets the requirements of a bail bond under the Code of Criminal Procedure, 1965, except as otherwise provided in this Act.

(d) The rules governing forfeitures of bail govern appeal bonds. The forfeiture and collection of the appeal bonds are in the municipal court and not in the appellate court. The municipal court clerk shall issue citation in appeal bond forfeiture cases under rules that govern citation in the county court. The clerk shall charge the same court costs as are charged in county court for bond forfeitures.

(e) Appeal bonds payable to the State of Texas and costs in connection with the appeal bond forfeiture that are collected in the municipal court shall be paid into the City of El Paso municipal treasury for the use and benefit of the city.

(f) The city attorney or his assistant shall represent the state in all appeal bond forfeiture cases in municipal court and the municipal court has jurisdiction over matters in connection with appeal bond forfeitures taken in a municipal court.

Effect of Appeal

Sec. 3.14. On the filing of the appeal bond in the municipal court, all further proceedings in the trial court, except as to any matter ordered to be heard by the appellate court in the trial court, and the transmission of the record on appeal to the appellate court, are suspended until the mandate of the appellate court is received by the trial court.

Record on Appeal

Sec. 3.15. (a) All original papers, orders, and exhibits filed in the municipal court, the transcript of proceedings or statement of facts, if any, a copy of the judgment of conviction, the appeal bond or notice of appeal, and a certificate from the municipal court clerk as to whether the appellate court docket fee was paid constitute the record on appeal.

(b) On the filing of the appeal bond or notice of appeal, the municipal court clerk shall immediately prepare the record on appeal under his hand and seal of the court. The record on appeal shall be assembled and its pages shall be numbered consecutively. The municipal court clerk shall prepare an index showing the location of each document in the record on appeal. In making the record on appeal all proceedings shall be entered in the order of time in which they occurred, except that any statement of fact shall be contained in a separate volume.

Transmission of Record

Sec. 3.16. (a) Immediately after the filing of the appeal bond or the notice of appeal if notice of appeal is required under Section 3.12 of this Act, the municipal court clerk shall prepare and transmit the record on appeal to the appellate court.

(b) If the municipal court clerk fails to transmit any matter as part of the record on appeal, the appellate court may at any time require the municipal court clerk to transmit that matter in a supplemental record on appeal.

Statement of Facts

Sec. 3.17. (a) If the defendant wants all or any portion of a transcription of the court reporter's notes included in the record, he must file a written notice requesting the inclusion with the municipal court clerk at the time he files his appeal bond. The defendant shall serve the prosecutor with a copy of the notice. The defendant has the responsibility of obtaining the transcription from the court reporter and furnishing it to the appellate court clerk in duplicate not later than the 30th day after the appeal bond is filed. The appellate court shall order the reporter to make the transcription without charge to the appellant if the appellate court finds after a hearing in response to an affidavit by the appellant that he is unable to pay or give security for the transcription. The affidavit must be signed by the appellant, must be filed with the appellate court not later than the 10th day after the appeal bond is filed, and must contain reasonable information as required by appellate court rules. The prosecutor may controvert, under time limits and conditions set by the appellate court rules, the affidavit of inability to pay for the statement of facts and may call the appellant as a witness on that issue. On certificate of the appellate court that this service has been rendered, the City of El Paso shall pay for the transcription from the city's general fund.

(b) The appellant or the prosecutor may file an objection to the record on appeal in the appellate court at the time the briefs on appeal are filed. An objection to the record on appeal must with particularity show how the objection is relevant to the issues on appeal. The appellate court shall set by rule the time limits and conditions for any response to an objection to the record on appeal. If the appellate court finds from the objections to the record, after consideration of any response, that a supplemental record or any other modification of the record is necessary to make the record correct, with or without objection from either party, and whether or not on the appellate court's own motion, the appellate court shall order the trial court to:

(1) hear the objections and make findings of fact under time limits and conditions that the appellate court considers just; and

(2) forward the findings of fact to the appellate court for inclusion in the record on appeal.

(c) Original papers transmitted in the record on appeal shall be returned to the municipal court clerk on final disposition of the case. The appellate court clerk shall preserve copies of briefs and other papers originally filed in the appellate court, except that the clerk shall return the statement of facts to the municipal court clerk.

Bill of Exception

Sec. 3.18. A party desiring to have the record disclose some action, testimony, evidence proceeding, objection, exception, or other event or occurrence not otherwise shown by the record may utilize a bill of exception under time limits and conditions set by the appellate court rules. Subsections (b), (c), and (d), Section 6, Article 40.09, Code of Criminal Procedure, 1965, govern bills of exception and statements of fact in the municipal court and appellate court. The appellate court may order the trial court to:

(1) hear any matter in connection with a bill of exception under time limits and conditions the appellate court considers just; and

(2) forward the matter to the appellate court for inclusion in the record on appeal.

Agreed Statement

Sec. 3.19. The parties may agree on a brief statement of the case and of the facts proven or the evidence presented at the trial to the truth of fact as will enable the appellate court to determine whether there is error in the trial. The agreed statement shall be filed with the appellate court in lieu of the statement of facts.

Docketing of Appeal

Sec. 3.20. (a) On receipt of the appeal bond and record on appeal, transmitted by the municipal court clerk pursuant to Section 3.16 of this Act, the clerk of the appellate court shall enter the appeal on the appellate docket.

(b) The appellate court shall examine all appeal bonds filed with the record on appeal immediately after an appeal is placed on the appellate court docket and shall approve the appeal bond provided it is not defective in form or substance and the surety or sureties are sufficient under the Code of Criminal Procedure, 1965. If the appellate court does not approve the appeal bond, the appellate court shall allow the appellant to amend the bond by filing a new bond under time limits and conditions set by the appellate court.

Dismissal for Failure to Prosecute

Sec. 3.21. (a) If an appellant fails to pay the appellate court docket fee, fails to file his brief within the time provided by this Act, or within the time as extended, files an appeal bond that is defective as to form or substance, files an appeal bond that has an insufficient surety or sureties, or otherwise fails to comply with this Act or the rules of the

appellate court, the prosecutor may move for dismissal of the appeal or the appellate court may give notice of intent to dismiss on its own motion. The appellate court shall issue a notice to the appellant and his counsel, if any, that on the expiration of 10 days from the date specified in the notice, the appeal may be dismissed for want of prosecution unless before that date the default is remedied. If the default is remedied within the time period, the appellate court may not dismiss the appeal. If the default is not remedied within the time period, the appellate court may enter an order dismissing the appeal for want of prosecution.

(b) The appellate court shall dismiss an appeal if the appeal bond is not filed within the time limits set in this Act or within an extension of the time limits and shall adjudge all costs against the appellant.

(c) A copy of an order dismissing an appeal for want of prosecution shall be sent to the municipal court clerk as the mandate and must include the amount of costs adjudged against the appellant.

Appellant's Brief

Sec. 3.22. Not later than the 10th day after the filing of the appeal bond in municipal court, the appellant shall file with the clerk of the appellate court the original of his appellate brief and as many copies of the brief as are required by the rules of the appellate court. The appellant's brief must conform to the requirement for an appellant's brief filed under Section 9, Article 40.09, Code of Criminal Procedure, 1965. However, if the appellant timely files a notice of his request for the record on appeal to contain a statement of facts, his appellant brief is due not later than the 10th day after the day the statement of facts is filed in the appellate court. If the appellant fails to file the statement of facts within the time limits of Section 3.17 of this Act, the appellant's brief is due not later than the 30th day after the appeal bond is filed with the municipal court.

Prosecutor's Brief

Sec. 3.23. Not later than the 10th day after the appellant files his brief with the appellate court, the prosecutor shall file with the clerk of the appellate court the original of his appellant brief and as many copies as are required by the rule of the appellate court.

Briefs and Statements of Fact in General

Sec. 3.24. (a) Each party, on filing his brief with the clerk of the appellate court, shall deliver a true copy to the opposing party or the opposing party's counsel.

(b) The appellant's and the state's briefs and the statement of facts must conform to the requirement of Texas Rules of Post Trial and Appellate Procedure in Criminal Cases for briefs and statements of facts in the courts of appeals, unless the rules of

the court of appeals of the Eighth Supreme Judicial District or the rules of the court of criminal appeals provide otherwise.

Oral Argument

Sec. 3.25. (a) Oral argument is allowed in all cases unless under appellate court rules, after examination of the briefs and record, the appellate court finds in writing that oral argument is not necessary.

(b) An appellate court rule providing a method for the court to find that oral argument is not necessary must provide each party with an opportunity to file a statement setting forth the reasons why oral argument should be heard.

(c) The court shall allow oral argument unless:

- (1) the appeal is frivolous;
- (2) the dispositive issue or set of issues has been recently authoritatively decided; or
- (3) the facts and legal arguments are adequately presented in the briefs and record and the decisional process would not be significantly aided by oral argument.

Costs

Sec. 3.26. If an appeal is dismissed for failure to pay the appellate court docket fee or for any other reason, the costs, including the \$25 appellate court docket fee, shall be taxed against the appellant unless otherwise ordered by the appellate court. If a judgment of conviction is affirmed, costs shall be taxed against the appellant. If a judgment is reversed, the \$25 appellate court docket fee paid by the appellant shall be returned by the city to the appellant, but in all other cases costs may not be awarded against the city. The costs shall be set out in the mandate of the appellate court and collected in the same manner the fine is collected.

Disposition on Appeal; Presumptions; Decision

Sec. 3.27. (a) The appellate court may affirm the judgment of the municipal court, may reverse and remand for a new trial, may reverse and dismiss the case, may reform or correct the judgment, may abate the appeal or may dismiss the appeal, or may enter any other appropriate order, as the law and the nature of the case require.

(b) Unless the following matters were made an issue in the trial court or it affirmatively appears to the contrary from the transcript or statement of the facts, the appellate court shall presume that:

- (1) venue was proven in the court below;
- (2) the jury was properly impaneled and sworn;
- (3) the defendant was arraigned;
- (4) the defendant pleaded to the complaint; and
- (5) the court's charge was certified by the municipal court judge before it was read to the jury.

(c) In each case decided by the appellate court, the court shall deliver a written opinion or order either sustaining or overruling each assignment of error presented and a judgment shall be entered on the opinion or order. If an assignment of error is overruled, no reason need be given by the appellate court, but cases relied on by the court may be cited. If an assignment of error is sustained, the appellate court shall set forth the reasons for the decision and precedent if it exists. The clerk of the appellate court shall mail copies of the decision and judgment of the appellate court to the parties and to the clerk of the municipal court as soon as the decision is rendered by the appellate court.

(d) After the decision of the appellate court is delivered, a party desiring a rehearing must present, not later than the 10th day after the day the decision is delivered, to the court a motion for rehearing. The motion must distinctly specify the grounds relied on for rehearing and must be accompanied by written argument in behalf of the motion. Oral argument in support of the motion is not permitted. A reply to a motion for rehearing need not be filed unless requested by the court. If a motion for rehearing is granted, the court may make final disposition of the case without reargument, may order the case resubmitted, with or without oral argument, or may issue other orders appropriate under the circumstances of the particular case. A second motion for rehearing may not be filed by the losing party unless otherwise provided by appellate court rules.

(e) Immediately after a decision of the appellate court becomes final, the clerk of that court shall issue a mandate and a bill of costs in the case to the trial court unless directed to withhold the mandate by the appellate court.

(f) In the event a decision of the appellate court is appealed to a court of appeals, the appellate court on receipt of the mandate or other order from the court of appeals shall immediately comply with the order or mandate by issuing its own order or mandate and bill of costs, as the case may be. When a decision of a court of appeals becomes final, the clerk of that court shall issue a mandate in the case to the appellate court. A decision of a court of appeals is final as provided under Article 42.04a, Code of Criminal Procedure, 1965.

(g) Original papers transmitted as the record on appeal to the court of appeals, on final disposition of the case in the court of appeals or the court of criminal appeals, shall be returned to the court clerk from which they were received. The clerk of each court shall preserve copies of briefs and papers originally filed in that court.

(h) The clerk of the municipal court and the clerk of the appellate court shall keep a copy of each decision of the appellate court in a volume or volumes with an index so that the public can inspect the decisions of the appellate court without the

necessity of inspecting individual records of each case.

(i) When the mandate of the appellate court is received by the clerk of the municipal court, the clerk shall file it with the papers in the case and note it on the docket. If the judgment has been affirmed or the appeal is dismissed, a proceeding is not necessary after filing the appellate court mandate in the municipal court to enforce the judgment of the court, except to forfeit the bond of the defendant, to issue a *caus* for the defendant, or to issue an execution against the defendant's property.

(j) If the appellate court awards a new trial to the defendant, the cause shall stand as if a new trial had been granted by the municipal court, and the defendant shall continue on his appeal bond and shall appear for trial on notification mailed to his address on the appeal bond.

Appeals to Court of Appeals; Records

Sec. 3.28. (a) If a judgment is affirmed or an appeal is dismissed by the appellate court, the appellant may appeal to the court of appeals if the fine assessed against the appellant in the municipal court exceeded \$100 or if the appellant has placed in issue in his brief filed in the appellate court the constitutionality of the statute or ordinance on which his conviction is based. If the constitutionality of a statute or an ordinance is in issue, the court of appeals may only consider that issue and not other issues that were before the appellate court.

(b) To perfect an appeal from a decision of the appellate court to the court of appeals, an appellant shall file a written notice of appeal in the appellate court:

(1) not later than the 10th day after the final ruling on a motion for rehearing; or

(2) if there is no motion for rehearing, not later than the 10th day after the rendition of the decision.

(c) A decision of the appellate court is final on the 15th day after the ruling on the final motion for rehearing or after the rendition of the decision if no motion for rehearing is filed.

(d) An appeal to the court of appeals is governed by provisions of the Code of Criminal Procedure, 1965, relating to direct appeals from county and district courts to the court of appeals except that:

(1) on the filing of a notice of appeal to the court of appeals, the appellate court clerk shall immediately prepare under his hand and seal of the appellate court a transcript of all papers originally filed in the appellate court and a copy of the opinion and judgment of the appellate court; and

(2) immediately on completion of his transcript, the appellate court clerk shall transmit the record on appeal, briefs on appeal, and his transcript to the court of appeals.

(e) Unless the rules of the court of criminal appeals or the court of appeals provide otherwise, the

record on appeal to the court of appeals consists of those documents described in Subdivision (2) of Subsection (d) of this section.

(f) For good cause shown, the court of appeals may extend the 10-day period under Subsection (b) of this section for giving written notice of appeal.

ARTICLE IV. TRANSITION PROVISIONS

Transition Provision

Sec. 4.01. (a) The person serving as judge of a municipal court of record in the City of El Paso on the date this Act takes effect continues in office as judge of that municipal court of record until the general city election for the City of El Paso in April, 1985, and until his successor is elected and has qualified. A city ordinance creating municipal courts of record under Chapter 410, Acts of the 66th Legislature, Regular Session, 1979 (Article 1200ee-1, Vernon's Texas Civil Statutes), is continued in effect as if the ordinance were passed under this Act.

(b) This Act governs all complaints filed in the municipal courts after the effective date of this Act and governs all further proceedings then pending in the municipal courts and county courts at law of El Paso County except as provided by Subsection (c) of this section.

(c) If in the opinion of the municipal courts, the appellate court, or the county courts at law of El Paso County application of this Act in a particular case pending in any court when this Act takes effect would not be feasible or would work an injustice, the law that existed before the effective date of this Act applying to the municipal courts of record applies, and that law is continued in effect for that purpose.

Creation and Continuation of Appellate Court

Sec. 4.02. If on the effective date of this Act there is in existence in the City of El Paso under city ordinance a municipal court of record in accordance with Chapter 410, Acts of the 66th Legislature, Regular Session, 1979 (Article 1200ee-1, Vernon's Texas Civil Statutes), the appellate court is created on that date. If there are no municipal courts of record in existence on that date, the appellate court is created on the date that a municipal court of record is created. The appellate court continues in existence as long as there exists a municipal court of record. If the municipal court of record ordinance is repealed, the appellate court continues in existence so long as there are any appeals before it. A reversal and remand for new trial or other order returning a case to the trial court shall be to the municipal court that replaces the municipal courts of record.

Initial Appointment of Appellate Judge

Sec. 4.03. The governing body of the City of El Paso shall appoint a judge of the appellate court, who shall serve beginning at the creation of the

court as provided by Section 4.02 of this Act until the next regular municipal election for the City of El Paso and until his successor is elected and has qualified.

Pending Appeals

Sec. 4.04. The judges of the county courts at law of El Paso County shall on the creation of the appellate court as provided by Section 4.02 of this Act transfer all appeals pending from the municipal courts to the appellate court. Appeals that have not yet been filed in the County Court at Law of El Paso County, Texas, shall be filed in the appellate court. An appeal in which an opinion has been written by a county court at law of El Paso that is pending shall be retained by that court for disposition in accordance with laws in effect prior to the effective date established by Section 4.02 of this Act, and those laws are continued in effect for that purpose.

Alternate Appellate Procedure

Sec. 4.05. (a) If the El Paso Municipal Court of Appeals created by this Act is held unconstitutional or invalid, all appeals under this Act shall be considered as taken to the county courts at law of El Paso County as provided by this section. Those appeals shall be docketed as provided by county courts at law rules. The county courts at law of El Paso County have jurisdiction over those appeals and this Act applies to those appeals. One county court at law of El Paso County shall act as the appellate court. That court shall be designated from time to time as the appellate court by the majority vote of the judges of the county courts at law of El Paso County. All appeals pending in the appellate court on the date that any decision becomes final holding the municipal court of appeals unconstitutional or invalid shall be transferred by the appellate court to the county courts at law of El Paso County and all decisions of the appellate court that have become final on or before that date are valid.

(b) If Subsection (a) of this section takes effect, a reference to "appellate court" in this Act means the county court at law of El Paso County that is designated as the appellate court under this section except that a provision of this Act that is inconsistent with the laws, statutes, and rules applicable to creation and organization of the county courts at law of El Paso County will not apply, and an appeal is not tried de novo in the county court at law.

[Acts 1983, 68th Leg., p. 4291, ch. 685, § 1, eff. Sept. 1, 1983.]

Art. 1200ff. Repealed by Acts 1979, 66th Leg., p. 822, ch. 369, § 45, eff. Aug. 27, 1979

See, now, Art. 1200ff-1.

Art. 1200ff-1. Fort Worth

Creation; Formation by Ordinance; Additional Courts

Sec. 1. There are created municipal courts of record in the city of Fort Worth to be held in that city if the governing body of the city, by legally adopted ordinance, finds and determines that the conditions of the dockets of the other courts of the county are such as to require the formation of such municipal courts in order to properly dispose of the cases arising in the city. The governing body of the city may by ordinance determine the number of municipal courts that are required in order to dispose of the cases arising in the city, in which case the governing body of the city may establish as many municipal courts as it considers necessary, and the ordinance establishing the municipal courts shall designate the municipal courts as Municipal Court No. 1, Municipal Court No. 2, and as each municipal court is established, it shall be designated with the next succeeding number. Municipal courts of record shall not exist concurrently with municipal courts that are not courts of record in the city of Fort Worth.

Jurisdiction; Writs; Terms; Exchange of Benches

Sec. 2. (a) Municipal courts created under the provisions of this Act shall have jurisdiction within the territorial limits of the city in all criminal cases arising under the ordinances of the city and shall also have concurrent jurisdiction with any justice of the peace in any precinct in which the city is situated in criminal cases arising within such territorial limits under the criminal laws of this state in which punishment is only by fine not exceeding \$200. Municipal courts shall also have jurisdiction over cases arising outside the territorial limits of the city under the ordinances authorized by Subdivision 19, Article 1175, Revised Civil Statutes of Texas, 1925, as amended.

(b) The judge of a municipal court may grant writs of mandamus, injunction, attachment, and all other writs necessary to the enforcement of the jurisdiction of the court, and may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court.

(c) Municipal courts shall hold no terms and may sit at any time for the transaction of the business of the courts.

(d) The judges of the municipal courts may, at any time, exchange benches and may, at any time, sit and act for and with each other in any case, matter, or proceeding pending in their courts, and any acts thus performed by any of the judges shall be valid and binding on all parties to such cases, matters, and proceedings.

Jurisdiction Conformed

Sec. 3. The jurisdiction of all courts exercising criminal jurisdiction is conformed to the terms and provisions of this Act.

**Judges; Qualifications; Election; Compensation;
Vacancies; Bond and Oath**

Sec. 4. (a) Each municipal court shall be presided over by a judge, who shall be known as the "municipal judge," who shall be a licensed attorney in good standing with two or more years of experience in the practice of law in this state and in the county in which the municipal court is located and a citizen of the United States and of this state. The judge shall be a resident of the city at the time of the election and shall maintain his or her residence within the city during the judge's tenure of office. Each municipal judge shall be elected by the qualified voters of the city for a term of two years, unless the city by charter amendment provides for a four-year term as provided by Article XI, Section 11, of the Texas Constitution. The governing body of the city may, by the procedure provided by Subsection (c) of this section, designate a qualified person to serve as judge of each municipal court of record created by it until the next regular municipal election.

(b) Municipal judges shall receive a salary, to be set by the governing body of the city, which may not be diminished during their terms of office. A municipal judge may not be removed from office during the term for which the judge was elected except for cause to the same extent and under the same rules that judges of the county courts may be removed from office.

(c) A vacancy in the office of municipal judge by death, resignation, creation of a new court, or otherwise shall be filled by appointment by a majority of the governing body, and the person appointed shall serve only until the next regular municipal election, at which time his or her successor shall be elected. An appointee may succeed himself or herself, if elected, as may judges regularly elected.

(d) A majority of the governing body of the city may appoint any number of qualified persons to act in the place of any municipal judge absent because of illness, family death or illness, continuing legal or judicial education programs, or otherwise. In the absence of a judge, the chief judge or his or her designate shall call on one of those persons to serve, and while serving the selectee shall have all the powers and discharge all the duties of the office and shall receive the same compensation that is payable to the regular municipal judge.

(e) Municipal judges shall execute a bond and take the oath of office as required by law relating to county judges.

(f) The chief judge of the municipal courts shall be the senior municipal judge in length of continuous service as judge.

Criminal Complaints

Sec. 5. All proceedings in municipal courts shall be commenced on original complaint filed by the city attorney of the city or the assistant city attorneys. All such complaints shall be prepared under the

direction of the city attorney or his or her assistants.

Filing of Original Papers

Sec. 6. The clerk of the municipal courts, under the direction of the chief judge, shall file the original complaint and the original of all judgments, orders, motions, or other papers and proceedings in each case in a folder for permanent record. No separate minute book for the court is required, but the original papers filed with the clerk shall constitute the records of the courts. The clerk of the municipal courts shall cause to be noted on the outside of each case folder the following information:

- (1) the style of the action;
- (2) the nature of the offense charged;
- (3) the date the warrant was issued and return made thereon;
- (4) the time when the examination or trial was had, and if a trial, whether it was by a jury or before the judge of the court;
- (5) the trial settings;
- (6) the verdict of the jury, if any;
- (7) the judgment of the court, if any;
- (8) the motion for a new trial, if any, and the decision thereon;
- (9) if an appeal was taken; and
- (10) the time when and the manner in which the judgment and sentence were enforced.

Clerk; Duties

Sec. 7. The clerk of the municipal courts shall be appointed by the city manager with the consent of the governing body of the city and shall perform all duties in accordance with state statutes, the city charter, and city ordinances. It shall be the duty of the clerk or the clerk's deputies to keep the records of proceedings of the courts and to issue all processes and generally to do and perform the duties now prescribed by law for clerks of county courts exercising criminal jurisdiction insofar as the same may be applicable.

**Court Reporter; Evidence Inadmissible in
Civil Proceeding**

Sec. 8. (a) For the purpose of preserving a record in all cases tried before the municipal courts, the judge of each court shall appoint an official court reporter, who shall be well-skilled in the profession and have the qualifications required of a court reporter in the courts as provided by the general laws of Texas. The reporter shall be a sworn officer of the court and shall hold the office at the pleasure of the judge at a salary to be fixed by the governing body of the city. The judge or judges of the courts may appoint the deputy official court reporters that are deemed necessary to promptly and efficiently dispose of the business of

the courts. The court reporter shall perform duties under the direction and control of the municipal judge or judges. The court reporter shall take testimony in any case when a party or the judge requests it and no testimony shall be taken unless it is requested by a party or the judge.

(b) The testimony, exhibits, or evidence given by a witness in the course of a proceeding in the municipal courts shall be solely for the purpose of such proceeding or appeal therefrom, and in any other civil proceeding, evidence relating to such testimony, exhibits, evidence, or reproductions thereof shall be privileged and not admissible for any purpose.

Court Costs

Sec. 9. No court costs shall be assessed or collected by any municipal court in any case tried in the courts, except warrant fees, capias fees, and other fees authorized for municipal courts.

Service of Process

Sec. 10. All processes issuing out of municipal courts may be served by a policeman or warrant officer of the city or by any peace officer under the same rules as are provided for service by sheriffs and constables of process issuing out of a county court so far as applicable.

Prosecutor; Bailiff

Sec. 11. All prosecutions in municipal courts shall be conducted by the city attorney of the city or the assistant city attorneys. The chief of police of the city shall, in person or by designated officer or deputy, attend the court and perform the duties of a bailiff.

Form of Complaint

Sec. 12. Proceedings in municipal courts shall be commenced by complaint filed by the city attorney, or his or her assistants, which shall begin: "In the name and by authority of the State of Texas" and shall conclude "against the peace and dignity of the state." All complaints shall be prepared under the direction of the city attorney or his or her assistants and may be signed by any credible person on information and belief, sworn to before a notary public, the city attorney, an assistant city attorney, the clerk of the court, or any deputy clerk, each of whom, for that purpose, shall have power to administer the oath. The complaint shall be in writing and shall state:

(1) the name of the accused, if known, and if unknown, shall describe him or her as accurately as practicable;

(2) the offense with which the accused is charged in plain and intelligible words;

(3) facts showing that the place where the offense is charged to have been committed is within the jurisdiction of the municipal court; and

(4) facts showing, from the date of the offense stated therein, that the offense is not barred by limitations. All pleadings in the municipal courts shall be in writing and filed with the clerk of such courts.

Jury Trial; Selection of Jurors

Sec. 13. (a) Every person brought before the municipal courts and charged with an offense shall be entitled to be tried by a lawful jury of six persons. The municipal judge may set certain days of each week or month for the trial of jury cases. Juries for the court shall be selected by the following procedure. On the implementation of this Act by the governing body of the city and between the 1st and 15th days of August of each year thereafter, the tax assessor and collector of the city, or one of his or her deputies, and the city secretary, or one of his or her assistants, shall meet together and select, from the list of qualified jurors in the city, the jurors for service in the municipal courts for the ensuing year. The list of jurors shall be taken from the voters registration list of the city. The officers shall place on separate cards of uniform size and color the names of all persons who are known to be qualified jurors under the law residing in the city, placing also on the cards, whenever possible, the post office address of each juror so selected. The cards containing the names shall be deposited in a jury wheel to be provided for that purpose by the governing body of the city. The wheel shall be constructed of any durable material, shall be so constructed as to revolve freely on its axle, and may be equipped with a motor to revolve the wheel so as to thoroughly mix the cards. The wheel shall be locked at all times, except when in use as herein-after provided, by the use of two separate locks so arranged that the key to one will not open the other lock. The wheel and the clasps into which the locks are fitted shall be arranged so that the wheel cannot be opened unless both of the locks are unlocked. The keys to the locks shall be kept, one by the city secretary and the other by the clerk of the municipal courts. The city secretary and the clerk of the municipal courts shall not open the wheel or permit it to be opened by any person except at the time and in the manner and by the persons herein specified. The city secretary and clerk shall keep the wheel when not in use in a safe and secure place where it cannot be tampered with.

(b) Not less than 10 days before January 1, April 1, July 1, and October 1 of each year, the clerk of the municipal courts, or one of the clerk's deputies, and the city secretary, or one of the secretary's assistants, in the presence and under the direction of one of the municipal judges shall draw from the wheel containing the names of jurors, after the wheel has been turned and the cards thoroughly mixed, one by one the names of jurors to provide the number directed by the judges for each week of the three months next ensuing for which a jury may be required, and shall record the names as they are

drawn on a separate sheet of paper for each week for which jurors may be required. At the drawing, no persons other than those above named shall be permitted to be present. The officers attending the drawing shall not divulge to any person the name of any person that may be drawn as a juror. If at any time during the next three months and prior to the next drawing date it appears that the list already drawn will be exhausted before the expiration of three months, additional lists for as many additional weeks as the judges may direct will be drawn in the same manner. The several lists of names so drawn shall be certified under the hand of the clerk of the municipal courts, or the deputy doing the drawing, and the municipal judge in whose presence the names were drawn, to be the lists drawn by him or her for that quarter and shall be sealed in separate envelopes endorsed "List no. _____ of the petit jurors drawn on the ____ day of _____, 19____, for the Municipal Courts of _____." The clerk doing the drawing shall write his or her name across the seals of the envelopes and deliver them to the judge, who shall inspect the envelopes to see that they are properly endorsed and shall then deliver them to the clerk or the clerk's deputy, and the clerk shall then immediately file them away in some safe and secure place in his or her office under lock and key. When the names are drawn for jury service, the cards containing the names shall be sealed in separate envelopes endorsed "Cards containing the names of jurors list no. _____ of the petit jurors drawn on the ____ day of _____, 19____, for the Municipal Courts of _____." Each envelope shall be retained unopened by the clerk until after the jury selected from the corresponding list has been impaneled. After the jurors so impaneled have served four or more days, the envelope containing the cards bearing the names of the jurors on that list shall then be opened by the clerk or the clerk's deputy. Those cards bearing the names of persons who have not been impaneled and who have not served as many as four days shall be immediately returned to the wheel by the clerk or the deputy, and the cards bearing the names of the persons serving as many as four days shall be put in a box provided for that purpose for the use of the officers who shall next select the jurors from the wheel. If any of the lists drawn are not used, the clerk or the deputy shall open the envelopes containing the cards bearing the names of the unused lists immediately after the expiration of the three-month period and return the cards to the wheel. A juror serving on a jury in the court shall receive not less than \$10 for each day and for each fraction of a day the juror attends the court as a juror, and in no event less than that paid in county courts.

(c) In lieu of the preceding method of jury selection, a majority of the judges of the municipal courts of the city may adopt a plan binding on all such judges for the selection of persons for jury service with the aid of mechanical or electronic means. If such a plan is adopted, the foregoing provisions of this section dealing with the selection

of petit juries by jury wheel shall not apply. A plan so adopted shall include the following requirements:

(1) the names taken for jury purposes shall be names of registered voters in the city;

(2) provision of a fair, impartial, and objective method of selecting persons for jury service;

(3) designation of the clerk of the court as the official to be in charge of the jury selection process and providing the duties of the clerk in that process; and

(4) specification that a true and complete written list showing the names and addresses of the persons summoned to begin jury service on a particular date shall be filed with the clerk of the court at least 10 days prior to the date the persons are to begin jury service.

(d) In lieu of either of the foregoing methods of petit jury selection, a majority of the judges of the municipal courts of the city may adopt a plan binding on all the judges for the selection of persons for jury panels from a central jury pool maintained by the county in which the city is located to provide petit juries for the district courts, county courts, county courts at law, and justice courts of the county, if any such pool exists. If such a plan is adopted, the provisions of this section dealing with the selection of petit juries by jury wheel or mechanical or electronic means do not apply. A plan so adopted shall include the following requirements:

(1) the persons taken from the central jury pool shall be registered voters in the city;

(2) provision of a fair, impartial, and objective method of selecting persons for jury panels from the pool;

(3) designation of the clerk of the municipal courts as the official to be in charge of the selection process from such pool, except that the clerk may, with permission from such county employee, appoint the county employee in charge of the central jury pool as the clerk's deputy for this purpose; and

(4) provision for compensation to the county for juror fees paid by the county to jury panel members selected from the central jury pool for municipal court jury panels, if the fees are paid to the selectees by the county rather than by the city.

Judicial Notice

Sec. 14. Municipal courts shall take judicial notice of all the city ordinances and the corporate limits of that city in all cases tried in the courts.

Rules of Procedure

Sec. 15. Except as modified by this Act, the trial of cases before municipal courts shall be governed by the Code of Criminal Procedure, 1965, applicable to county courts.

Bonds

Sec. 16. All bonds taken in proceedings in the courts shall be payable to the State of Texas for the use and benefit of the city.

Judgment and Sentence

Sec. 17. The judgment and sentence, in case of conviction before municipal courts, shall be in the name of the State of Texas, and shall recover from the defendant the fine and costs for the use and benefit of the city. Except when otherwise ordered by the court, the court shall require that the defendant remain in custody of the chief of police of such city until the fine and costs are paid and shall order that execution issue to collect the fines and penalties.

Appellate Courts

Sec. 18. Appeals from municipal courts shall be heard by the county courts having appellate criminal jurisdiction.

No Appeal by State

Sec. 19. The state shall have no right of appeal.

Right of Appeal

Sec. 20. A defendant has the right of appeal from a judgment of conviction in a municipal court under the rules hereinafter described, and a motion for a new trial shall be prerequisite to the right of appeal from a municipal court.

Motion for New Trial

Sec. 21. A motion for a new trial must be made within five days after the rendition of judgment and sentence and not thereafter. Such motion must be in writing and filed with the clerk of the court.

No New Trial for State

Sec. 22. In no case shall the state be entitled to a new trial.

Notice of Appeal; Bond

Sec. 23. After an order overruling a motion for new trial, an appeal may be taken by paying the \$10 fee for preparation of the transcript which shall be noted on the docket of the court. The fee must be paid within 10 days after the order overruling the motion for a new trial is rendered. An appeal may not be taken until the required bail bond has been given and approved by the court. The bail bond must be filed with the court within 10 days after the order of the court refusing a new trial has been rendered and not afterwards.

Bail on Appeal

Sec. 24. In appeals from the judgments and sentence of a municipal court, the defendant shall, if the defendant is in custody, be committed to jail unless the defendant gives bail, to be approved by the judge of the municipal court in an amount not

less than double the amount of fine and costs adjudged against him or her, payable to the State of Texas for the use and benefit of the city. Bail shall not in any case be for a sum less than \$100. The bond shall recite that in the cause the defendant shall make personal appearance before the court to which the appeal is taken instanter, if the court is in session, and if the court is not in session, then at its next session, and there remain from day to day and answer in the cause.

Perfecting Appeal

Sec. 25. Appeals from municipal courts may be perfected by filing the bail bond provided for in Section 24 of this Act on approval by the municipal court.

Record and Briefs on Appeal

Sec. 26. In view of the crowded conditions of the dockets of the courts, the record and briefs on appeal in a case appealed from a municipal court shall be limited so far as possible to the questions relied on for reversal.

Elements of the Record

Sec. 27. The record on appeal in a case appealed from a municipal court shall consist of a transcript.

Assignments of Error

Sec. 28. The motion for a new trial in a case appealed from a municipal court shall constitute the assignments of error on appeal. A ground of error not distinctly set forth in a motion for new trial shall be considered as waived.

Stipulation of Record on Appeal

Sec. 29. The city attorney, or the assistant city attorney, and the defendant, or the defendant's attorney, by written stipulation filed with the clerk of the municipal courts may designate the parts of the record, proceedings, and evidence to be included in the record on appeal.

Contents of Transcript

Sec. 30. The clerk of the municipal courts, under written instructions of the defendant, or the defendant's attorney, shall, after payment of the \$10 preparation fee, prepare under his or her hand and seal of the court for transmission to the appellate court a true copy of the proceedings in the municipal court, and, unless otherwise designated by agreement of the parties, shall include the following: (1) the complaint on which the trial was had; (2) the order of the court on any motions or exceptions; (3) the judgment of the court and the verdict of the jury; (4) any findings of fact or conclusions of law by the court; (5) the judgment of the court; (6) the motion for new trial and the order of the court thereon; (7) the notice of appeal; (8) any statement of the defendant or the city attorney as to the matter to be included in the record; (9) the bail bond; (10) the certified bill of costs; (11) any state-

ment of facts; and (12) any signed paper designated as material by the defendant, or the defendant's attorney, or the city attorney or assistant city attorney. The defendant, or the defendant's attorney, may file with the clerk and deliver or mail to the city attorney, or assistant city attorney, a copy of the written instruction, and the city attorney, or assistant city attorney, may file and deliver or mail a written direction to the clerk to include in the transcript additional portions of proceedings in the trial court.

Statement of Facts

Sec. 31. (a) The statement of facts shall, except as hereinafter provided, consist of a transcription of the testimony of witnesses and bills of exception. The statement of facts shall be prepared by the court reporter of the municipal court at the request of any party or the court. The court reporter shall immediately notify all parties in writing that the request has been made. Copies of the statement of facts shall be provided all parties by the reporter and one copy shall be filed by the reporter with the clerk of the municipal courts to be forwarded immediately to the clerk of the appellate court. The transcription shall be in narrative form unless written notice of objection to narrative form is made by a party within five days of receiving notice that the transcription was requested.

(b) All matters not essential to the decision or the questions presented in the motion for new trial shall be omitted from a statement of facts. Formal parts of all exhibits and more than one copy of any document appearing in the transcript or the statement of facts may be excluded. All documents may be abridged by omitting or abbreviating a formal portion thereof.

(c) It shall be unnecessary for the statement of facts to be approved by the trial court or judge thereof when agreed to by the defendant, or the defendant's attorney, and the city attorney, or assistant city attorney.

(d) The cost of preparation of the statement of facts shall be paid by the requesting party, unless the requesting party is the State of Texas or the city. The cost, if paid by the defendant, is recovered by the defendant if the case is overturned or dismissed on appeal.

Agreed Statement of Case

Sec. 32. The defendant, or the defendant's attorney, and the city attorney, or assistant city attorney, may agree on a brief statement of the case and on the facts proven as will enable the appellate court to determine where there is error in the judgment of the trial court. Such statements shall be copied into the transcript in lieu of the proceedings themselves.

Date for Filing Record

Sec. 33. The transcript and statement of facts shall be filed with the clerk of the municipal courts within 60 days from the date of the payment of the \$10 fee for preparation of the transcript and shall be promptly forwarded by the clerk of the municipal courts to the clerk of the court to which the appeal is taken.

Fee for Preparation of Record

Sec. 34. The defendant shall pay a fee of \$10 to the clerk of the municipal courts for the preparation of the transcript. If the case is reversed on appeal, the \$10 fee shall be refunded to the defendant.

Date for Filing Brief

Sec. 35. Briefs shall be filed with the clerk of the court to which an appeal is taken within 10 days of the filing of the transcript and statement of facts in the municipal court. At the same time, a true copy of the brief shall be provided to opposing counsel.

Hearing Appeals; Oral Arguments

Sec. 36. The court to which the appeal is taken shall hear and determine appeals from municipal courts at the earliest time it may be done, with due regard to the rights of parties and proper administration of justice. Oral arguments before the court shall be under such rules as the court may determine, and the parties may submit the case on the records and briefs without oral argument.

Disposition on Appeal

Sec. 37. A county court having jurisdiction of appeals from municipal courts may affirm the judgment of the municipal court, or may reverse or remand for a new trial, or may reverse and dismiss the case, or may reform or correct the judgment, as the law and the nature of the case may require. Unless such matters were made an issue in the municipal court, or it affirmatively appears to the contrary from the transcript or statement of facts, the court shall presume that the venue was proven in the court below, that the jury was properly impaneled and sworn, that the defendant was arraigned and that he or she pleaded to the complaint, and that the court's charge was certified by the judge and filed by the clerk before it was read to the jury. In each case decided by the court having jurisdiction of appeals, the court shall deliver a written opinion either sustaining or overruling each assignment of error presented. If an assignment of error is overruled, no reason need be given by the court, but cases relied on by the court may be cited. If an assignment of error is sustained, the court shall set forth the reasons for such decision. Copies of the decision of the court shall be mailed by the clerk of the court to the parties and the judge of the municipal court as soon as rendered by the court.

Certificate of Appellate Proceedings; Enforcement of Judgment

Sec. 38. When the judgment of the court having jurisdiction of appeals from municipal courts becomes final, the clerk of the court shall make out a proper certificate of the proceedings had and the judgment rendered and mail the certificate to the clerk of the municipal courts from which the appeal was taken. When the record is received by the clerk of the municipal courts, the clerk shall file it with the papers in the case and note it on the docket of the municipal court. Where the judgment has been affirmed, no proceedings need be had after filing the record in the municipal court to enforce the judgment of the court, except forfeiture of the bond of the defendant, issuance of a *caapias* for the defendant, or an execution against the defendant's property.

Award of New Trial

Sec. 39. Where the appeal court awards a new trial to the defendant, the cause shall stand as it would have stood if a new trial had been granted by the municipal court.

Appeal to Court of Appeals

Sec. 40. Appeals to the Court of Appeals from the decision of the court having jurisdiction of appeals from municipal courts, when permitted by law, shall be governed by the Code of Criminal Procedure, 1965, except that when an appeal is permitted by law, the transcript, briefs, and statement of facts filed in the court having jurisdiction of appeals from municipal courts shall constitute the transcript, briefs, and statement of facts before the Court of Appeals or as the rules of the Court of Criminal Appeals may provide in such cases.

Facilities of Court; Salaries

Sec. 41. (a) The municipal courts shall be held in the city at a place or places within the corporate limits of the city as may be designated by the governing body of the city.

(b) The governing body of the city shall provide suitable quarters for the courts, and all costs of providing courtrooms and office space for the courts, the clerk, and court reporters shall be paid for by the governing body of the city. All salaries paid to the judges, the clerk, court reporters, and employees of the municipal courts shall be paid by the governing body of the city.

Disposition of Fines, Fees, Costs, and Bonds

Sec. 42. All fines, fees, costs, and cash bonds in municipal courts shall be paid to the clerk of the municipal courts. The clerk of the municipal courts shall deposit all fines, fees, costs, and cash bonds directly into the general fund of the city.

Classification of Personnel

Sec. 43. The judges of municipal courts, the clerk and deputy clerks of the courts, and the court reporters of the municipal courts shall not be considered to be classified employees under civil service, charter, or ordinance provisions. However, the governing body of the city may provide by ordinance that all other employees of the municipal courts may be hired and paid as classified employees under the city civil service, charter, or ordinance provisions. The judges, clerk, deputy clerks, and court reporters may be authorized or required by the governing body of the city to participate in the retirement program of the city. The judges, clerk, deputy clerks, and court reporters of municipal courts shall receive the same vacation, sick leave, and other benefits as are provided for other nonclassified employees of the city under such regulations as may be provided by the governing body.

Vacation of Unnecessary Court

Sec. 44. After the establishment of municipal courts, if the governing body of the city shall, by legally adopted ordinance, find and determine that the condition of the dockets of the other courts of the county is such as not to require the existence of one or more municipal courts in order to properly dispose of the cases arising in the city, then the offices of municipal judge, clerk of the municipal courts, court reporters, and other employees of the courts may be declared vacated as of the end of the term for which the municipal court judges were last elected or appointed. In that event, any case pending in the municipal courts shall be transferred to the proper court having jurisdiction of the offense.

[Acts 1979, 66th Leg., p. 811, ch. 369, eff. Aug. 27, 1979. Amended by Acts 1981, 67th Leg., p. 768, ch. 291, § 10, eff. Sept. 1, 1981.]

Section 149 of the 1981 amendatory act provides:

"This Act takes effect on September 1, 1981. Appeals to the courts of appeals filed on or after that date shall be filed in the court of appeals having jurisdiction. At least 1,800 appeals including death penalty appeals pending in the Court of Criminal Appeals prior to September 1, 1981, shall be retained by that court for disposition in accordance with laws in effect prior to the effective date of this Act, and for that purpose, all laws repealed or amended by this Act shall remain in force and effect for those appeals pending in the Court of Criminal Appeals. The remaining appeals pending in the Court of Criminal Appeals shall be transferred to the various courts of appeals on which the number of judges is increased by the 67th Session of the legislature; provided, no more than 75 nondeath penalty appeals shall be transferred for each newly created judgeship and such a transfer shall not be made until such justice assumes office."

Art. 1200gg. Lubbock

Creation

Sec. 1. The governing body of the City of Lubbock may by ordinance establish the city's existing municipal courts as municipal courts of record in accordance with this Act. Additional municipal courts of record may be created and one or more judges for each court may be authorized by ordinance on a finding that an additional court or courts

or additional judges are necessary to properly dispose of the cases arising in the city.

Jurisdiction; Writs

Sec. 2. (a) Municipal courts created under the provisions of this Act shall have jurisdiction within the territorial limits of the city in all criminal cases arising under the ordinances of the city and shall also have concurrent jurisdiction with any justice of the peace in any precinct in which the city is situated in criminal cases arising within such territorial limits under the criminal laws of this state in which punishment is only by fine not exceeding \$200. Municipal courts shall also have jurisdiction over cases arising outside the territorial limits of the city under the ordinances authorized by Subdivision 19, Article 1175, Revised Civil Statutes of Texas, 1925, as amended.

(b) The municipal court of record shall take judicial notice of all ordinances of the city.

(c) The judge of a municipal court may grant writs of mandamus, injunction, attachment, and all other necessary writs necessary to the enforcement of the jurisdiction of the court and may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court.

Judges

Sec. 3. (a) Each municipal court shall be presided over by one or more judges to be known as "municipal judges."

(b) Each municipal judge shall be elected by the qualified voters of the city for a term of two years, unless the city by charter amendment provides for a four-year term as provided by Article XI, Section 11, of the Texas Constitution. The governing body of the city may appoint a person or persons with the qualifications required for a judge to serve as the judge or judges authorized for each newly created municipal court of record until the next regular city election.

(c) The judges or substitute judges of the municipal courts may at any time exchange benches and may at any time sit and act for or with each other in any case, matter, or proceeding pending in their courts. An act performed by any of the judges shall be valid and binding on all parties to the cases, matters, and proceedings.

(d) If there is more than one municipal judge in the city, the governing body of the city shall appoint one of the judges to be the presiding municipal judge of the city. If the city has a municipal judge who is either its only municipal judge or its only municipal judge who is not serving in a temporary or part-time capacity, that judge shall be the presiding municipal judge for all purposes of this Act.

(e) The presiding judge shall:

(1) maintain a central docket for all cases filed in the geographical limits of the city over which the municipal courts of the city have jurisdiction;

(2) provide for the distribution of cases from the central docket to the individual municipal judges in order that the business of the courts will be continually equalized and distributed among them;

(3) request the jurors needed for cases that are set for trial by jury in the municipal courts of record, which, as provided by Section 11(b) of this Act, shall be transferred to and serve in the municipal court as if summoned for the municipal court to which they are transferred;

(4) temporarily assign various judges or substitute judges of the municipal courts to exchange benches and to sit and act for each other in any case, matter, or proceeding pending in their courts when necessary for the expeditious disposition of the business of the courts;

(5) cause all dockets, books, papers, and other records of the municipal courts to be permanently kept and permit these records to be available for inspection at all reasonable times by any interested parties;

(6) cause to be maintained as part of the records of the municipal courts an index of municipal court judgments such as county clerks are required by law to prepare for criminal cases arising in county courts; and

(7) where necessary for the proper functioning of the municipal courts, provide for the preservation by microfilm of the records of the courts, subject to the same requirements provided by law for the preservation by microfilm of records under the custody of county clerks.

(f) A judge of a municipal court created under the provisions of this Act shall have been a licensed attorney in good standing in the practice of law in this state for a period of five years, shall be a citizen of the United States and of this state, and shall be required to satisfy the same residency requirements as those pertaining to a member of the city council of the City of Lubbock. No person may serve in the office of municipal judge while he or she holds any other office or employment in the government of the city, and the holding of the other office or employment by a person serving in the office of municipal judge shall create an immediate vacancy in the judicial office.

Salary

Sec. 4. A municipal judge is entitled to compensation by the city on a salary basis. The amount of the salary shall be determined by the governing body of the city and may not be diminished during the judge's term of office. The salary may not be based, directly or indirectly, on fines, fees, or costs that the municipal judge is required by law to collect during his or her term of office.

Vacancies; Temporary Replacements; Removal

Sec. 5. (a) When a vacancy in the office of municipal judge occurs, the governing body of the city

shall appoint a person meeting the qualifications required by law for the position to fill the office of municipal judge for the unexpired term of the judge serving in that office prior to the vacancy. If a judge is temporarily unable to act for any reason, the governing body may appoint a person meeting the qualifications for the position to serve during the absence of the judge with all the powers and duties of the office and shall provide for the person's compensation.

(b) A municipal judge may be removed from office for cause to the same extent and under the same rules that judges of the county courts at law may be removed from office. A municipal judge is answerable to the governing body of the city only on budgetary matters.

(c) Each municipal judge shall comply with the same provisions for filing a financial statement as are required of other judges by Chapter 421, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9b, Vernon's Texas Civil Statutes).

Court Facilities

Sec. 6. The governing body of the city shall provide the courtrooms, jury rooms, offices and office furniture, libraries, legal books and materials, and other supplies and facilities that the governing body determines are necessary for the proper operation of the municipal courts.

Court Clerk

Sec. 7. The governing body of the city shall provide a clerk of the municipal courts and the deputy clerks, warrant officers, and other municipal court personnel that are necessary for the proper operation of the municipal courts. It is the duty of the clerk to keep the records of proceedings of the municipal courts and to issue all processes and generally to perform the duties now prescribed by law for clerks of the county courts at law exercising criminal jurisdiction, insofar as the same may be applicable. The clerk of the municipal courts and all other personnel shall perform the duties of the office under the direction and control of the presiding municipal judge.

Court Reporter

Sec. 8. (a) For the purpose of preserving a record in cases tried before the municipal court, the city shall provide a court reporter with the qualifications provided by law for official court reporters, whose compensation shall be determined by the chief administrative officer of the city on the recommendation of the presiding municipal judge.

(b) The record of proceedings may be preserved by written notes, transcribing equipment, recording equipment, or any combination of these methods. The court reporter is not required to take or record testimony in cases where neither the defendant, the prosecutor, nor the judge demands it.

Prosecutions by City Attorney

Sec. 9. All prosecutions in municipal courts shall be conducted by the city attorney of the city or his or her assistant or deputy.

Complaint

Sec. 10. (a) Proceedings in municipal courts shall be commenced by complaint, which shall begin: "In the name and by the authority of the State of Texas"; and shall conclude: "Against the peace and dignity of the State"; and if the offense is only covered by an ordinance, it may also conclude: "Contrary to the said ordinance." The municipal judge shall charge the jury in accordance with Subsection (a) of Section 11 of this Act. Complaints before the court may be sworn to before any officer authorized to administer oaths or before the municipal judge, clerk of the court, city secretary, or city attorney or his or her assistant or deputy, each of whom, for that purpose, shall have power to administer oaths. The complaint shall be in writing and shall state:

(1) the name of the accused, if known, and if unknown, shall describe the accused as accurately as practicable;

(2) the offense with which the accused is charged in plain and intelligible words;

(3) the place where the offense is charged to have been committed, which must appear to be within the jurisdiction of the municipal court; and

(4) the date of the offense which, as stated, must show that the offense is not barred by limitations.

(b) All pleadings in the municipal courts shall be in writing and filed with the clerk of the courts.

Right to Jury

Sec. 11. (a) Every person brought before the municipal courts and charged with an offense is entitled to be tried by a jury of six persons, unless waived according to law. The jury shall decide all questions of fact or credibility of witnesses. The court shall determine all matters of law and shall charge the jury on the law.

(b) When requested by the clerk of the municipal courts, the officials in the county who draw the names of jurors from the county jury wheel for the county's central jury system shall draw from the same jury wheel, and in the same manner, the names of jurors to compose as many lists for service in the municipal courts as the clerk of the municipal courts requested. The jury lists drawn for the municipal courts shall be delivered to the clerk of the municipal court. The governing body of the city shall establish the necessary procedures for the summoning and impaneling of jury panels by the municipal courts and for the payment of the jurors. A juror serving in the municipal court shall receive the same pay for each day or fraction of a day that he or she serves as jurors receive for service in the other courts of Lubbock County, as

provided by Article 2122, Revised Civil Statutes of Texas, 1925, as amended.

(c) A juror in the municipal courts shall have the same qualifications as jurors in the other courts in Lubbock County as provided by Article 2133, Revised Civil Statutes of Texas, 1925, as amended, except that a juror in municipal court shall also be a registered voter in the City of Lubbock. Jurors in the municipal courts are subject to the same law governing exemption and excuse from jury service as the jurors in the other courts in the county.

Appeals; Appellate Courts

Sec. 12. (a) In this Act, "appellate courts" means the county courts at law in Lubbock County.

(b) A defendant has the right of appeal from a judgment or conviction in the municipal court under the rules prescribed in this Act. The appellate courts have jurisdiction over the appeals from the municipal courts, and all appeals from convictions in the municipal court shall be prosecuted in the appellate court by the city attorney or his or her assistants or deputies.

No de Novo Appeals

Sec. 13. Each appeal from a conviction in the municipal court shall be determined by the appellate court on the basis of errors pointed out in the defendant's motion for new trial and presented in the transcript and statement of facts prepared from the municipal court proceedings leading to the conviction. No appeal from the municipal court may be by trial de novo.

Motion for New Trial

Sec. 14. In order to perfect an appeal, a written motion for a new trial must be filed by the defendant no later than the 10th day after the rendition of the judgment of conviction and may be amended by leave of court at any time before it is acted on within 20 days after the filing of the original or amended motion. For good cause shown, the time for filing or amending may be extended by the court, not to exceed 90 days. An original or amended motion shall be deemed overruled by operation of law at the expiration of the 20 days allowed for determination of the motion, if it is not acted on by the court within that time. The motion shall set forth the points of error complained of by the defendant.

Notice of Appeal

Sec. 15. In order to perfect an appeal, the defendant shall give timely notice of appeal. In the event the defendant requests a hearing on his or her motion for a new trial, the notice of appeal may be given orally in open court on the overruling of the motion for new trial. Otherwise, the notice of appeal shall be in writing and filed with the municipal court no later than the 10th day after the motion for new trial is overruled. For good cause shown,

the time for giving notice of appeal may be extended by the court, not to exceed 90 days.

Appeal Bond

Sec. 16. If the defendant is not in custody, an appeal may not be taken until the required appeal bond has been filed with and approved by the municipal court. The appeal bond must be filed no later than the 10th day after the motion for new trial has been overruled. If the defendant is in custody, the defendant shall be committed to jail unless he or she posts the required appeal bond. The appeal bond shall be in an amount not less than double the amount of fine and costs adjudged against the defendant. However, the bond may not in any case be for a sum less than \$50. The bond shall recite that in the cause the defendant was convicted and has appealed and be conditioned that the defendant shall make his or her personal appearance before the court to which the appeal is taken instanter, if the court is in session, and there remain from day to day and answer in the cause.

Record on Appeal

Sec. 17. The record on appeal in a case appealed from the municipal court consists of a transcript and where necessary to the appeal, a statement of facts, which shall be prepared by a court reporter of the court from the reporter's record of the proceeding, mechanical recordings of the proceedings, or from videotape recordings of the proceedings. If the court finds, after hearing in response to an affidavit by defendant, that the defendant is unable to pay or give security for the record on appeal, the court will order the reporter to make the transcription without charge to the defendant.

Contents of Transcripts

Sec. 18. (a) The municipal court clerk, on written request from the defendant or the defendant's attorney, shall prepare under the clerk's hand and seal of the court for transmission to the appellate court a true transcript of the proceedings in the municipal court and shall include copies of the following:

- (1) the complaint;
- (2) material docket entries made by the court;
- (3) the jury charge and verdict, if the trial is by jury;
- (4) the judgment;
- (5) the motion for a new trial;
- (6) the notice of appeal;
- (7) all written motions and pleas and orders of the court;
- (8) bills of exception, if any are filed; and
- (9) the appeal bond.

(b) The municipal court clerk may include in the transcript additional portions of the proceedings in

the municipal court prepared by mechanical recordings or videotape recordings of the proceedings.

Bills of Exception

Sec. 19. Either party may include bills of exception in the transcript on appeal, subject to complying with the applicable provisions of the Code of Criminal Procedure, 1965, as amended, governing the preparation of bills of exception and their inclusion in the record on appeal to the court of appeals, except that the bills of exception shall be filed with the municipal court clerk within 60 days after the giving or filing of the notice of appeal.

Statement of Facts

Sec. 20. A statement of facts, when included in the record on appeal, shall consist of:

(1) a transcription of all or any part of the municipal court proceedings in the case, as provided in this Act, that are shown by the notes of the court reporter to have occurred before, during, or after the trial, if such a transcription is requested of the court reporter by the defendant;

(2) a brief statement of the facts of the case proven at the trial, as agreed to by the defendant and the prosecuting attorney;

(3) a partial transcription and the agreed statement of the facts of the case proven at the trial; or

(4) a transcription of all or any part of the municipal court proceedings in the case that are prepared from the mechanical recordings or videotape recordings of the proceedings.

Completion, Approval, and Transfer of Record

Sec. 21. (a) Within 60 days of the giving or filing of the notice of appeal, the parties shall file with the municipal court clerk:

(1) the statement of facts;

(2) a written designation of all matter that is to be included in the transcript in addition to matter required to be in the transcript by Section 18 of this Act; and

(3) any matter designated to be included in the transcript that is not then in the custody of the municipal court clerk.

(b) On completing the record as designated by the parties in Subdivision (2), Subsection (a) of this section, the municipal court judge shall approve the record in the manner provided by law for record completion notification and approval in appeals to the court of appeals.

(c) On the municipal court judge's approval of the record, the municipal court clerk shall promptly forward the record to be filed with the appellate court clerk, who shall notify the defendant and the prosecuting attorney that the record has been filed.

New Trials

Sec. 22. It is the duty of the trial court to decide from the briefs of the parties whether the defendant should be permitted to withdraw his or her notice of appeal and be granted a new trial by the court. The court may grant a new trial at any time prior to the record being filed with the appellate court clerk.

Brief on Appeal

Sec. 23. (a) A brief on appeal from the municipal court shall present points of error in the same manner required by law for a brief on appeal to the court of appeals.

(b) The defendant shall file his or her brief with the clerk of the appellate court within 15 days from the date of the filing of the transcript and statement of facts with the appellate court clerk, and the defendant or the defendant's attorney shall certify in the brief to the posting of such by United States mail with proper postage affixed and addressed to the office of the prosecuting attorney. The prosecuting attorney shall file his or her brief with the clerk of the appellate court within 15 days after the defendant files the defendant's brief with the clerk. Each party, on filing his or her brief with the clerk of the appellate court, shall cause a true copy of the brief to be delivered to the opposing party and to the municipal court judge.

Court Rules

Sec. 24. (a) Except as modified by this Act, the trial of cases before municipal courts shall be governed by the Code of Criminal Procedure, 1965, as amended.

(b) The municipal courts may make and enforce all necessary rules of practice and procedure, not inconsistent with the law, so as to expedite the trial of cases in the courts.

(c) The county courts at law of Lubbock County may make and enforce all necessary rules of practice and procedure for appeals from municipal courts, not inconsistent with the law, so as to expedite the dispatch of appeals from the municipal courts.

Disposition on Appeal

Sec. 25. (a) The appellate court may affirm the judgment of the municipal court, or may reverse or remand for a new trial, or may reverse and dismiss the case, or may reform or correct the judgment, as the law and the nature of the case may require.

(b) The appellate court shall presume that the venue was proven in the court below, that the jury was properly impaneled and sworn, that the defendant was arraigned and pleaded to the complaint, and that the court's charge was certified by the municipal court judge before it was read to the jury, unless such matters were made an issue in the trial.

court or it affirmatively appears to the contrary from the transcript or statement of facts.

(c) In each case decided by the appellate court, the court shall deliver a written opinion or order either sustaining or overruling each assignment of error presented. The appellate court shall set forth the reasons for the decision. Copies of the decision of the appellate court shall be mailed by the clerk of the appellate court to the parties and the judge of the municipal court as soon as the decision is rendered by the appellate court.

Certificate of Appellate Proceedings

Sec. 26. When the judgment of the appellate court becomes final, the clerk of the appellate court shall make out a proper certificate of the proceedings had and the judgment rendered and shall mail the certificates to the clerk of the municipal court. When the certificate is received by the clerk of the municipal court, the clerk shall file it with the papers in the case and note it on the docket. If the judgment has been affirmed, no proceeding need be had after filing the certificate in the municipal court to enforce the judgment of the court, except to forfeit the bond of the defendant, to issue a capias for the defendant, or to issue an execution against the defendant's property.

Order of New Trial by Appellate Court

Sec. 27. If the appellate court awards a new trial to the defendant, the cause shall stand as if a new trial had been granted by the municipal court.

Appeal to the Court of Appeals

Sec. 28. When a judgment is affirmed by the appellate court, the defendant has the right to appeal to the Court of Appeals if the fine assessed against the defendant in the municipal court exceeded \$100. The appeal to the Court of Appeals shall be governed by provisions in the Code of Criminal Procedure, 1965, as amended, relating to direct appeals from county and district courts to the Court of Appeals except that:

(1) the record and briefs on appeal in the appellate court shall constitute the record and briefs on appeal to the Court of Appeals unless the rules of the Court of Criminal Appeals provide otherwise; and

(2) the record and briefs shall be filed directly with the Court of Appeals.

Seal

Sec. 29. The governing body of the city shall provide each municipal court with a seal with a star of five points in the center and the words "Municipal Court in Lubbock, Texas." The impress of the seal shall be attached to all papers, except subpoenas, issued out of the court and shall be used by

each municipal judge or the clerk to authenticate all official acts of the clerk and the municipal judge.

[Acts 1979, 66th Leg., p. 741, ch. 329, eff. Aug. 27, 1979. Amended by Acts 1981, 67th Leg., p. 769, ch. 291, § 11, eff. Sept. 1, 1981.]

Section 30 of the 1979 Act provided:

"The residency requirements for a judge of a municipal court of record do not apply to a person serving as a municipal judge in the City of Lubbock on the effective date of this Act until the first regular city election after the establishment of the municipal courts of record."

Section 149 of the 1981 amendatory act provides:

"This Act takes effect on September 1, 1981. Appeals to the courts of appeals filed on or after that date shall be filed in the court of appeals having jurisdiction. At least 1,800 appeals including death penalty appeals pending in the Court of Criminal Appeals prior to September 1, 1981, shall be retained by that court for disposition in accordance with laws in effect prior to the effective date of this Act, and for that purpose, all laws repealed or amended by this Act shall remain in force and effect for those appeals pending in the Court of Criminal Appeals. The remaining appeals pending in the Court of Criminal Appeals shall be transferred to the various courts of appeals on which the number of judges is increased by the 67th Session of the legislature; provided, no more than 75 nondeath penalty appeals shall be transferred for each newly created judgeship and such a transfer shall not be made until such justice assumes office."

Art. 1200hh. Longview

Creation; Formation by Ordinance

Sec. 1. (a) There is created in the city of Longview a court of record to be known as the "City of Longview Municipal Court," to be held in that city if the governing body of the city of Longview, by ordinance, finds and determines that the formation of a municipal court of record is necessary in order to provide a more efficient disposition of appeals arising from the municipal court.

(b) The authority of the governing body of the city of Longview to create a municipal court of record in the city of Longview includes the authority to establish, in the manner set forth in this section, more than one municipal court of record if the governing body determines that it is necessary in order to dispose of the cases arising in the city. If more than one municipal court of record is created, the judges of the municipal courts may at any time exchange benches and sit and act for and with each other in a case, matter, or proceeding pending in a municipal court, and any and all acts performed by a judge are valid and binding on all parties to the case, matter, and proceeding.

(c) The municipal court of record authorized in this section is referred to in this Act as the "municipal court."

Application of Other Laws Regarding Municipal Courts

Sec. 2. The general laws of the state regarding municipal courts and regarding justice courts on matters where there is no law for municipal courts, and the valid charter provisions and ordinances of the city of Longview relating to the municipal court apply to the municipal court authorized in this Act, unless the laws, charter provisions, and ordinances

are in conflict or inconsistent with the provisions of this Act.

Judge; Qualifications

Sec. 3. (a) The municipal court shall be presided over by a judge, who shall be a licensed attorney in good standing in this state and a citizen of the United States and of this state. The judge need not be a resident of the city. The judge shall devote as much of his or her time to the duties of the office as the office shall require. The judge shall be appointed by the governing body of the city and shall be paid a salary to be determined by the governing body of the city. The salary shall not be based on or be in any way contingent on the fines, fees, or costs collected by the municipal court.

(b) If more than one municipal court is created by the governing body of the city, a judge shall be appointed for each court and the governing body of the city shall designate a judge to be the presiding judge.

Court Clerk

Sec. 4. The governing body of the city shall provide a clerk of the municipal courts and the deputy clerks, warrant officers, and other municipal court personnel that are necessary for the proper operation of the municipal courts. It is the duty of the clerk to keep records of proceedings of the municipal courts and to issue all processes and generally to perform the duties now prescribed by law for clerks of the county courts at law exercising criminal jurisdiction, insofar as the same may be applicable. The clerk of the municipal courts and all other personnel shall perform the duties of the office under the direction and control of the municipal court judge.

Court Reporter

Sec. 5. (a) For the purpose of preserving a record in the cases tried before the municipal court, the city shall provide a court reporter, who shall be appointed by the municipal court judge and whose compensation shall be determined by the governing body of the city. The qualifications of the court reporter shall be as provided by law for official court reporters.

(b) The record of proceedings may be preserved by the court reporter by written notes, transcribing equipment, recording equipment, or any combination of them. The court reporter is not required to take testimony in cases where neither the defendant, the prosecutor, nor the judge demands it.

Jury Selection

Sec. 6. The names of the prospective jurors for trials in the Longview Municipal Court of Record shall be drawn from a jury wheel maintained by the District Court of Gregg County, Texas, or from a jury wheel maintained by the clerk of the Longview Municipal Court of Record, with names of Longview

voter registration rolls of Gregg County and Harrison County, Texas.

Ordinances; Judicial Notice

Sec. 7. The municipal court shall take judicial notice of the ordinances of the city.

Appeal; Appellate Courts

Sec. 8. A defendant has the right of appeal from a judgment of conviction in the municipal court under the rules prescribed in this Act. The County Court of Gregg County has jurisdiction over the appeals from the municipal court.

Appeals on the Record; No de Novo Appeals

Sec. 9. Each appeal from a conviction in the municipal court shall be determined by the appellate court solely on the basis of errors pointed out in the defendant's motion for new trial and presented in the transcript and statement of facts prepared from the municipal court proceedings leading to the conviction. No appeal from the municipal court may be by trial de novo.

Motion for New Trial

Sec. 10. In order to perfect an appeal, a written motion for new trial must be filed by the defendant no later than the 10th day after the rendition of the judgment of conviction, and may be amended by leave of court at any time before it is acted on within 20 days after it is filed. The motion for new trial shall be presented to the court within 10 days after the filing of the original or amended motion, and shall be determined by the court within 20 days after the filing of the original or amended motion. For good cause shown, the time for filing or amending may be extended by the court. An original or amended motion shall be deemed overruled by operation of law at the expiration of the 20 days allowed for determination of the motion if it is not acted on by the court within that time. The motion shall set forth the points of error complained of by the defendant. For purposes of appeal, a point of error not distinctly set forth in the motion for new trial shall be considered as waived.

Notice of Appeal

Sec. 11. In order to perfect an appeal, the defendant shall give timely notice of appeal. In the event the defendant requests a hearing on the motion for new trial, the notice of appeal may be given orally in open court on the overruling of the motion for new trial. Otherwise, the notice of appeal shall be in writing and filed with the municipal court no later than the 10th day after the motion for new trial is overruled.

Appeal Bond

Sec. 12. If the defendant is not in custody, an appeal may not be taken until the required appeal bond has been filed with and approved by the municipal court. The appeal bond must be filed no

later than the 10th day after the motion for new trial is overruled. If the defendant is in custody, the defendant shall be committed to jail unless he or she posts the required appeal bond. The appeal bond shall be in an amount not less than double the amount of the fine and costs adjudged against the defendant. However, the bond may not in any case be for a sum less than \$100. The bond shall recite that in the cause the defendant was convicted and has appealed, and be conditioned that the defendant shall make his or her personal appearance before the court to which the appeal is taken instanter, if the court is in session, and if the court is not in session, then at its next session, and there remain from day to day to answer in the cause.

Record on Appeal

Sec. 13. The record on appeal in a case appealed from the municipal court consists of a transcript and, where necessary to the appeal, a statement of facts.

Contents of Transcript

Sec. 14. (a) The municipal court clerk, on written request from the defendant, shall prepare under the clerk's hand and seal of the court for transmission to the appellate court a true transcript of the proceedings in the municipal court that shall always include the following:

- (1) the complaint;
- (2) material docket entries made by the court;
- (3) the jury charge and verdict, if the trial is by jury;
- (4) the judgment;
- (5) the motion for new trial;
- (6) the notice of appeal;
- (7) all written motions and pleas and orders of the court; and
- (8) bills of exception, if any are filed.

(b) The municipal court clerk may include in the transcript additional portions of the proceedings in the municipal court if so instructed in writing by either the defendant or the prosecuting attorney.

Bills of Exception

Sec. 15. Either party may include bills of exception in the transcript on appeal, subject to complying with the applicable provisions of the Code of Criminal Procedure governing the preparation of bills of exception and their inclusion in the record on appeal to the court of appeals, except that the bills of exception shall be filed with the municipal court clerk within 60 days after the giving or filing of the notice of appeal.

Statement of Facts

Sec. 16. (a) A statement of facts, when included in the record on appeal, shall consist of:

(1) a transcription of all or any part of the municipal court proceedings in the case that are shown by the notes of the court reporter to have occurred before, during, or after the trial if such a transcription is requested of the court reporter by the defendant;

(2) a brief statement of the facts of the case proven at the trial, as agreed to by the defendant and the prosecuting attorney; or

(3) a partial transcription and the agreed statement of the facts of the case proven at the trial.

(b) The court reporter shall transcribe any portion of the reporter's notes of the court proceedings in the case at the request of the defendant. The defendant shall pay for the transcription. The cost to the defendant for the transcription shall not exceed the fees or charges normally being made by court reporters in the county for similar transcriptions. The municipal court shall order the court reporter to make the transcriptions without charge to the defendant if the court finds, after hearing in the response to an affidavit by the defendant, that the defendant is unable to pay or give security for the transcriptions.

Completion, Approval, and Transfer of Record

Sec. 17. (a) Within 60 days of the giving or filing of the notice of appeal, the parties shall file with the municipal court clerk:

- (1) the statement of facts;
- (2) a written designation of all matter that is to be included in the transcript in addition to matter required to be in the transcript by Section 14 of this Act; and

(3) any matter designated to be included in the transcript that is not then in the custody of the municipal court clerk.

(b) On completing the record as designated by the parties in Subdivision (2), Subsection (a), of this section, the municipal court judge shall approve the record in the manner provided by law for record completion notification and approval in appeals to the court of appeals.

(c) On the municipal court judge's approval of the record, the municipal court clerk shall promptly forward it to be filed with the appellate court clerk, who shall notify the defendant and the prosecuting attorney that the record has been filed.

Brief on Appeal

Sec. 18. (a) A brief on appeal from the municipal court shall present points of error in the same manner required by law for a brief on appeal to the court of appeals, except that the points of error on appeal shall be confined to those points of error set forth in the defendant's motion for new trial.

(b) The defendant shall file the defendant's brief with the clerk of the appellate court within 15 days from the date of the filing of the transcript and

statement of facts with the appellate court clerk, who shall notify the prosecuting attorney of the filing. The prosecuting attorney shall file his or her brief with the clerk of the appellate court within 15 days after the defendant files the defendant's brief with the clerk. Each party, on filing his or her brief with the clerk of the appellate court, shall cause a true copy of the brief to be delivered to the opposing party.

Procedure on Appeal

Sec. 19. The appellate court shall hear and determine appeals from the municipal court at the earliest practical time it may be done, with due regard to the rights of parties and proper administration of justice, and no affirmance or reversal of a case shall be determined on mere technicalities or on technical errors in the preparation and filing of the record on appeal. Oral arguments before the appellate court shall be under the rules which the appellate court may determine, and the parties may submit the case on the records and briefs without oral arguments.

Disposition on Appeal

Sec. 20. (a) The appellate court may affirm the judgment of the municipal court, or may reverse or remand for a new trial, or may reverse and dismiss the case, or may reform or correct the judgment, as the law and the nature of the case may require.

(b) The appellate court shall presume that the venue was proven in the court below, that the jury was properly impaneled and sworn, that the defendant was arraigned and pleaded to the complaint, and that the court's charge was certified by the municipal court judge before it was read to the jury, unless such matters were made an issue in the trial court or it affirmatively appears to the contrary from the transcript or statement of facts.

(c) In the case decided by the appellate court, the court shall deliver a written opinion or order either sustaining or overruling each assignment of error presented. If an assignment of error is overruled, no reason need be given by the appellate court, but cases relied on by the court may be cited. If an assignment of error is sustained, the appellate court shall set forth the reasons for the decision. Copies of the decision of the appellate court shall be mailed by the clerk of the appellate court to the parties and the judge of the municipal court as soon as the decision is rendered by the appellate court.

Certificate of Appellate Proceedings

Sec. 21. When the judgment of the appellate court becomes final, the clerk of the appellate court shall make out a proper certificate of the proceedings had and the judgment rendered and shall mail the certificates to the clerk of the municipal court. When the certificate is received by the clerk of the municipal court, the clerk shall file it with the papers in the case and note it on the docket. If the judgment has been affirmed, no proceeding need be

had after filing the certificate in the municipal court to enforce the judgment of the court, except to forfeit the bond of the defendant, to issue a *capias* for the defendant, or issue an execution against the defendant's property.

New Trial

Sec. 22. If the appellate court awards a new trial to the defendant, the cause shall stand as it would have stood if a new trial had been granted by the municipal court.

Appeal to the Court of Appeals

Sec. 23. When a judgment is affirmed by the appellate court, the defendant has the right to appeal to the court of appeals if the fine assessed against the defendant in the municipal court exceeded \$100. The appeal to the court of appeals shall be governed by provisions in the Code of Criminal Procedure relating to direct appeals from county and district courts to the court of appeals except that:

(1) the record and briefs on appeal in the appellate court, plus the transcript of proceedings in the appellate court, shall constitute the record and briefs on appeal to the court of appeals unless the rules of the court of criminal appeals provide otherwise; and

(2) the record and briefs shall be filed directly with the court of appeals.

[Acts 1979, 66th Leg., p. 830, ch. 374, eff. Aug. 27, 1979. Amended by Acts 1981, 67th Leg., p. 770, ch. 291, § 12, eff. Sept. 1, 1981.]

Section 149 of the 1981 amendatory act provides:

"This Act takes effect on September 1, 1981. Appeals to the courts of appeals filed on or after that date shall be filed in the court of appeals having jurisdiction. At least 1,800 appeals including death penalty appeals pending in the Court of Criminal Appeals prior to September 1, 1981, shall be retained by that court for disposition in accordance with laws in effect prior to the effective date of this Act, and for that purpose, all laws repealed or amended by this Act shall remain in force and effect for those appeals pending in the Court of Criminal Appeals. The remaining appeals pending in the Court of Criminal Appeals shall be transferred to the various courts of appeals on which the number of judges is increased by the 67th Session of the legislature; provided, no more than 75 nondeath penalty appeals shall be transferred for each newly created judgeship and such a transfer shall not be made until such justice assumes office."

Art. 1200ii. San Antonio

Creation

Sec. 1. The governing body of the city of San Antonio may by ordinance establish the city's existing municipal courts as municipal courts of record in accordance with this Act. Additional municipal courts of record may be created and one or more judges for each court may be authorized by ordinance on a finding that an additional court or courts, or additional judges, are necessary to properly dispose of the cases arising in the city.

Jurisdiction; Writs

Sec. 2. (a) Municipal courts created under the provisions of this Act shall have jurisdiction within the territorial limits of the city in all criminal cases arising under the ordinances of the city and shall also have concurrent jurisdiction with any justice of the peace in any precinct in which the city is situated in criminal cases arising within such territorial limits under the criminal laws of this state in which punishment is only by fine not exceeding \$200. Municipal courts shall also have jurisdiction over cases arising outside the territorial limits of the city under the ordinances authorized by Subdivision 19, Article 1175, Revised Civil Statutes of Texas, 1925, as amended.

(b) The municipal court of record shall take judicial notice of all ordinances of the city.

(c) The judge of a municipal court may grant writs of mandamus, injunction, attachment, and all other necessary writs necessary to the enforcement of the jurisdiction of the court, and may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court.

(d) The general laws of the state regarding municipal courts and regarding justice courts on matters where there is no law for municipal courts, and the valid charter provisions and ordinances of the city of San Antonio relating to the municipal court apply to the municipal court authorized in this Act, unless the laws, charter provisions, and ordinances are in conflict or inconsistent with the provisions of this Act.

Judges

Sec. 3. (a) Each municipal court shall be presided over by one or more judges to be known as "municipal judges."

(b) Notwithstanding any provision of the charter or an ordinance of the city, each municipal judge shall be elected by the qualified voters of the city for a term of two years. The governing body of the city may appoint a person or persons, with the qualifications required for a judge, to serve as the judge or judges authorized for each newly created municipal court of record until the next regular city election.

(c) The judges or substitute judges of the municipal courts may at any time exchange benches and may at any time sit and act for or with each other in any case, matter, or proceeding pending in their courts. An act performed by any of the judges shall be valid and binding on all parties to the cases, matters, and proceedings.

(d) If there is more than one municipal judge in the city, the municipal judges shall determine which of them shall serve as presiding judge of the city. In the event the judges are unable to determine which of them shall serve as presiding judge, after notification of such impasse, the governing body of the city shall appoint one of the judges to be the

presiding municipal judge of the city. If the city has a municipal judge who is either its only municipal judge or its only municipal judge who is not serving in a temporary or part-time capacity, that judge shall be the presiding municipal judge for all purposes of this Act.

(e) The presiding judge shall:

(1) maintain a central docket for all cases filed in the geographical limits of the city over which the municipal courts of the city have jurisdiction;

(2) provide for the distribution of cases from the central docket to the individual municipal judges in order that the business of the courts will be continually equalized and distributed among them;

(3) request the jurors needed for cases that are set for trial by jury in the municipal courts of record, which, as provided by Section 11(b) of this Act, shall be transferred to and serve in the municipal court as if summoned for the municipal court to which they are transferred;

(4) temporarily assign various judges or substitute judges of the municipal courts to exchange benches and to sit and act for each other in any case, matter, or proceeding pending in their courts when necessary for the expeditious disposition of the business of the courts;

(5) cause all dockets, books, papers, and other records of the municipal courts to be permanently kept and permit these records to be available for inspection at all reasonable times by any interested parties;

(6) cause to be maintained as part of the records of the municipal courts an index of municipal court judgments such as county clerks are required by law to prepare for criminal cases arising in county courts; and

(7) where necessary for the proper functioning of the municipal courts, provide for the preservation by microfilm of the records of the courts, subject to the same requirements provided by law for the preservation by microfilm of records under the custody of county clerks.

(f) A judge of a municipal court created under the provisions of this Act shall be a licensed attorney in good standing with two or more years of experience in the practice of law in the state and a citizen of the United States and of this state. No person may serve in the office of municipal judge while he or she holds any other office or employment in the government of the city, and the holding of the other office or employment by a person serving in the office of municipal judge shall create an immediate vacancy in the judicial office.

Salary

Sec. 4. A municipal judge is entitled to compensation by the city on a salary basis. The amount of the salary shall be determined by the governing body of the city and may not be diminished during

the judge's term of office. The salary may not be based, directly or indirectly, on fines, fees, or costs that the municipal judge is required by law to collect during his or her term of office.

Vacancies; Temporary Replacements; Removal

Sec. 5. (a) When a vacancy in the office of municipal judge occurs, the governing body of the city shall appoint a person meeting the qualifications required by law for the position to fill the office of municipal judge for the unexpired term of the judge serving in that office prior to the vacancy. If a judge is temporarily unable to act for any reason, the governing body may appoint a person meeting the qualifications for the position to serve during the absence of the judge with all the powers and duties of the office and shall provide for the person's compensation.

(b) A municipal judge may be removed from office for cause to the same extent and under the same rules that judges of the county courts may be removed from office. A municipal judge is answerable to the governing body of the city only on budgetary matters.

Court Facilities

Sec. 6. The governing body of the city shall provide the courtrooms, jury rooms, offices and office furniture, libraries, legal books and materials, and other supplies and facilities that the governing body determines are necessary for the proper operation of the municipal courts.

Court Clerk

Sec. 7. The governing body of the city shall provide a clerk of the municipal courts, and the deputy clerks, warrant officers, and other municipal court personnel that are necessary for the proper operation of the municipal courts. It is the duty of the clerk to keep the records of proceedings of the municipal courts and to issue all processes and generally to perform the duties now prescribed by law for clerks of the county courts at law exercising criminal jurisdiction, insofar as the same may be applicable. The clerk of the municipal courts and all other personnel shall perform the duties of the office under the direction and control of the presiding municipal judge.

Court Reporter

Sec. 8. (a) For the purpose of preserving a record in cases tried before the municipal court, the city shall provide a court reporter with the qualifications provided by law for official court reporters, whose compensation shall be determined by the chief administrative officer of the city on the recommendation of the presiding municipal judge.

(b) The record of proceedings may be preserved by written notes, transcribing equipment, recording equipment, or any combination of these methods. The court reporter is not required to take or record

testimony in cases where neither the defendant, the prosecutor, nor the judge demands it.

Prosecutions by City Attorney

Sec. 9. All prosecutions in municipal courts shall be conducted by the city attorney of the city, or his or her assistant or deputy.

Complaint

Sec. 10. (a) Proceedings in municipal courts shall be commenced by complaint, which shall begin: "In the name and by the authority of the State of Texas"; and shall conclude: "Against the peace and dignity of the State"; and if the offense is only covered by an ordinance, it may also conclude: "Contrary to the said ordinance." The municipal judge shall charge the jury in accordance with Section 11(a) of this Act. Complaints before the court may be sworn to before any officer authorized to administer oaths or before the municipal judge, clerk of the court, city secretary, or city attorney or his or her assistant or deputy, each of whom, for that purpose, shall have power to administer oaths. The complaint shall be in writing and shall state:

(1) the name of the accused, if known, and if unknown, shall describe the accused as accurately as practicable;

(2) the offense with which the accused is charged in plain and intelligible words;

(3) the place where the offense is charged to have been committed, which must appear to be within the jurisdiction of the municipal court; and

(4) the date of the offense which, as stated, must show that the offense is not barred by limitations.

(b) All pleadings in the municipal courts shall be in writing and filed with the clerk of the courts.

Right to Jury

Sec. 11. (a) Every person brought before the municipal courts and charged with an offense is entitled to be tried by a jury of six persons, unless waived according to law. The jury shall decide all questions of fact or credibility of witnesses. The court shall determine all matters of law and shall charge the jury on the law.

(b) Each juror in the municipal courts shall be a resident of the city of San Antonio.

Appeals; Appellate Courts

Sec. 12. (a) In this Act, "appellate courts" means the county courts at law in Bexar County.

(b) A defendant has the right of appeal from a judgment or conviction in the municipal court under the rules prescribed in this Act. The appellate courts have jurisdiction over the appeals from the municipal courts, and all appeals from convictions in the municipal court shall be prosecuted in the appellate court by the city attorney or his or her assistants or deputies.

No de Novo Appeals

Sec. 13. Each appeal from a conviction in the municipal court shall be determined by the appellate court on the basis of errors pointed out in the defendant's motion for new trial and presented in the transcript and statement of facts prepared from the municipal court proceedings leading to the conviction. No appeal from the municipal court may be by trial de novo in the county court.

Motion for New Trial

Sec. 14. In order to perfect an appeal, a written motion for a new trial must be filed by the defendant no later than the 10th day after the rendition of the judgment of conviction, and may be amended by leave of court at any time before it is acted on within 20 days after the filing of the original or amended motion. For good cause shown, the time for filing or amending may be extended by the court, not to exceed 90 days. An original or amended motion shall be deemed overruled by operation of law at the expiration of the 20 days allowed for determination of the motion, if it is not acted on by the court within that time. The motion shall set forth the points of error complained of by the defendant.

Notice of Appeal

Sec. 15. In order to perfect an appeal, the defendant shall give timely notice of appeal. In the event the defendant requests a hearing on his or her motion for a new trial, the notice of appeal may be given orally in open court on the overruling of the motion for new trial. Otherwise, the notice of appeal shall be in writing and filed with the municipal court no later than the 10th day after the motion for new trial is overruled. For good cause shown, the time for giving notice of appeal may be extended by the court, not to exceed 90 days.

Appeal Bond

Sec. 16. If the defendant is not in custody, an appeal may not be taken until the required appeal bond has been filed with and approved by the municipal court. The appeal bond must be filed no later than the 10th day after the motion for new trial has been overruled. If the defendant is in custody, the defendant shall be committed to jail unless he or she posts the required appeal bond. The appeal bond shall be in an amount not less than double the amount of fine and costs adjudged against the defendant. However, the bond may not in any case be for a sum less than \$50. The bond shall recite that in the cause the defendant was convicted and has appealed and be conditioned that the defendant shall make his or her personal appearance before the court to which the appeal is taken instanter, if the court is in session, and there remain from day to day and answer in the cause.

Record on Appeal

Sec. 17. The record on appeal in a case appealed from the municipal court consists of the transcript and, where necessary to the appeal, a statement of facts, which shall be prepared by a court reporter of the court from the reporter's record of the proceedings, mechanical recordings of the proceedings, or from videotape recordings of the proceedings. The defendant shall pay for the transcription. The municipal court shall order the court reporter to make the transcriptions without charge to the defendant if the court finds, after hearing in the response to affidavit by the defendant, that he is too poor to pay or give security for the transcriptions. If the case is reversed on appeal, the cost shall be refunded to the defendant.

Contents of Transcripts

Sec. 18. (a) The municipal court clerk, on written request from the defendant or the defendant's attorney, shall prepare under the clerk's hand and seal of the court for transmission to the appellate court a true transcript of the proceedings in the municipal court and shall include the following:

- (1) the complaint;
- (2) material docket entries made by the court;
- (3) the jury charge and verdict, if the trial is by jury;
- (4) the judgment;
- (5) the motion for a new trial;
- (6) the notice of appeal;
- (7) all written motions and pleas and orders of the court;
- (8) bills of exception, if any are filed; and
- (9) the appeal bond.

(b) The municipal court clerk may include in the transcript additional portions of the proceedings in the municipal court prepared by mechanical recordings or videotape recordings of the proceedings.

Bills of Exception

Sec. 19. Either party may include bills of exception in the transcript on appeal, subject to complying with the applicable provisions of the Code of Criminal Procedure governing the preparation of bills of exception and their inclusion in the record on appeal to the court of appeals, except that the bills of exception shall be filed with the municipal court clerk within 60 days after the giving or filing of the notice of appeal.

Statement of Facts

Sec. 20. A statement of facts, when included in the record on appeal, shall consist of:

- (1) a transcription of all or any part of the municipal court proceedings in the case, as provided in this Act, that are shown by the notes of the court reporter to have occurred before, during, or after

the trial, if such a transcription is requested of the court reporter by the defendant;

(2) a brief statement of the facts of the case proven at the trial, as agreed to by the defendant and the prosecuting attorney;

(3) a partial transcription and the agreed statement of the facts of the case proven at the trial; or

(4) a transcription of all or any part of the municipal court proceedings in the case that are prepared from the mechanical recordings or videotape recordings of the proceedings.

Fee for Preparation of Transcript

Sec. 21. The defendant shall pay a fee of \$50 to the clerk of the municipal court for the preparation of the transcript at the time of the request for the transcript, subject to the provisions of Section 17 of this Act. If the case is reversed on appeal, the \$50 fee shall be refunded to the defendant.

Completion, Approval, and Transfer of Record

Sec. 22. (a) Within 60 days of the giving or filing of the notice of appeal, the parties shall file with the municipal court clerk:

(1) the statement of facts;

(2) a written designation of all matter that is to be included in the transcript in addition to matter required to be in the transcript by Section 18 of this Act; and

(3) any matter designated to be included in the transcript that is not then in the custody of the municipal court clerk.

(b) On completing the record as designated by the parties in Subdivision (2), Subsection (a) of this section, the municipal court judge shall approve the record in the manner provided by law for record completion notification and approval in appeals to the court of criminal appeals.

(c) On the municipal court judge's approval of the record, the municipal court clerk shall promptly forward the record to be filed with the appellate court clerk, who shall notify the defendant and the prosecuting attorney that the record has been filed.

New Trials

Sec. 23. It is the duty of the trial court to decide from the briefs of the parties whether the defendant should be permitted to withdraw his or her notice of appeal and be granted a new trial by the court. The court may grant a new trial at any time prior to the record being filed with the appellate court clerk.

Brief on Appeal

Sec. 24. (a) A brief on appeal from the municipal court shall present points of error in the same manner required by law for a brief on appeal to the court of appeals.

(b) The defendant shall file his or her brief with the clerk of the appellate court within 15 days from the date of the filing of the transcript and statement of facts with the appellate court clerk, who shall notify the prosecuting attorney of the filing. The prosecuting attorney shall file his or her brief with the clerk of the appellate court within 15 days after the defendant files the defendant's brief with the clerk. Each party, on filing his or her brief with the clerk of the appellate court, shall cause a true copy of the brief to be delivered to the opposing party and to the municipal court judge.

Court Rules

Sec. 25. (a) Except as modified by this Act, the trial of cases before municipal courts shall be governed by the Code of Criminal Procedure, 1965.

(b) The municipal courts may make and enforce all necessary rules of practice and procedure, not inconsistent with the law, so as to expedite the trial of cases in the courts.

(c) The county courts at law of Bexar County may make and enforce all necessary rules of practice and procedure for appeals from municipal courts, not inconsistent with the law, so as to expedite the dispatch of appeals from the municipal courts.

Disposition on Appeal

Sec. 26. (a) The appellate court may affirm the judgment of the municipal court, or may reverse or remand for a new trial, or may reverse and dismiss the case, or may reform or correct the judgment, as the law and the nature of the case may require.

(b) The appellate court shall presume that the venue was proven in the court below, that the jury was properly impaneled and sworn, that the defendant was arraigned and pleaded to the complaint, and that the court's charge was certified by the municipal court judge before it was read to the jury, unless such matters were made an issue in the trial court or it affirmatively appears to the contrary from the transcript or statement of facts.

(c) In each case decided by the appellate court, the court shall deliver a written opinion or order either sustaining or overruling each assignment of error presented. If an assignment of error is overruled, no reason need be given by the appellate court, but cases relied on by the court may be cited. If an assignment of error is sustained, the appellate court shall set forth the reasons for the decision. Copies of the decision of the appellate court shall be mailed by the clerk of the appellate court to the parties and the judge of the municipal court as soon as the decision is rendered by the appellate court.

Certificate of Appellate Proceedings

Sec. 27. When the judgment of the appellate court becomes final, the clerk of the appellate court shall make out a proper certificate of the proceedings had and the judgment rendered and shall mail

the certificates to the clerk of the municipal court. When the certificate is received by the clerk of the municipal court, the clerk shall file it with the papers in the case and note it on the docket. If the judgment has been affirmed, no proceeding need be had after filing the certificate in the municipal court to enforce the judgment of the court, except to forfeit the bond of the defendant, to issue a *caus* for the defendant, or issue an execution against the defendant's property.

Order of New Trial by Appellate Court

Sec. 28. If the appellate court awards a new trial to the defendant, the cause shall stand as if a new trial had been granted by the municipal court.

Appeal to the Court of Appeals

Sec. 29. When a judgment is affirmed by the appellate court, the defendant has the right to appeal to the court of appeals if the fine assessed against the defendant in the municipal court exceeded \$100. The appeal to the court of appeals shall be governed by provisions in the Code of Criminal Procedure relating to direct appeals from county and district courts to the court of appeals except that:

- (1) the record and briefs on appeal in the appellate court shall constitute the record and briefs on appeal to the court of appeals unless the rules of the court of criminal appeals provide otherwise; and
- (2) the record and briefs shall be filed directly with the court of appeals.

Seal

Sec. 30. The governing body of the city shall provide each municipal court with a seal with a star of five points in the center and the words "Municipal Court of San Antonio, Texas." The impress of the seal shall be attached to all papers, except subpoenas, issued out of the court and shall be used by each municipal judge or the clerk to authenticate all official acts of the clerk and the municipal judge.

Sec. 31. [Amends § 2 of Code of Criminal Procedure, art. 42.13]

Severability

Sec. 32. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act in all its particulars and as to all other persons and circumstances shall be valid and of full force and effect, and the legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision, and to this end the provisions of this Act are declared to be severable.

[Acts 1979, 66th Leg., p. 944, ch. 428, §§ 1 to 30, 32, eff. Aug. 27, 1979. Amended by Acts 1981, 67th Leg., p. 771, ch. 291, § 13, eff. Sept. 1, 1981.]

Section 149 of the 1981 amendatory act provides:

"This Act takes effect on September 1, 1981. Appeals to the courts of appeals filed on or after that date shall be filed in the court of appeals having jurisdiction. At least 1,800 appeals including death penalty appeals pending in the Court of Criminal Appeals prior to September 1, 1981, shall be retained by that court for disposition in accordance with laws in effect prior to the effective date of this Act, and for that purpose, all laws repealed or amended by this Act shall remain in force and effect for those appeals pending in the Court of Criminal Appeals. The remaining appeals pending in the Court of Criminal Appeals shall be transferred to the various courts of appeals on which the number of judges is increased by the 67th Session of the legislature; provided, no more than 75 nondeath penalty appeals shall be transferred for each newly created judgeship and such a transfer shall not be made until such justice assumes office."

Art. 1200jj. Dallas

Creation of Municipal Courts of Record

Sec. 1. (a) In addition to its existing municipal court, the governing body of the City of Dallas may create municipal courts of record by adoption of an ordinance consistent with this Act.

(b) The ordinance must specify the number of courts of record created, and it may be amended to increase or decrease the number of courts when determined necessary by the governing body.

Jurisdiction

Sec. 2. A municipal court of record created under this Act has exclusive original jurisdiction in all criminal cases, other than traffic offenses, arising under the ordinances of the city and has the jurisdiction granted to municipal courts by state law.

Judges

Sec. 3. (a) A municipal court of record shall be presided over by a judge to be known as a municipal judge.

(b) The city shall provide by charter or ordinance for the appointment or election of a municipal judge of a court of record. The selection must be for a definite term in office of not less than two nor more than four years.

(c) The governing body of the city shall appoint one of the municipal judges to be the administrative municipal judge of the municipal courts of record.

(d) The administrative judge shall:

(1) provide for the distribution of cases from the central docket among the individual municipal judges to equalize the distribution of business in the courts; and

(2) temporarily assign judges of the municipal courts of record to exchange benches and to sit and act for each other in a proceeding pending in a court if necessary for the expeditious disposition of business in the courts.

(e) A judge of a municipal court of record must be a licensed attorney in good standing in this state. A person may not serve as a municipal judge while the person holds any other office or employment with the city government.

Salary

Sec. 4. A municipal judge of a court of record is entitled to compensation by the city on a salary basis. The amount of the salary shall be determined by the governing body of the city and may not be diminished during the judge's term of office. The salary may not be based directly or indirectly on fines, fees, or costs that the municipal judge is required by law to collect during his term of office. The governing body shall determine the salary of the municipal judge prior to his appointment if he is appointed or at least two weeks prior to the deadline for filing for election if he is elected.

Vacancies; Temporary Replacements

Sec. 5. (a) If a vacancy occurs in the office of municipal judge of a court of record, the governing body of the city shall appoint a qualified person to fill the office of municipal judge for the remainder of the unexpired term.

(b) If a municipal judge is temporarily unable to act for any reason, the governing body of the city may appoint a qualified person to sit for the regular municipal judge. The appointee has all the powers and duties of the office and while serving is entitled to the same compensation as the regular municipal judge. A temporary judge serves at the pleasure of the governing body until the regular judge returns.

Court Facilities

Sec. 6. The governing body of the city shall provide courtrooms, juryrooms, offices, office furniture, libraries, legal books and materials, and other supplies and facilities that the governing body determines are necessary for the proper operation of the municipal courts of record.

Clerk; Other Personnel

Sec. 7. (a) The governing body shall provide for the appointment of a clerk of the municipal courts of record, who shall be known as the municipal clerk. The municipal clerk shall perform, insofar as applicable, the duties prescribed by law for the county clerk of a county court at law. In addition, the municipal clerk shall:

- (1) maintain central docket records for all cases filed in the municipal courts of record;
- (2) cause all public records of the municipal courts and the municipal courts of record to be permanently kept and permit those records to be available for inspection at all reasonable times by any interested party;
- (3) maintain an index of all municipal court judgments in the same manner as county clerks are required by law to prepare for criminal cases arising in county courts; and
- (4) if necessary for the proper functioning of the municipal courts of record, provide for the preservation of records by microfilming.

(b) The governing body of the city shall provide the municipal courts of record with other municipal court personnel that the governing body determines is necessary for the proper operation of the courts. Those persons shall perform their duties under the direction and control of the clerk of the municipal court or the municipal judge to whom assigned. The governing body shall determine the salaries of the court personnel.

Recording of Proceedings; Court Reporter

Sec. 8. (a) All proceedings in a municipal court of record shall be recorded by a good quality electronic recording device and the recording kept and stored for not less than 20 days. The proceedings that are appealed shall be transcribed from the recording by a court reporter.

(b) A municipal judge may appoint a court reporter for a particular case to transcribe the trial proceedings, including testimony, voir dire examination, objections, and final arguments. Each reporter must be a sworn officer of the court and must be well-skilled in the profession. The reporter shall be compensated by the city in the manner determined by the governing body of the city.

Appellate Courts

Sec. 9. (a) A defendant has the right of appeal from a judgment of conviction in a municipal court of record under the procedures prescribed by this Act.

(b) The county court and a county court at law of Dallas County have jurisdiction of appeals from a municipal court.

(c) Appeals from convictions of the municipal courts that are not of record are de novo. This Act does not affect the procedure for an appeal from a municipal court that is not of record.

Appeals on Record

Sec. 10. An appeal from a municipal court of record conviction is determined by the appellate court solely on the basis of errors presented in the transcript and statement of facts prepared from the municipal court of record proceedings.

Perfecting Appeal

Sec. 11. (a) To perfect an appeal, the defendant must give timely notice of the appeal. The notice of appeal may be given orally in open court, or it may be given in writing and filed with the municipal court of record. The notice is sufficient if it shows the desire of the defendant to appeal from the municipal court of record conviction.

(b) Notice of appeal must be given or filed:

- (1) not later than the 10th day after the day on which a motion for new trial is overruled, if a motion is made; or

(2) not later than the 10th day after the day on which judgment is rendered, whether or not the punishment is suspended by an order of probation.

(c) A motion for a new trial must be made not later than the fifth day after the day on which judgment is rendered. If no ruling is made, the motion is overruled by operation of law at the expiration of the 10th day after its filing date.

Record on Appeal

Sec. 12. The record on appeal consists of a transcript and, if necessary to the appeal, a statement of facts.

Contents of Transcript

Sec. 13. (a) On written instructions from the defendant or the defendant's attorney, the municipal clerk shall prepare under his hand and seal a transcript of the municipal court of record proceedings for transmission to the appellate court. The transcript must include copies of:

- (1) the complaint;
- (2) material docket entries made by the court;
- (3) the jury charge and verdict, if the trial is by jury;
- (4) the judgment;
- (5) the notice of appeal;
- (6) all written motions, pleas, and orders of the court;
- (7) bills of exception; and
- (8) certified copies of all ordinances of which the municipal judge took notice.

(b) The municipal clerk may include in the transcript additional portions of the proceedings in the municipal court of record if so instructed in writing by either party.

Bills of Exception

Sec. 14. Either party may include bills of exception in the transcript on appeal subject to the applicable provisions of the Code of Criminal Procedure, 1965. The bills of exception must be filed with the clerk not later than the 60th day after the day on which the notice of appeal is given or filed.

Statement of Facts

Sec. 15. (a) A statement of facts included in the record on appeal must contain:

(1) a transcription of all or any part of the municipal court of record proceedings in the case as recorded on the electronic recording device or that are shown by the notes of the court reporter recorded or taken before, during, or after the trial, if the transcription is requested by a party, his attorney, or the municipal judge;

(2) a brief statement of the facts of the case proven at the trial as agreed to by the defendant or his attorney and the prosecuting attorney; or

(3) a partial transcription and the agreed statement of the facts of the case.

(b) The court reporter shall transcribe in duplicate any portion of the recorded proceedings or the notes of the court proceedings in the case at the request of either party or the municipal judge. The defendant shall pay for the transcriptions unless the municipal court of record finds, after hearing in response to affidavit by the defendant, that the defendant is unable to pay or give security for the transcriptions. On certification by the municipal court of record that the court reporter has rendered the service without charge to the defendant, the court reporter shall be paid for the services by the city.

Filing of the Record

Sec. 16. (a) Not later than the 60th day after the date the notice of appeal is given or filed, the parties must file with the clerk of the municipal court of record:

- (1) the statement of facts;
- (2) a written designation of material to be included in the transcript in addition to the material required under Subsection (a) of Section 13 of this Act; and
- (3) any matter to be included in the transcript that is not in the custody of the municipal clerk.

(b) The municipal judge may extend the time for filing for good cause.

(c) At the time of requesting the clerk of the municipal court of record to prepare a record on appeal from the transcript and statement of facts, the defendant must pay to the clerk a record preparation fee of \$10. If the case is reversed upon appeal, the clerk shall refund the \$10 fee to the defendant.

(d) On completion of the record, the municipal clerk shall notify the parties and the municipal court of record judge shall approve the record in the manner provided by the Code of Criminal Procedure, 1965, for record completion notification and approval in the court of appeals.

(e) Following court approval, the municipal clerk shall promptly forward the record to the appellate court clerk for filing.

Brief on Appeal

Sec. 17. (a) A brief on appeal from a municipal court of record must present points of error in the manner required by the Code of Criminal Procedure, 1965, for a brief on appeal to the court of criminal appeals.

(b) The defendant must file the brief with the appellate court clerk not later than the 15th day

after the day on which the transcript and statement of facts are filed with the appellate court clerk.

(c) The prosecuting attorney must file the brief with the appellate court clerk not later than the 15th day after the day on which the defendant files his brief with the clerk.

(d) On filing, each party shall deliver a copy of the brief to the opposing party or the opposing party's attorney.

(e) The appellate court may in its discretion extend the times for filing briefs.

Procedure on Appeal

Sec. 18. (a) The appellate court shall hear and determine an appeal from a municipal court of record at the earliest possible time with due regard to the rights of parties and the proper administration of justice. The court may not affirm or reverse a case based on mere technicalities or on technical errors in the presentation and filing of the record on appeal. The court may determine the rules for oral argument. The parties may submit the case on the records and briefs without oral arguments.

(b) The appellate court shall review all grounds of error and arguments urged in the defendant's brief on appeal and may review any unassigned error in the interest of justice.

Disposition on Appeal

Sec. 19. (a) According to the law and the nature of the case, the appellate court may:

- (1) affirm the judgment of the municipal court of record;
- (2) reverse and remand for a new trial;
- (3) reverse and dismiss the case; or
- (4) reform and correct the judgment.

(b) Unless the matter was made an issue in the trial court or it affirmatively appears to the contrary from the transcript or the statement of facts, the appellate court shall presume that:

- (1) venue was proven in the trial court;
- (2) the jury, if any, was properly impaneled and sworn;
- (3) the defendant was arraigned and pleaded to the complaint;
- (4) the municipal judge certified the charge before it was read to the jury; and
- (5) the municipal clerk filed the charge before it was read to the jury.

(c) In each case decided by the appellate court, the court shall deliver a written opinion either sustaining or overruling each assignment of error presented. If an assignment of error is overruled, no reason need be given by the appellate court, but cases relied upon by the court may be cited. If an assignment of error is sustained, the appellate court shall set forth the reasons for the decision. The

clerk of the appellate court shall mail copies of the decision of the appellate court to the parties and to the municipal judge as soon as the decision is rendered.

Certificate of Appellate Proceedings

Sec. 20. When the judgment of the appellate court becomes final, the clerk of that court shall certify the proceedings and the judgment and shall mail the certificate to the clerk of the municipal court of record. The municipal clerk shall file the certificate with the records in the case and note the certificate on the docket. If the judgment is affirmed, further action to enforce the judgment is not necessary except to:

- (1) forfeit the bond of the defendant; or
- (2) issue a writ of *capias* for the defendant.

New Trial

Sec. 21. If the appellate court awards a new trial to the defendant, the case stands as if a new trial had been granted by the municipal court of record.

Appeals to Court of Appeals

Sec. 22. Appeals to the court of appeals from the decision of the appellate court if permitted by law are governed by the provisions of the Code of Criminal Procedure, 1965, relating to direct appeals from a county or a district court to the court of appeals except that:

- (1) the record and briefs on appeal in the appellate court constitute the record and briefs on appeal to the court of appeals unless the rules of the court of criminal appeals provide otherwise; and
- (2) the record and briefs shall be filed directly with the court of appeals.

Seal

Sec. 23. The governing body of the city shall provide each municipal court of record with a seal to be used to authenticate the official acts of the clerk and the municipal judge. The impress of the seal must be attached to all papers issued by the court except subpoenas. The seal must include a five-pointed star and must be engraved with the words "Municipal Court of Record of Dallas, Texas."

[Acts 1983, 68th Leg., p. 2862, ch. 486, §§ 1 to 23, eff. Aug. 29, 1983.]

Art. 1200kk. Odessa

Creation of Municipal Courts of Record

Sec. 1. (a) In addition to its existing municipal court, the governing body of the City of Odessa may create municipal courts of record by adoption of an ordinance consistent with this Act.

(b) The ordinance must specify the number of courts of record created, and it may be amended to

increase or decrease the number of courts when determined necessary by the governing body.

(c) The governing body may not adopt an ordinance creating municipal courts of record until a majority of the voters of the city voting on the question at an election called by the governing body approve the creation of the courts. The governing body shall order the ballot to be printed to provide for voting for or against the proposition: "Authorizing the City of Odessa to adopt an ordinance creating municipal courts of record." Each qualified voter of the city is entitled to vote in the election. An election under this subsection may be held only once.

Jurisdiction

Sec. 2. A municipal court of record created under this Act has exclusive original jurisdiction in all criminal cases other than traffic offenses arising under the ordinances of the city and has the jurisdiction granted to municipal courts by state law.

Judges

Sec. 3. (a) A municipal court of record shall be presided over by a judge to be known as a municipal judge.

(b) The city shall provide by charter or ordinance for the election of a municipal judge of a court of record. The election must be for a definite term in office of not less than two nor more than four years.

(c) The governing body of the city shall appoint one of the municipal judges to be the administrative municipal judge of the municipal courts of record.

(d) The administrative judge shall:

(1) provide for the distribution of cases from the central docket among the individual municipal judges to equalize the distribution of business in the courts; and

(2) temporarily assign judges of the municipal courts of record to exchange benches and to sit and act for each other in a proceeding pending in a court if necessary for the expeditious disposition of business in the courts.

(e) A judge of a municipal court of record must be a licensed attorney in good standing in this state. A person may not serve as a municipal judge while the person holds any other office or employment with the city government.

Salary

Sec. 4. A municipal judge of a court of record is entitled to compensation by the city on a salary basis. The amount of the salary shall be determined by the governing body of the city and may not be diminished during the judge's term of office. The salary may not be based directly or indirectly on fines, fees, or costs that the municipal judge is required by law to collect during his term of office. The governing body shall determine the salary of

the municipal judge at least two weeks prior to the deadline for filing for election.

Vacancies; Temporary Replacements

Sec. 5. (a) If a vacancy occurs in the office of municipal judge of a court of record, the governing body of the city shall appoint a qualified person to fill the office of municipal judge for the remainder of the unexpired term.

(b) If a municipal judge is temporarily unable to act for any reason, the governing body of the city may appoint a qualified person to sit for the regular municipal judge. The appointee has all the powers and duties of the office and while serving is entitled to the same compensation as the regular municipal judge. A temporary judge serves at the pleasure of the governing body until the regular judge returns.

Court Facilities

Sec. 6. The governing body of the city shall provide courtrooms, jury rooms, offices, office furniture, libraries, legal books and materials, and other supplies and facilities that the governing body determines are necessary for the proper operation of the municipal courts of record.

Clerk; Other Personnel

Sec. 7. (a) The governing body shall provide for the appointment of a clerk of the municipal courts of record, who shall be known as the municipal clerk. The municipal clerk shall perform, insofar as applicable, the duties prescribed by law for the county clerk of a county court at law. In addition, the municipal clerk shall:

(1) maintain central docket records for all cases filed in the municipal courts of record;

(2) cause all public records of the municipal courts and the municipal courts of record to be permanently kept and permit those records to be available for inspection at all reasonable times by any interested party;

(3) maintain an index of all municipal court judgments in the same manner as county clerks are required by law to prepare for criminal cases arising in county courts; and

(4) if necessary for the proper functioning of the municipal courts of record, provide for the preservation of records by microfilming.

(b) The governing body of the city shall provide the municipal courts of record with other municipal court personnel that the governing body determines is necessary for the proper operation of the courts. Those persons shall perform their duties under the direction and control of the clerk of the municipal court or the municipal judge to whom assigned. The governing body shall determine the salaries of the court personnel.

Recording of Proceedings; Court Reporter

Sec. 8. (a) All proceedings in a municipal court of record shall be recorded by a good quality electronic recording device and the recording kept and stored for not less than 20 days. The proceedings that are appealed shall be transcribed from the recording by a court reporter.

(b) A municipal judge may appoint an official court reporter to transcribe the trial proceedings, including testimony, voir dire examination, objections, and final arguments. Each reporter must be a sworn officer of the court and must be well skilled in the profession. The reporter shall be compensated by the city in the manner determined by the governing body of the city.

Appellate Courts

Sec. 9. (a) A defendant has the right of appeal from a judgment of conviction in a municipal court of record under the procedures prescribed by this Act.

(b) The county court and a county court at law of Ector County have jurisdiction of appeals from a municipal court. The county court's jurisdiction under this subsection is limited to the jurisdiction it has of appeals from a justice court.

(c) Appeals from convictions of the municipal courts that are not of record are de novo. This Act does not affect the procedure for an appeal from a municipal court that is not of record.

Appeals on Record

Sec. 10. An appeal from a municipal court of record conviction is determined by the appellate court solely on the basis of errors presented in the transcript and statement of facts prepared from the municipal court of record proceedings.

Perfecting Appeal

Sec. 11. (a) To perfect an appeal, the defendant must give timely notice of the appeal. The notice of appeal may be given orally in open court, or it may be given in writing and filed with the municipal court of record. The notice is sufficient if it shows the desire of the defendant to appeal from the municipal court of record conviction.

(b) Notice of appeal must be given or filed:

(1) not later than the 10th day after the day on which a motion for new trial is overruled, if a motion is made; or

(2) not later than the 10th day after the day on which judgment is rendered, whether or not the punishment is suspended by an order of probation.

(c) A motion for a new trial must be made not later than the fifth day after the day on which judgment is rendered. If no ruling is made, the motion is overruled by operation of law at the expiration of the 10th day after its filing date.

Record on Appeal

Sec. 12. The record on appeal consists of a transcript and, if necessary to the appeal, a statement of facts.

Contents of Transcript

Sec. 13. (a) On written instructions from the defendant or the defendant's attorney, the municipal clerk shall prepare under his hand and seal a transcript of the municipal court of record proceedings for transmission to the appellate court. The transcript must include copies of:

- (1) the complaint;
- (2) material docket entries made by the court;
- (3) the jury charge and verdict, if the trial is by jury;
- (4) the judgment;
- (5) the notice of appeal;
- (6) all written motions and pleas and orders of the court; and
- (7) bills of exception.

(b) The municipal clerk may include in the transcript additional portions of the proceedings in the municipal court of record if so instructed in writing by either party.

Bills of Exception

Sec. 14. Either party may include bills of exception in the transcript on appeal subject to the applicable provisions of the Code of Criminal Procedure, 1965. The bills of exception must be filed with the clerk not later than the 60th day after the day on which the notice of appeal is given or filed.

Statement of Facts

Sec. 15. (a) A statement of facts included in the record on appeal must contain:

(1) a transcription of all or any part of the municipal court of record proceedings in the case as recorded on the electronic recording device or shown by the notes of the court reporter recorded or taken before, during, or after the trial, if the transcription is requested by a party, his attorney, or the municipal judge;

(2) a brief statement of the facts of the case proven at the trial as agreed to by the defendant or his attorney and the prosecuting attorney; or

(3) a partial transcription and the agreed statement of the facts of the case.

(b) The court reporter shall transcribe in duplicate any portion of the recorded proceedings or the notes of the court proceedings in the case at the request of either party or the municipal judge. The defendant shall pay for the transcriptions unless the municipal court of record finds, after hearing in response to affidavit by the defendant, that the defendant is unable to pay or give security for the

transcriptions. On certification by the municipal court of record that the court reporter has rendered the service without charge to the defendant, the court reporter shall be paid for the services by the city.

Filing of the Record

Sec. 16. (a) Not later than the 60th day after the date the notice of appeal is given or filed, the parties must file with the clerk of the municipal court of record:

- (1) the statement of facts;
 - (2) a written designation of material to be included in the transcript in addition to the material required under Subsection (a) of Section 13 of this Act; and
 - (3) any matter to be included in the transcript that is not in the custody of the municipal clerk.
- (b) The municipal judge may extend the time for filing for good cause.
- (c) On completion of the record, the municipal clerk shall notify the parties and the municipal court of record judge shall approve the record in the manner provided by the Code of Criminal Procedure, 1965, for record completion notification and approval in the court of appeals.

(d) Following court approval, the municipal clerk shall promptly forward the record to the appellate court clerk for filing.

Brief on Appeal

Sec. 17. (a) A brief on appeal from a municipal court of record must present points of error in the manner required by the Code of Criminal Procedure, 1965, for a brief on appeal to the court of criminal appeals.

(b) The defendant must file the brief with the appellate court clerk not later than the 15th day after the day on which the transcript and statement of facts are filed with the appellate court clerk.

(c) The prosecuting attorney must file the brief with the appellate court clerk not later than the 15th day after the day on which the defendant files his brief with the clerk.

(d) On filing, each party shall deliver a copy of the brief to the opposing party or the opposing party's attorney.

(e) The appellate court may in its discretion extend the times for filing briefs.

Procedure on Appeal

Sec. 18. (a) The appellate court shall hear and determine an appeal from a municipal court of record at the earliest possible time with due regard to the rights of parties and the proper administration of justice. The court may not affirm or reverse a case based on mere technicalities or on technical errors in the presentation and filing of the record on

appeal. The court may determine the rules for oral argument. The parties may submit the case on the records and briefs without oral arguments.

(b) The appellate court shall review all grounds of error and arguments urged in the defendant's brief on appeal and may review any unassigned error in the interest of justice.

Disposition on Appeal

Sec. 19. (a) According to the law and the nature of the case, the appellate court may:

- (1) affirm the judgment of the municipal court of record;
- (2) reverse and remand for a new trial;
- (3) reverse and dismiss the case; or
- (4) reform and correct the judgment.

(b) Unless the matter was made an issue in the trial court or it affirmatively appears to the contrary from the transcript or the statement of facts, the appellate court shall presume that:

- (1) venue was proven in the trial court;
- (2) the jury, if any, was properly impaneled and sworn;
- (3) the defendant was arraigned and pleaded to the complaint;
- (4) the municipal judge certified the charge before it was read to the jury; and
- (5) the municipal clerk filed the charge before it was read to the jury.

(c) In each case decided by the appellate court, the court shall deliver a written opinion either sustaining or overruling each assignment of error presented. If an assignment of error is overruled, no reason need be given by the appellate court, but cases relied upon by the court may be cited. If an assignment of error is sustained, the appellate court shall set forth the reasons for the decision. The clerk of the appellate court shall mail copies of the decision of the appellate court to the parties and to the municipal judge as soon as the decision is rendered.

Certificate of Appellate Proceedings

Sec. 20. When the judgment of the appellate court becomes final, the clerk of that court shall certify the proceedings and the judgment and shall mail the certificate to the clerk of the municipal court of record. The municipal clerk shall file the certificate with the records in the case and note the certificate on the docket. If the judgment is affirmed, further action to enforce the judgment is not necessary except to:

- (1) forfeit the bond of the defendant; or
- (2) issue a writ of *habeas corpus* for the defendant.

New Trial

Sec. 21. If the appellate court awards a new trial to the defendant, the case stands as if a new trial had been granted by the municipal court of record.

Appeals to Court of Appeals

Sec. 22. Appeals to the court of appeals from the decision of the appellate court, if permitted by law, are governed by the provisions of the Code of Criminal Procedure, 1965, relating to direct appeals from a county or a district court to the court of appeals except that:

- (1) the record and briefs on appeal in the appellate court constitute the record and briefs on appeal to the court of appeals unless the rules of the court of criminal appeals provide otherwise; and
- (2) the record and briefs shall be filed directly with the court of appeals.

Seal

Sec. 23. The governing body of the city shall provide each municipal court of record with a seal to be used to authenticate the official acts of the clerk and the municipal judge. The impress of the seal must be attached to all papers issued by the court except subpoenas. The seal must include a five-pointed star and must be engraved with the words "Municipal Court of Record of Odessa, Texas."

[Acts 1983, 68th Leg., p. 4227, ch. 673, eff. Aug. 29, 1983.]

Art. 1200ll. Marshall**Creation; Formation by Ordinance**

Sec. 1. (a) There is created in the city of Marshall a court of record to be known as the "City of Marshall Municipal Court," to be held in that city if the governing body of the city of Marshall, by ordinance, finds and determines that the formation of a municipal court of record is necessary in order to provide a more efficient disposition of appeals arising from the municipal court.

(b) The authority of the governing body of the city of Marshall to create a municipal court of record in the city of Marshall includes the authority to establish, in the manner set forth in this section, more than one municipal court of record if the governing body determines that it is necessary in order to dispose of the cases arising in the city. If more than one municipal court of record is created, the judges of the municipal courts may at any time exchange benches and sit and act for and with each other in a case, matter, or proceeding pending in a municipal court, and any and all acts performed by a judge are valid and binding on all parties to the case, matter, and proceeding.

(c) The municipal court of record authorized in this section is referred to in this Act as the "municipal court."

Application of Other Laws Regarding Municipal Courts

Sec. 2. The general laws of the state regarding municipal courts and regarding justice courts on matters for which there is no law for municipal courts, and the valid charter provisions and ordinances of the city of Marshall relating to the municipal court apply to the municipal court authorized in this Act, unless the laws, charter provisions, and ordinances are in conflict or inconsistent with the provisions of this Act.

Judge; Qualifications

Sec. 3. (a) The municipal court shall be presided over by a judge, who shall be a licensed attorney in good standing in this state and a citizen of the United States and of this state. The judge need not be a resident of the city. The judge shall devote as much of his time to the duties of the office as the office requires. The judge shall be appointed by the governing body of the city and shall be paid a salary to be determined by that governing body. The salary may not be based on or be in any way contingent on the fines, fees, or costs collected by the municipal court.

(b) If more than one municipal court is created by the governing body of the city, a judge shall be appointed for each court and the governing body shall designate a judge to be the presiding judge.

Court Clerk

Sec. 4. The governing body of the city shall provide a clerk of the municipal courts and the deputy clerks, warrant officers, and other municipal court personnel that are necessary for the proper operation of the municipal courts. It is the duty of the clerk to keep records of proceedings of the municipal courts and to issue all processes and generally to perform the duties now prescribed by law for clerks of the county courts at law exercising criminal jurisdiction, insofar as the same may be applicable. The clerk of the municipal courts and all other personnel shall perform the duties of the office under the direction and control of the municipal court judge.

Court Reporter

Sec. 5. (a) For the purpose of preserving a record in the cases tried before the municipal court, the city shall provide a court reporter, who shall be appointed by the municipal court judge and whose compensation shall be determined by the governing body of the city. The qualifications of the court reporter shall be as provided by law for official court reporters.

(b) The record of proceedings may be preserved by the court reporter by written notes, transcribing equipment, recording equipment, or any combination of them. The court reporter is not required to take testimony in cases where neither the defendant, the prosecutor, nor the judge demands it.

Jury Selection

Sec. 6. The names of the prospective jurors for trials in the Marshall Municipal Court of Record shall be drawn from a jury wheel maintained by the District Court of Harrison County, Texas, or from a jury wheel maintained by the clerk of the Marshall Municipal Court of Record, with names of Marshall voter registration rolls of Harrison County, Texas.

Ordinances; Judicial Notice

Sec. 7. The municipal court shall take judicial notice of the ordinances of the city.

Appeal; Appellate Courts

Sec. 8. A defendant has the right of appeal from a judgment of conviction in the municipal court under the rules prescribed in this Act. The County Court of Harrison County has jurisdiction over the appeals from the municipal court.

Appeals on the Record; No De Novo Appeals

Sec. 9. Each appeal from a conviction in the municipal court shall be determined by the appellate court solely on the basis of errors pointed out in the defendant's motion for new trial and presented in the transcript and statement of facts prepared from the municipal court proceedings leading to the conviction. No appeal from the municipal court may be by trial de novo.

Motion for New Trial

Sec. 10. In order to perfect an appeal, a written motion for new trial must be filed by the defendant not later than the 10th day after the rendition of the judgment of conviction, and may be amended by leave of court at any time before it is acted on not later than the 20th day after it is filed. The motion for new trial shall be presented to the court not later than the 10th day after the filing of the original or amended motion, and shall be determined by the court not later than the 20th day after the filing of the original or amended motion. For good cause shown, the time for filing or amending may be extended by the court. An original or amended motion shall be deemed overruled by operation of law at the expiration of the 20 days allowed for determination of the motion if it is not acted on by the court within that time. The motion shall set forth the points of error complained of by the defendant. For purposes of appeal, a point of error not distinctly set forth in the motion for new trial shall be considered as waived.

Notice of Appeal

Sec. 11. In order to perfect an appeal, the defendant shall give timely notice of appeal. In the event the defendant requests a hearing on the motion for new trial, the notice of appeal may be given orally in open court on the overruling of the motion for new trial. Otherwise, the notice of appeal shall be in writing and filed with the municipal court not

later than the 10th day after the motion for new trial is overruled.

Appeal Bond

Sec. 12. If the defendant is not in custody, an appeal may not be taken until the required appeal bond has been filed with and approved by the municipal court. The appeal bond must be filed not later than the 10th day after the motion for new trial is overruled. If the defendant is in custody, the defendant shall be committed to jail unless he posts the required appeal bond. The appeal bond must be in an amount equal to not less than double the amount of the fine and costs adjudged against the defendant. However, the bond may not in any case be for a sum less than \$100. The bond shall recite that in the cause the defendant was convicted and has appealed, and be conditioned that the defendant shall make his personal appearance before the court to which the appeal is taken instanter, if the court is in session, and if the court is not in session, then at its next session, and there remain from day to day to answer in the cause.

Record on Appeal

Sec. 13. The record on appeal in a case appealed from the municipal court consists of a transcript and, if necessary to the appeal, a statement of facts.

Contents of Transcript

Sec. 14. (a) The municipal court clerk, on written request from the defendant, shall prepare under the clerk's hand and seal of the court for transmission to the appellate court a true transcript of the proceedings in the municipal court that shall always include the following:

- (1) the complaint;
- (2) material docket entries made by the court;
- (3) the jury charge and verdict, if the trial is by jury;
- (4) the judgment;
- (5) the motion for new trial;
- (6) the notice of appeal;
- (7) all written motions and pleas and orders of the court; and
- (8) any filed bills of exception.

(b) The municipal court clerk may include in the transcript additional portions of the proceedings in the municipal court if so instructed in writing by either the defendant or the prosecuting attorney.

Bills of Exception

Sec. 15. Either party may include bills of exception in the transcript on appeal, subject to complying with the applicable provisions of the Code of Criminal Procedure governing the preparation of bills of exception and their inclusion in the record on appeal to the court of appeals, except that the bills of exception shall be filed with the municipal court

clerk not later than the 60th day after the giving or filing of the notice of appeal.

Statement of Facts

Sec. 16. (a) A statement of facts, included in the record on appeal, shall consist of:

(1) a transcription of all or any part of the municipal court proceedings in the case that are shown by the notes of the court reporter to have occurred before, during, or after the trial if a transcription is requested of the court reporter by the defendant;

(2) a brief statement of the facts of the case proven at the trial, as agreed to by the defendant and the prosecuting attorney; or

(3) a partial transcription and the agreed statement of the facts of the case proven at the trial.

(b) On the defendant's request the court reporter shall transcribe any portion of the reporter's notes of the court proceedings in the case. The defendant shall pay for the transcription. The cost to the defendant for the transcription shall not exceed the fees or charges normally being made by court reporters in the county for similar transcriptions. The municipal court shall order the court reporter to make the transcriptions without charge to the defendant if the court finds, after hearing in the response to an affidavit by the defendant, that the defendant is unable to pay or give security for the transcriptions.

Completion, Approval, and Transfer of Record

Sec. 17. (a) Not later than the 60th day after the giving or filing of the notice of appeal, the parties shall file with the municipal court clerk:

(1) the statement of facts;

(2) a written designation of all matter that is to be included in the transcript in addition to matter required to be in the transcript by Section 14 of this Act; and

(3) any matter designated to be included in the transcript that is not then in the custody of the municipal court clerk.

(b) On completing the record as designated by the parties in Subdivision (2), Subsection (a), of this section, the municipal court judge shall approve the record in the manner provided by law for record completion notification and approval in appeals to the court of appeals.

(c) On the municipal court judge's approval of the record, the municipal court clerk shall promptly forward it to be filed with the appellate court clerk, who shall notify the defendant and the prosecuting attorney that the record has been filed.

Brief on Appeal

Sec. 18. (a) A brief on appeal from the municipal court shall present points of error in the same manner required by law for a brief on appeal to the court of appeals, except that the points of error on

appeal shall be confined to those points of error set forth in the defendant's motion for new trial.

(b) The defendant shall file the defendant's brief with the clerk of the appellate court not later than the 15th day after the date of the filing of the transcript and statement of facts with the appellate court clerk, who shall notify the prosecuting attorney of the filing. The prosecuting attorney shall file his brief with the clerk of the appellate court not later than the 15th day after the defendant files the defendant's brief with the clerk. Each party, on filing his brief with the clerk of the appellate court, shall cause a true copy of the brief to be delivered to the opposing party.

Procedure on Appeal

Sec. 19. The appellate court shall hear and determine appeals from the municipal court at the earliest practical time it may be done, with due regard to the rights of parties and proper administration of justice, and no affirmance or reversal of a case shall be determined on mere technicalities or on technical errors in the preparation and filing of the record on appeal. Oral arguments before the appellate court shall be under the rules which the appellate court may determine, and the parties may submit the case on the records and briefs without oral arguments.

Disposition on Appeal

Sec. 20. (a) The appellate court may affirm the judgment of the municipal court, reverse or remand for a new trial, reverse and dismiss the case, or reform or correct the judgment, as the law and the nature of the case may require.

(b) The appellate court shall presume that the venue was proven in the court below, that the jury was properly impaneled and sworn, that the defendant was arraigned and pleaded to the complaint, and that the court's charge was certified by the municipal court judge before it was read to the jury, unless those matters were made an issue in the trial court or it affirmatively appears to the contrary from the transcript or statement of facts.

(c) In the case decided by the appellate court, the court shall deliver a written opinion or order either sustaining or overruling each assignment of error presented. If an assignment of error is overruled, no reason need be given by the appellate court, but cases relied on by the court may be cited. If an assignment of error is sustained, the appellate court shall set forth the reasons for the decision. Copies of the decision of the appellate court shall be mailed by the clerk of the appellate court to the parties and the judge of the municipal court as soon as the decision is rendered by the appellate court.

Certificate of Appellate proceedings

Sec. 21. When the judgment of the appellate court becomes final, the clerk of the appellate court shall make out a proper certificate of the proceed-

ings had and the judgment rendered and shall mail the certificates to the clerk of the municipal court. When the certificate is received by the clerk of the municipal court, the clerk shall file it with the papers in the case and note it on the docket. If the judgment has been affirmed, no proceeding need be had after filing the certificate in the municipal court to enforce the judgment of the court, except to forfeit the bond of the defendant, to issue a *capias* for the defendant, or issue an execution against the defendant's property.

New Trial

Sec. 22. If the appellate court awards a new trial to the defendant, the cause shall stand as it would have stood if a new trial had been granted by the municipal court.

Appeal to the Court of Appeals

Sec. 23. When a judgment is affirmed by the appellate court, the defendant has the right to appeal to the court of appeals if the fine assessed against the defendant in the municipal court exceeded \$100. The appeal to the court of appeals shall be governed by provisions in the Code of Criminal Procedure relating to direct appeals from county and district courts to the court of appeals except that:

(1) the record and briefs on appeal in the appellate court, plus the transcript of proceedings in the appellate court, shall constitute the record and briefs on appeal to the court of appeals unless the rules of the court of criminal appeals provide otherwise; and

(2) the record and briefs shall be filed directly with the court of appeals.

[Acts 1983, 68th Leg., p. 5506, ch. 1039, eff. June 19, 1983.]

Art. 1200mm. Austin

Definition

Sec. 1. In this Act, "appellate courts" mean the county courts at law in Travis County.

Creation

Sec. 2. The governing body of the city of Austin may by ordinance establish the city's existing municipal courts as municipal courts of record. The governing body may by ordinance authorize additional municipal courts of record if it finds that additional courts are necessary to properly dispose of the cases arising in the city.

Jurisdiction

Sec. 3. (a) A municipal court of record has jurisdiction within the territorial limits of the city in all criminal cases arising under the ordinances of the city.

(b) The court has concurrent jurisdiction with a justice court in any precinct in which the city is

located in criminal cases within the justice court jurisdiction that:

(1) arise within the territorial limits of the city; and

(2) are punishable by fine only.

(c) The court has jurisdiction over criminal cases arising under ordinances authorized by Subdivision 19, Article 1175, Revised Statutes.

Judge

Sec. 4. (a) A municipal court of record shall be presided over by one or more judges, each of whom is to be known as a "municipal judge."

(b) The governing body of the city shall provide by charter or by ordinance for the selection of its municipal judges, provided the selection shall be for a definite term in office of not less than two nor more than four years, whose duration within these limits shall be determined by charter, ordinance or the method prescribed in Article XI, Section 11, of the Texas Constitution. A municipal judge may continue in office after the end of his or her term for not more than 90 days or until his or her successor is selected and qualified, whichever occurs first.

(c) The judge shall take judicial notice of the ordinances of the city and of the territorial limits of the city. The judge may grant writs of mandamus, attachment, and other writs necessary to the enforcement of the jurisdiction of the court, and may issue writs of habeas corpus in cases in which the offense charged is within the jurisdiction of the court.

(d) If there is more than one municipal judge in the city, the governing body of the city shall appoint one of the judges to be the presiding municipal judge.

(e) The presiding municipal judge shall:

(1) maintain a central docket for cases filed within the territorial limits of the city over which the municipal courts of record have jurisdiction;

(2) provide for the distribution of cases from the central docket to the individual municipal judges to equalize the distribution of business in the courts;

(3) call the jury docket and request the jurors needed for cases that are set for trial by jury; and

(4) temporarily assign judges or relief judges to act for each other in a proceeding pending in a court if necessary for the expeditious disposition of business in the courts.

(f) The municipal judges of the municipal courts or relief judges may act for each other in any proceeding pending in the courts. An act performed by any of the judges is binding on all parties to the proceeding.

(g) A municipal judge must be a licensed attorney in good standing in the practice of law in this state for two years, be a citizen of the United States, and

have been a resident of the city for the two-year period immediately preceding appointment. A person may not serve as a municipal judge while the person holds other office or employment with the city government. A municipal judge who takes such an office or employment vacates the judicial office.

(h) A municipal judge is entitled to a salary from the city, the amount of which shall be determined by the governing body of the city and may not be diminished during the judge's term of office. The salary may not be based directly or indirectly on fines, fees, or costs that the judge is required by law to collect during the term of office.

Vacancies: Temporary Replacement; Removal

Sec. 5. (a) If a vacancy occurs in the office of municipal judge of a court of record, the governing body of the city shall appoint a qualified person to fill the office for the remainder of the unexpired term.

(b) The governing body of the city may appoint persons as relief municipal judges. A relief judge must meet the qualifications of the regular judge. The governing body shall set the compensation of the relief judges. The presiding judge may assign a relief judge to act for a municipal judge who is temporarily unable to act for any reason. A relief judge shall have all the powers and duties of the office while so acting.

(c) A municipal judge may be removed in the manner prescribed for removal of a county court at law judge.

Clerk: Other Personnel

Sec. 6. (a) The governing body of the city shall appoint a clerk of the municipal courts of record, who shall be known as the municipal clerk. The municipal clerk serves at the pleasure of the governing body. The municipal clerk shall perform, insofar as applicable, the duties prescribed by law for the county clerk of a county court at law, and any other duty necessary to issue process and conduct business of the court. The clerk may administer oaths and affidavits and make certificates and affix the court's seal to those certificates. In addition, the municipal clerk shall:

- (1) maintain central docket records for all cases filed in the municipal courts of record;
- (2) cause all public records of the municipal courts to be permanently kept and permit those records to be available for inspection at all reasonable times by any interested party.
- (3) maintain an index of all municipal court judgments in the same manner as county clerks are required by law to prepare for criminal cases arising in county courts; and
- (4) if necessary for the proper functioning of the municipal courts of record, provide for the preserva-

tion of records by electronic means or by microfilming.

(b) With the consent of the governing body of the city, the municipal clerk may appoint one or more deputy clerks to act for and on behalf of the municipal clerk.

(c) The governing body of the city shall provide the municipal courts of record with other municipal court personnel that the governing body determines is necessary for the proper operation of the courts. Those persons shall perform their duties under the direction and control of the clerk of the municipal court or the municipal judge to whom assigned. The governing body shall determine the salaries of the court personnel.

Court Reporter

Sec. 7. (a) The governing body of the city shall provide an official court reporter to preserve a record in cases tried before the municipal court with the qualifications provided by law for official court reporters. The reporter shall be compensated by the city in the manner determined by the governing body of the city.

(b) The court reporter may use written notes, transcribing equipment, recording equipment, or a combination of those methods to record the proceedings of the court.

(c) The court reporter is not required to record testimony in a trial unless the judge or one of the parties requests a record.

Prosecutions by City Attorney

Sec. 8. All prosecutions in municipal courts shall be conducted by the city attorney of the city, or his or her assistant or deputy.

Filing of Original Papers

Sec. 9. (a) The clerk of the municipal courts of record shall file the original complaint and the original of other papers in each case under the direction of the presiding judge. The filed original papers constitute the records of the courts and a separate record book is not required.

(b) The municipal clerk shall keep a separate folder for each case, and shall note on the outside of the folder:

- (1) the style of the case;
- (2) the nature of the charged offense;
- (3) the dates that the warrant was issued and returned;
- (4) the date the examination or trial was held;
- (5) whether trial was held by jury or before a judge of the courts;
- (6) trial settings;
- (7) any verdict of the jury;
- (8) any judgment of the court;

(9) any motion for a new trial and the decision on the motion;

(10) whether an appeal was taken; and

(11) the date and the manner in which the judgment and sentence were enforced.

Jury

Sec. 10. (a) Each person charged with an offense is entitled to a trial by a jury of six persons unless the right is waived according to law.

(b) A majority of the judges of the municipal courts of record may adopt a plan binding on each municipal court of record for the selection of persons for jury service from the voter registration rolls of the counties in which the city of Austin is located. A plan adopted by the courts must:

(1) require the compilation of jurors from the voter registration lists of all voting precincts within the city and the registry of permanently exempt persons residing in the city maintained by the county tax collector as prescribed by Article 2137a, Revised Statutes;

(2) require selection of jurors who are eligible to vote in Austin and have the qualifications prescribed by Article 2133, Revised Statutes;

(3) require the courts to establish a fair, impartial, and objective method of selecting persons for jury service.

(c) The clerk of the court shall be the official in charge of the selection process.

(d) Each juror is subject to the laws governing exemptions and excuses from jury service in other courts.

Appeal

Sec. 11. (a) A defendant has the right of appeal from a judgment or conviction in a municipal court of record. The county courts at law of Travis County have jurisdiction of appeals from a municipal court of record. The city attorney or his assistants or deputies shall prosecute all appeals from the municipal courts.

(b) The appellate court shall determine each appeal from a municipal court of record conviction on the basis of the errors that are set forth in the defendant's motion for a new trial and that are presented in the transcript and statement of facts prepared from the proceedings leading to the conviction. An appeal from the municipal court of record may not be by trial de novo.

(c) To perfect an appeal, the defendant must file a written motion for a new trial not later than the 10th day after the date on which judgment is rendered. The motion or an amended motion may be amended by leave of court at any time before action on the motion is taken, but not later than the 20th day after the day on which the original or amended motion is filed. The court may extend the time for filing or amending for good cause, but the extension

may not exceed 90 days from the original filing deadline. If the court does not act on the motion before the expiration of the 30 days allowed for determination of the motion, the original or amended motion is overruled by operation of law. The motion must set forth the points of error of which the defendant complains.

(d) To perfect an appeal, the defendant must also give timely notice of the appeal. If the defendant requests a hearing on the motion for a new trial, the defendant may give the notice of appeal orally in open court on the overruling of the motion for new trial. If there is no hearing, the defendant must give a written notice of appeal and must file the notice with the court not later than the 10th day after the date on which the motion for new trial is overruled. The court may extend that time period for good cause, but the extension may not exceed 90 days from the original filing deadline.

Appeal Bond

Sec. 12. (a) If the defendant is not in custody, the defendant may not take an appeal until the defendant files the required appeal bond with the municipal court. The bond must be approved by the court, and must be filed not later than the 10th day after the date on which the motion for new trial is overruled. If the defendant is in custody, the defendant shall be committed to jail unless the defendant posts the required appeal bond.

(b) The appeal bond must be in the amount of \$50 or double the amount of the fines and costs adjudged against the defendant, whichever is greater. The bond must state that the defendant was convicted in the case and has appealed, and must be conditioned on the defendant's immediate and daily personal appearance in the court to which the appeal is taken.

Record on Appeal

Sec. 13. The record on appeal consists of a transcript and, if necessary to the appeal, a statement of facts. The court reporter shall prepare the record from the reporter's record, mechanical, or videotape recordings of the proceedings. The defendant shall pay for the cost of the transcription. If the court finds that the defendant is unable to pay or give security for the record on appeal after a hearing in response to an affidavit by the defendant, the court shall order the reporter to prepare the record without charge to the defendant.

Transcript

Sec. 14. (a) On the written request of the defendant or the defendant's attorney, the clerk of the municipal court of record shall prepare under his hand and seal a transcript of the municipal court of record proceedings for transmission to the appellate court. The transcript must include copies of:

(1) the complaint;

(2) material docket entries made by the court;

- (3) the jury charge and verdict in a trial by jury;
- (4) the judgment;
- (5) the motion for new trial;
- (6) the notice of appeal;
- (7) written motions and pleas;
- (8) written orders of the court;
- (9) any bills of exception filed with the court; and
- (10) the appeal bond.

(b) The clerk may include in the transcript additional portions of the proceedings in the municipal court of record prepared by mechanical or videotape recordings.

Bills of Exception

Sec. 15. Either party may include bills of exception in the transcript subject to the applicable provisions of the Code of Criminal Procedure, 1965. The bills of exception must be filed with the municipal clerk not later than the 60th day after the date on which the notice of appeal is given or filed.

Statement of Facts

Sec. 16. A statement of facts included in the record on appeal must contain:

(1) a transcript of all or part of the municipal court of record proceedings that are shown by the notes of the court reporter to have occurred before, during, or after the trial, if the transcription is requested by the defendant;

(2) a brief statement of the facts of the case proven at trial as agreed to by the defendant and the prosecuting attorney;

(3) a partial transcription and the agreed statement of the facts of the case; or

(4) a transcription of all or part of the municipal court of record proceedings in the case that is prepared from mechanical or videotape recordings of the proceedings.

Completion, Approval, and Transfer of Record

Sec. 17. (a) Not later than the 60th day after the date on which the notice of appeal is given or filed, the parties must file with the clerk of the municipal court of record:

(1) the statement of facts;

(2) a written description of material to be included in the transcript in addition to the required material; and

(3) any material to be included in the transcript that is not in the custody of the clerk.

(b) On completion of the record, the municipal judge shall approve the record in the manner provided for record completion, notification, and approval in the court of appeals.

(c) Following court approval, the clerk shall promptly forward the record to the appellate court

clerk for filing. The appellate court clerk shall notify the defendant and the prosecuting attorney that the record has been filed.

Brief on Appeal

Sec. 18. (a) A brief on appeal from a municipal court of record must present points of error in the manner required by law for a brief on appeal to the court of appeals.

(b) The defendant must file the brief with the clerk of the appellate court not later than the 15th day after the date on which the transcript and statement of facts are filed with that clerk. The defendant or the defendant's attorney must certify that the brief has been properly mailed to the prosecuting attorney.

(c) The prosecuting attorney must file the brief with the clerk of the appellate court not later than the 15th day after the date on which the defendant's brief is filed.

(d) On filing, each party shall deliver a copy of the brief to the opposing party and to the municipal judge.

Court Rules

Sec. 19. (a) Except as modified by this Act, the Code of Criminal Procedure, 1965, governs the trial of cases before the municipal courts of record. The courts may make and enforce all rules of practice and procedure necessary to expedite the trial of cases before the courts that are not inconsistent with general law.

(b) The appellate courts may make and enforce all rules of practice and procedure necessary to expedite the dispatch of appeals from the municipal courts of record that are not inconsistent with general law.

Disposition on Appeal

Sec. 20. (a) According to the law and the nature of the case, the appellate court may:

(1) affirm the judgment of the municipal court of record;

(2) reverse and remand for a new trial;

(3) reverse and dismiss the case; or

(4) reform or correct the judgment.

(b) Unless the matter was made an issue in the trial court or it affirmatively appears to the contrary from the transcript or the statement of facts, the appellate court shall presume that:

(1) venue was proven in the trial court;

(2) the jury, if any, was properly impaneled and sworn;

(3) the defendant was arraigned and pleaded to the complaint; and

(4) the municipal judge certified the charge before it was read to the jury.

(c) In each case decided by the appellate court, the court shall deliver a written opinion or order either sustaining or overruling each assignment of error presented. The court shall set forth the reasons for its decision. The clerk of the appellate court shall mail copies of the decision to the parties and to the municipal judge as soon as the decision is rendered.

Certificate of Appellate Proceedings

Sec. 21. When the judgment of the appellate court becomes final, the clerk of that court shall certify the proceedings and the judgment and shall mail the certificate to the clerk of the municipal court of record. The municipal clerk shall file the certificate with the papers in the case and note the certificate on the case docket. If the municipal court of record judgment is affirmed, further action to enforce the judgment is not necessary except to:

- (1) forfeit the bond of the defendant;
- (2) issue a writ of *habeas corpus* for the defendant; or
- (3) issue an execution against the defendant's property.

Effect of Order of New Trial

Sec. 22. If the appellate court awards a new trial to the defendant, the case stands as if a new trial had been granted by the municipal court of record.

Appeal to Court of Appeals

Sec. 23. If the judgment is affirmed by the appellate court, the defendant has the right to appeal to the court of appeals if the fine assessed against the defendant exceeds \$100. The appeal is governed by the provisions of the Code of Criminal Procedure, 1965, relating to direct appeals from a county or a district court to the court of appeals except that:

- (1) the record and briefs on appeal in the appellate court constitute the record and briefs on appeal to the court of appeals unless the rules of the court of criminal appeals provide otherwise; and
- (2) the record and briefs shall be filed directly with the court of appeals.

Seal

Sec. 24. The governing body of the city shall provide each municipal court with a seal with a star of five points in the center and the words "Municipal Court of Austin, Texas." The impress of the seal shall be attached to all papers, except subpoenas, issued out of the court and shall be used by each municipal judge or the clerk to authenticate all official acts of the clerk and the municipal judge.

Severability

Sec. 25. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circum-

stance shall be held to be invalid or unconstitutional, the remainder of the Act in all its particulars and as to all other persons and circumstances shall be valid and of full force and effect, and the legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision and to this end the provisions of this Act are declared to be severable.

[Acts 1983, 68th Leg., p. 5639, ch. 1068, eff. June 19, 1983.]

CHAPTER SEVENTEEN. CONDEMNATION FOR HIGHWAYS

Art.	
1201.	Cities Empowered.
1202.	Powers.
1203.	Further Powers.
1204.	Resolution.
1205.	Survey.
1206.	Condemnation Commission.
1207.	Statutes Applicable.
1208.	Errors.
1209.	Assessments.
1210.	Lien.
1211.	Notice of Assessment.
1212.	Hearing.
1213.	Assessments Levied.
1214.	Assessment Commission.
1215.	Certificates.
1216.	Suit on Certificate.
1217.	Reassessments.
1218.	Deficiency Assessments.
1219.	Suit.
1220.	Enforcement of Law.
1220a.	Notices of Assessments for Street Improvements.

Art. 1201. Cities Empowered

Cities having more than one thousand inhabitants under the preceding Federal census may proceed in accordance with the provisions hereof, independently of and without reference to any other applicable law or charter provision, present or future, which, however, shall remain in force as alternative methods. The term "city" or "cities" used herein shall include all incorporated towns and cities acting hereunder.

[Acts 1925, S.B. 84.]

Art. 1202. Powers

Subject to the terms hereof, the governing body of a city may lay out, open, establish, widen, straighten, or extend any highway within its limits, and purchase, condemn, and take property therefor. The cost of property purchased, taken or damaged, and costs of condemnation and making assessments hereinafter referred to, and of the enforcement, collection, sale or realization into money of assessments or certificates, together with all other costs of making such improvements, may be paid wholly from any fund of the city available therefor, or wholly from the fund created by said assessments, or partly from each of said funds. The governing body shall have power to assess part or all of such

costs against the owners of property abutting or in the vicinity of such improvements specially benefited thereby, and against said property, and to collect, enforce, sell or realize said assessments into money. The term "highway" shall include any street, avenue, boulevard, alley, public place or square, dedicated or to be dedicated to public use.

[Acts 1925, S.B. 84.]

Art. 1203. Further Powers

Cities may purchase by agreement with the owner any property, all or part of which in the opinion of the governing body is necessary for the making of improvements under the terms hereof and pay for same out of any fund available. Cities may sell and convey any part of such property not appropriated to such improvement on such terms and for such consideration as they may see fit, and the proceeds shall become a part of a special fund out of which the cost of improvements provided for herein may be defrayed and shall be used for no other purpose, but only the cost of property actually appropriated to such improvement shall be included in any assessment made under the provisions hereof.

[Acts 1925, S.B. 84.]

Art. 1204. Resolution

When the governing body shall determine to proceed hereunder it shall so declare by resolution which may state the nature and extent of the improvement to be made and the limits thereof, and may describe the parcel or parcels of land proposed to be taken or condemned by any description substantially identifying the same, or by lot or block number, or number of front feet, or by the name of the owner, or if owned by an estate, the name thereof. No mistake or omission of said resolution shall invalidate it, and its passage shall be conclusive of the public use and necessity of the proposed improvement.

[Acts 1925, S.B. 84.]

Art. 1205. Survey

Upon passage of such resolution, the city engineer or engineer designated by the governing body shall prepare and submit to said body a plat showing the nature and limits of the proposed investments,¹ the boundaries thereof, and the points between which it is proposed to establish the same, and the property through which it is to be extended, which is to be taken or condemned therefor, and shall in writing report the estimated total cost of said improvement, and of each parcel of property to be condemned or acquired. The governing body shall examine said plat and report and correct errors therein, if any, but no error or omission shall invalidate the same, or any proceeding had thereafter pursuant thereto.

[Acts 1925, S.B. 84.]

¹ So in enrolled bill; probably should read "improvements".

Art. 1206. Condemnation Commission

(a) No property shall be taken without just compensation first made to the owner. If the amount of said compensation shall not be agreed upon, the governing body shall cause to be prepared, on behalf of the city, a statement in writing containing a description of the parcel or parcels of property sought to be taken, the names of the owner or owners thereof, if known, and the purpose for which said property is sought to be taken. The statement shall be filed with the Judge of a County Court at Law, if such Court exists in the county where the property is situated, otherwise with the County Judge of such county. Upon filing the statement the Judge shall forthwith, in term time or vacation, appoint a Commission consisting of three disinterested freeholders of said county who are qualified voters to assess the damages to accrue to said owners, or other interested parties, by reason of condemnation of said property.

In event of the death, disability, refusal to act, incapacity for any reason, or absence for more than thirty days from said county of any Commissioner appointed, at any time, the Judge shall forthwith appoint a new Commissioner or Commissioners having the qualifications herein prescribed, who shall succeed to and exercise all the powers and duties of the Commissioner or Commissioners originally appointed, and vacancies so caused in said Commission shall be so filled by the Judge whenever they occur. But all proceedings of said Commissioners prior to said vacancy shall be valid and it shall not be necessary for the Commissioners then qualified and acting to again do any Act or take any proceeding already done or performed, but said Commissioners shall proceed after the filling of said vacancy and take all steps and do all things provided to be done hereunder as if no such vacancy had occurred.

(b) The clerk, secretary, or recording officer of the city, or the said Commission itself, shall give written notice to the owners of property proposed to be taken or damaged and to all persons having any interest in or lien upon said property, of a hearing before said Commission, which notice shall state the time and place of hearing, and may contain a brief statement of the nature and extent of the proposed improvement, and a description of the property proposed to be taken; such description may be by lot and block number, front feet, the name of the owner or owners, or by any other description which will substantially identify said property. Notice of said hearing shall be given by publication in a newspaper of general circulation in the county in which the property is situated, not less than three separate days, the first publication to be not less than ten days prior to the date of hearing. Notice by publication shall be valid and binding upon the real and true owners of property and all persons having an interest in or lien upon the same, if it shall generally notify them to appear and be heard, without specifically designating said parties by name, and no error or mistake in the name of any

person to whom said notice is directed shall invalidate the same. Said notice shall also be served by delivering to said owners, lienholders, or interested parties, if residents of the county where said property is situated, or to their agent or attorney, or if a minor to the Guardian thereof, a copy of said notice. The person serving said notice shall make and file with the clerk, secretary or recording officer of the city a return in writing thereon, stating when and how he served said notice. The governing body may provide for other and additional notice, but notice by publication shall in all cases be valid and binding, whether other notice is given or not. The governing body may provide for and cause to be given, in accordance with due process of law, any other and additional notice of any other hearing which may become or be deemed necessary upon the vacation of the office of a Commissioner and appointing of a new one, or for any other reason, and to provide for such hearings and the nature and effect thereof, and to cause as many and different hearings to be held in the course of condemnation proceedings as may be deemed necessary. Said Notices, and the return thereon, shall be filed with the city and preserved in its records.

(c) Hearings shall be adjourned and shall be kept open until all parties interested and appearing shall be fully heard. All owners, interested parties, or lienholders shall have the right to appear at said hearings in person or by agent or attorney, and be heard as to the value of property proposed to be taken or as to the damages to property not taken, resulting from the improvement, or as to the legality or regularity of the proceedings or any right of said owners and other parties. All objections or contests shall be in writing and filed with said Commission. When all parties have been heard the Commission shall close the hearing and find the damages due owners, lienholders, or others interested, for property taken or damaged, and shall in their findings apportion between them the amounts payable to each, and shall date and sign a report in writing, in duplicate, one of which reports shall be filed with the clerk, secretary or recording officer of the city, and one with the Clerk of the Court by whose Judge the Commission was appointed.

All proceedings of the governing body with reference to such condemnation, as well as all notices issued in connection therewith, returns thereof, orders, reports, and other proceedings of the Commission, and certified copies of all orders or proceedings of any Judge or Court with reference thereto, may be recorded in the Minutes of said governing body, and said record, or certified copies, thereof, and the original shall be prima facie evidence of the truth of all facts therein recited.

(d) Any party affected by the decision of said Commission who shall be dissatisfied therewith, shall, within ten days after the filing of said report with said Judge, file in his Court in opposition thereto, setting forth in writing the particular cause or causes of objection, and thereupon the adverse

party or parties shall be cited and said cause shall be tried and decided as other civil causes in said Court. If no objections are filed with said Judge within said time, he shall cause the said report to be entered in the Minutes of his Court and make the same the judgment thereof, and may issue the necessary process to enforce the same.

Upon the expiration of said time for filing objections, the findings of said Commission shall become final and binding upon the parties, their heirs, successors and assigns, and shall not thereafter be questioned in any proceeding.

(e) Said Commissioners shall each be entitled to receive as compensation not exceeding Ten (\$10.00) Dollars for every day employed by them in the performance of their duties.

[Acts 1925, S.B. 84. Amended by Acts 1930, 41st Leg., 5th C.S., p. 236, ch. 75, § 1.]

Art. 1207. Statutes Applicable

The applicable provisions of the laws relating to eminent domain are made a part of this law, and shall apply to proceedings hereunder, and all parties shall proceed in accordance with and be governed by said articles, unless otherwise herein provided. The city shall not be required to execute the bond referred to in said laws.

[Acts 1925, S.B. 84.]

Art. 1208. Errors

The governing body, said commission and judge before whom condemnation proceedings are pending, shall take all steps and do all things proper to correct any error, invalidity or irregularity in any proceeding with reference thereto, and shall do so at the instance of any interested party. No error or omission in said proceedings shall invalidate the same, but any proceeding may be corrected, taken again, or adjourned, until such corrections are made or omissions supplied.

[Acts 1925, S.B. 84.]

Art. 1209. Assessments

Whenever the governing body shall order the making of any improvement herein referred to, it may then or thereafter at any time provide by resolution that all or part of the costs thereof, as defined in the third article of this chapter, shall be assessed against said property abutting said proposed improvement, or in the vicinity thereof, and the owners thereof specially benefited thereby, together with reasonable attorney's fees and all costs incurred in the collection of said assessments, and shall have power to apportion the same among the owners of said property, and may designate the property proposed to be assessed, or the district within which property will be benefited and within which assessments may be made, provided no assessment shall be made against any property, or its owner, in excess of the special benefits thereto in the enhanced value thereof from said improvement.

No assessments shall be made against any property exempt from execution, but the owner shall be personally liable and assessed therefor.

[Acts 1925, S.B. 84.]

Art. 1210. Lien

Assessments shall constitute a prior lien upon the property to all others, except ad valorem taxes, and shall relate back and take effect as of the date of the resolution ordering the same.

[Acts 1925, S.B. 84.]

Art. 1211. Notice of Assessment

No assessment shall be made against owners of property benefited, or their property, until after a reasonable opportunity to be heard shall have been given them, lienholders, and others interested, before such governing body, or the commission hereafter referred to, preceded by a reasonable notice thereof published three (3) times prior to said hearing in some newspaper of general circulation in the city; and, if the owner is a railway or street railway, by additional written notice delivered either in person to its local agent, or by depositing said written notice in the city post office, postage paid, and properly addressed to the offices of the railway or street railway at the address as it appears on the last approved city tax roll; and the written notice, if required, to be mailed or delivered, and the first publication to be made not less than ten (10) days prior to said hearing, and the names of owners, lienholders, and others interested need not be specifically set out in said notice, but the parcel or parcels of land proposed to be assessed shall be briefly described in said notice, either by lot and block, number, front feet, or by any other description reasonably identifying the same, or by reference to any plat, report or record filed in connection with said proceedings. The governing body or commission shall have the power to give other and additional notice, but said published notice, together with said written notice, if required, shall be sufficient.

[Acts 1925, S.B. 84. Amended by Acts 1963, 58th Leg., p. 347, ch. 131, § 1.]

Art. 1212. Hearing

At said hearing said owners, lienholders, and other interested parties shall have the right to contest in writing said assessments, the special benefits, irregularities or invalidities thereof, or any prerequisite thereto, and to produce testimony in support of said contests, and the governing body or said commission shall determine the amounts, if any, to be assessed.

[Acts 1925, S.B. 84.]

Art. 1213. Assessments Levied

The governing body shall make assessments by ordinance. Said assessments may be enforced by suit brought by the city for the benefit of any

holder and owner of such assessments or of the certificates issued thereon, or brought by such holder and owner; or by the sale of the property assessed in the same manner as near as possible as is provided for the sale of real estate for municipal taxes. Assessments may be made payable in not exceeding sixteen installments, the last maturing in not over fifteen years, and may bear interest at not over eight per cent per annum.

[Acts 1925, S.B. 84. Amended by Acts 1927, 40th Leg., p. 334, ch. 227, § 1.]

Art. 1214. Assessment Commission

At the time of or after the passage by the governing body of the resolution ordering such assessments, it shall have power in its discretion to declare that said hearing to property owners and other interested parties shall be had before the commissioners then or thereafter appointed to make condemnations, or before their successors are appointed should a vacancy occur, and thereupon such commission shall cause to be given the notice or notices provided in the third preceding article, and it shall have all the powers conferred by this law upon such governing body, and shall do all things with reference to said assessments which said governing body is hereby empowered to do, except as herein expressly provided. If said hearing shall be before said commission, it shall report in writing its findings to the governing body, which shall examine said report, and, if found correct, approve the same, and shall by ordinance assess against the owners and their property found to be benefited by said improvements, the amounts found to be properly chargeable against them.

[Acts 1925, S.B. 84.]

Art. 1215. Certificates

The city may issue assignable certificates, payable to the city, or to the purchaser thereof, declaring the liability of owners and their property for the payment of assessments, and may fix the terms, time of payment, the conditions of default, and maturity thereof.

[Acts 1925, S.B. 84.]

Art. 1216. Suit on Certificate

The allegations of such recitals of such certificates in any suit brought for the enforcement thereof, shall be a sufficient allegation of all proceedings had by said governing body with reference to the making of said improvements and the assessment of the cost thereof, and of all prerequisites to the said assessment, and shall be deemed sufficient to permit proof of said proceedings and prerequisites without the necessity of alleging and setting forth the same in the pleadings, by caption, substantially or in full.

[Acts 1925, S.B. 84.]

Art. 1217. Reassessments

No error in any proceeding hereunder, or in the description of property, or in the name of the owner, shall invalidate an assessment, which shall nevertheless be in effect as against the real and true owner and his property. Whenever the governing body is advised of such error it shall correct the same, and shall at the request of any interested party reassess any owner or property erroneously assessed, after lawful notice and hearing and in accordance with benefits as herein provided as to original assessments, and may fix the time and terms of payment of said sums so reassessed, and issue assignable certificates evidencing the same as herein provided as to original assessments. The right to make said reassessments shall continue until the expiration of six years from the date of the ordinance making the original assessment. But if the same shall have been resisted or brought in question in any action at law, the time consumed in said action shall be excluded in computing said term of six years. In making such reassessments it shall not be necessary to do any act, or take any step, or again perform any prerequisite already legally done or performed with reference to the original assessment, but the governing body may in its discretion proceed without again taking steps already validly taken or performed provided no reassessment shall be made until after the notice and hearing and in accordance with benefits, as herein provided.

[Acts 1925, S.B. 84.]

Art. 1218. Deficiency Assessments

If after any assessment has been made hereunder, if by means of an increased award of compensation for property taken or damaged in condemnation proceedings hereunder, or on appeal from the award of said commission, or for any other reason, the amount assessed and apportioned between the property owners benefited shall be found insufficient to defray all the costs of the improvement as herein defined, the governing body may, in its discretion, assess the deficiency against owners of property benefited, and their property, and apportion same among them, after the hearing and notice herein provided and after complying with each provision hereof applicable to original assessments; or said deficiency assessments may be made after notice and hearing before said commission in the manner provided in the fourth preceding article and assignable certificates evidencing said assessment may be issued by the city.

[Acts 1925, S.B. 84.]

Art. 1219. Suit

Any property owner against whom or whose property an assessment or reassessment has been made, may, within ten days thereafter bring suit to set aside or correct the same, or any proceeding with reference thereto on account of any error or invalidity therein, but thereafter such owner, his heirs, assigns, or successors shall be barred from such

action or any defense of invalidity in such proceedings or assessment or reassessment, in any action in which the same may be brought into question.

[Acts 1925, S.B. 84.]

Art. 1220. Enforcement of Law

The governing body shall have power to pass any ordinance or resolution, or to adopt rules and regulations, or to take any steps proper to give full legal effect to every part of this chapter. No assessment or reassessment shall be affected or invalidated in any manner by any error, omission or invalidity in any proceeding of the city hereunder with reference to the making of any improvement herein provided for, or with reference to the taking or condemnation of any property therefor, or with reference to determining and paying damages for property taken or damaged, but regardless thereof, and regardless of the fact that at the date of said assessments said improvements may not have been completed, the said assessments shall be in all things valid and binding.

[Acts 1925, S.B. 84.]

Art. 1220a. Notices of Assessments for Street Improvements**"Street" Defined**

Sec. 1. That the term "street" as used herein, shall include any street, avenue, alley, highway, boulevard, drive, public place, square or any portion or portions thereof.

Filing Notice of Assessment

Sec. 2. That whenever the Governing Body of any city, town or village shall, by resolution, ordinance or other proceedings, order, direct or provide or determine it to be necessary that any street be improved in any manner, then if it is proposed that all or any part of the cost of such improvements be levied or assessed and made a lien on property abutting thereon, there shall be filed with the County Clerk of the county or counties in which such property is situated, a notice signed in the name of such city, town or village by its Clerk, Secretary or Mayor or other officer performing the duties of such. Such notice shall meet all requirements of this Act when it shows substantially that the Governing Body of such city, town or village has ordered, directed or otherwise provided or determined it to be necessary that such street be improved and shall give the name thereof with the two cross streets or other approximate lengthwise limits between which same is to be or has been improved, or shall otherwise identify or designate same and shall state that a portion of the cost of such improvement is to be or has been specially assessed as a lien upon property abutting thereon. It is specially provided that one notice may embrace and include any number of streets or improvements.

Notice Designating Property Subject to Lien

Sec. 3. If it is proposed that all or any part of the cost of improving any such street be assessed as a lien on any property other than that abutting thereon, then a notice so signed shall be filed with the Clerk of the county or counties in which such property affected is situated, and such notice in such cases shall designate the property proposed to be assessed or the district within which assessments have been or may be made or shall otherwise identify the property against which a lien is proposed to be assessed.

Requisites of Notice; Filing

Sec. 4. It shall not be necessary that any notice required by this Act give details or that it be sworn to or acknowledged, and same may be filed at any time and the County Clerk with whom any such notice is filed shall record same in the records of mortgages or deeds of trust and shall index same in the name of the city, town or village and in the name or other designation of the street or streets to the improvement of which the notice relates.

Time of Taking Effect of Lien

Sec. 5. That in all instances coming within the purview of this Act the lien of any assessment or re-assessment upon the property assessed or re-assessed shall take effect and be in force at and from the filing of the notice herein provided for and not before such filing and substantial compliance with the provisions of this Act shall be sufficient.

No Retroactive Effect

Sec. 6. That this Act shall not apply to or in any wise affect special assessments or re-assessments or liens fixed nor to any assessments, re-assessments or liens for any such improvements ordered, directed or provided for prior to the time this Act takes effect.

Other Laws Superseded as to Time Liens Take Effect

Sec. 7. That this Act shall supersede all other parts of laws with reference to the time that liens of any assessments or re-assessments shall take effect.

[Acts 1930, 41st Leg., 5th C.S., p. 147, ch. 21.]

Repeal

Acts 1971, 62nd Leg., p. 2721, ch. 886, effective June 14, 1971, relating to the microfilming of records by counties, and classified as art. 1941(a), provided in § 2 that all laws or parts of laws in conflict with the provisions of said Act are hereby repealed, to the extent of conflict only, including but not limited to this article.

CHAPTER EIGHTEEN. ARTIFICIAL LIGHTING SYSTEM

- Art.
 1221. May Install.
 1222. Petition.
 1223. Plans.
 1224. Resolution.
 1225. Specifications.
 1226. Bids.
 1227. Contract.
 1228. Assessments.
 1229. Mode of Assessment.
 1230. Statement.
 1231. Notice of Hearing.
 1232. Hearing.
 1233. Order of Assessments.
 1234. Lien.
 1235. Suit.
 1236. Proceedings.
 1237. Certificates.
 1238. Public Improvements.
 1239. General Powers.
 1240. Control.

Art. 1221. May Install

Incorporated cities or towns of more than five thousand inhabitants under the preceding Federal census for the purpose of making local public street improvements by installing and maintaining special lighting systems in said cities or portions thereof, may proceed in accordance with the provisions of the next succeeding nineteen articles, independently of and without reference to any other applicable law or charter provisions, present or future, except as herein provided for, which said law or charter provision shall remain in force as alternative methods. The term "city" or "cities," as used herein, shall include all incorporated cities and towns acting hereunder.

[Acts 1925, S.B. 84.]

Art. 1222. Petition

Subject to the terms hereof, whenever a petition is filed with the governing body setting forth that a certain street, streets, or portions thereof not less than one block, naming and describing the same, or certain districts composed of streets, highways, boulevards or alleys, should be specially illuminated, and that an additional system is necessary for that purpose, and stating that such illumination thereof will be a public improvement and will be conducive to the public welfare, and is signed by a majority of the owners of property abutting on said street, streets or portions thereof, and praying that the governing body of such city specially illuminate such street, streets or portion thereof, and construct, install, equip and maintain additional system of street lights for that purpose, the governing body shall proceed in the manner hereinafter set out.

[Acts 1925, S.B. 84.]

Art. 1223. Plans

The petitioning property owners may provide in said petition plans and specifications together with the kind of poles and lights and other material necessary to properly install said special lighting system, or such part of same as they desire to specify, and the governing body in that instance may order the same or any part thereof used in the construction of said system. If the kind specified in said petition is not available, the governing body shall use material of like kind and quality to that specified in said petition. Said body may reject any or all of said plans and specifications and have same prepared as hereinafter provided for.

[Acts 1925, S.B. 84.]

Art. 1224. Resolution

The governing body shall have power, by resolution, to order the making of the public improvements mentioned herein, or any of them, by a majority vote, without first being petitioned to do so by the abutting property owners as hereinbefore provided, and the passage of such resolution shall be conclusive of the public necessity and the benefits thereof, and no notice of such action by the governing body shall be requisite to its validity. Such resolution shall in general terms, set forth the nature and extent of the improvements or improvement to be made, the street, streets or portions thereof to be illuminated, the material or materials with which the improvements are to be constructed, and the method or methods under which the cost of such improvements are to be paid. Such resolution shall be passed whether the improvements are made with or without the petition of the abutting property owners.

[Acts 1925, S.B. 84.]

Art. 1225. Specifications

Upon the passage of the resolution by the governing body as hereinbefore provided, it shall be the duty of the city engineer, or the official of the city whose duties most nearly correspond to that of city engineer, to forthwith prepare plans and specifications for the said improvement, which, when completed, shall be submitted to the governing body for its approval.

[Acts 1925, S.B. 84.]

Art. 1226. Bids

When the plans and specifications have been approved and adopted by the governing body, it shall be the duty of the city secretary, or other officer as may be designated by the governing body, to at once advertise for sealed bids for the construction of such improvements in accordance with the specifications. Such advertisement shall be inserted in a daily paper of general circulation in the city concerned, and shall state the time within which the bids may be received as prescribed by the governing body, which shall not be less than ten and not more

than fifteen days from the insertion of said advertisement. Bids shall be filed with the city secretary, or such other officer as the governing body may designate, and shall be opened and read at a public meeting of the governing body. Such body shall have the right to accept such bids as it shall deem most advantageous to the abutting property owners concerned in the improvement, or may reject any and all bids. No bid shall be amended, changed or revised after being filed.

[Acts 1925, S.B. 84.]

Art. 1227. Contract

When the bids for such improvements have been accepted by the governing body, the city shall enter into a contract with the contractor or contractors to whom the work has been let for the performance thereof, which contracts shall be executed in the name of the city by its chief executive and attested by the city secretary, or such other officer as may be designated by the governing body, with the corporate seal.

[Acts 1925, S.B. 84.]

Art. 1228. Assessments

The city shall have power to assess the whole cost of installing and completing the improvements provided for herein, both for labor and material, against the owners of property abutting upon the street, streets or portions thereof, upon which said improvements are to be constructed, and who are specially benefited thereby, and shall have power to fix a lien against such property to secure the payment of the proportion of such costs assessed against the owners of such property. In no event shall costs be assessed against such owners or their property, or their personal liability therefor finally determined until after the hearing hereinafter mentioned, and after the adjustment of equities between such owners. The cost assessed against any property or the owner thereof, shall not exceed the amount of the special benefit in enhanced value which such property shall receive from such improvement.

[Acts 1925, S.B. 84.]

Art. 1229. Mode of Assessment

The portion of the costs of such improvements which may be assessed against any such property or its owners, shall be in proportion as the frontage of the property of each owner is to the whole frontage of the property on the street, streets or portions thereof abutting on the special lighting system, and such cost shall be apportioned in accordance with what is commonly known as the frontage or front foot rule; provided that if the application of this rule would, in the opinion of the governing body in particular cases be unjust or unequal, it shall be the duty of said body to assess and apportion said costs in such proportion as it may deem just and equitable, having in view the specific benefit in enhanced value to be received by

each owner of such property, the equities of such owners and the adjustment of such apportionment, so as to produce a substantial equality of the benefits received by and the burdens imposed upon each owner.

[Acts 1925, S.B. 84.]

Art. 1230. Statement

The contract or contracts for such improvements having been executed and approved by the governing body, the city engineer, or the officer of the city whose duties most nearly correspond to that of city engineer, shall prepare a written statement which shall contain the names of such persons, firms, corporations or estates as may own property abutting on the section to be improved, the number of front feet owned by each, and describing the property owned by each, either by lot and block number, or otherwise so describing such property as may be sufficient to identify same; and such statement shall contain an estimate of the total cost of the improvement, the amount per front foot to be assessed against abutting property and its owners, and the total estimated amount to be assessed against each owner. Such statement shall be submitted to the governing body whose duty it shall be to examine same and correct any errors that may appear therein, but no error, omission or mistake in said statement shall in any manner invalidate any assessment made, or lien or claim of personal liability fixed thereunder.

[Acts 1925, S.B. 84.]

Art. 1231. Notice of Hearing

When the statement shall have been examined and approved by the governing body, it shall declare by resolution, and directing notice thereof to be given to the owners aforesaid by publication for ten consecutive days in a daily newspaper of general circulation in the city where the improvement is to be made; but if there be no daily newspaper in such place, then the governing body shall give such notice to such owners by registered mail at least ten days before the time set for the hearing as hereinafter provided. The notice shall state the time and place of the hearing and the street, streets or portions thereof to be improved, with a general description of such improvements and a statement of the amount per front foot proposed to be assessed against the property, and a notice to all such property owners and all persons interested to appear at such hearing. It shall not be necessary to include in such notice a description of any property or the name of the owner, but such notice shall nevertheless be binding and conclusive upon all owners of property, or persons interested in or having a lien or claim thereon.

[Acts 1925, S.B. 84.]

Art. 1232. Hearing

On the day set out in the notice for the hearing, not less than ten days from the date of such notice,

or at any time thereafter before the close of the hearing, any person, firm or corporation interested in any property which may be claimed to be subject to assessment for the purpose of paying the cost of the improvement, in whole or in part, shall be entitled to a hearing before the governing body as to all matters affecting said property, or the benefits thereto, or such improvements, or any claim of liability, or objection to the making of said improvements, or any invalidity or irregularity in any proceeding with reference to making said improvements, or any other objection thereto. Such person, firm, or corporation shall file their objections in writing, and thereafter the governing body shall hear and determine the same, and all persons interested shall have full opportunity to produce evidence and witnesses and appear in person or by attorney; and a full and fair hearing thereof shall be given by such governing body, which hearing may be adjourned from time to time without further notice. The governing body shall have the power to inquire into and determine all facts necessary to the adjudication of such objections and the ascertainment of the special benefits to such owners by reason of the contemplated improvements; and shall render such judgment or order in each case as may be just and proper. Any objection to the irregularity of the proceedings with reference to the making of such improvements as herein provided, or to the validity of any assessment or adjudication of personal liability against such property or the owners thereof, shall be deemed waived unless presented at the time and in the manner herein specified.

[Acts 1925, S.B. 84.]

Art. 1233. Order of Assessments

When the hearing above mentioned has concluded, the governing body shall, by ordinance, assess against the several owners of the property abutting on the street, streets or portions thereof, such proportionate part of the cost of improvements as said body shall have adjudged against the respective owners and their property. Said ordinance shall fix a lien upon such property and declare the respective owners thereof to be personally liable for the respective amounts to be assessed; and shall state the time and manner of payment of such assessment; and said governing body may order that the said assessments shall be payable in installments, and prescribe the amount, time and manner of payment of such installments, which, except as hereinafter provided, shall not exceed six, and the last payment shall not be deferred beyond five years from the completion of such improvement and its acceptance by the city. The said ordinance shall also prescribe the rate of interest to be charged upon deferred payments, not to exceed seven per cent per annum; and may provide for the maturity of all deferred payments and their collection upon default of any installment of principal or interest.

[Acts 1925, S.B. 84.]

Art. 1234. Lien

Each property owner shall have the privilege of discharging the whole amount assessed against him, or any installment thereof, at any time before maturity, upon payment thereof with accrued interest. The fact that more than one parcel of land, the property of one owner or jointly owned by two or more persons, firms or corporations, have been assessed together in one assessment, shall not invalidate the same or any lien thereon, or any claim of personal liability thereunder. The cost of any such improvement assessed against any property or owner thereof, together with all costs and reasonable attorneys fees when incurred, shall constitute a personal claim against such property owner, and shall be secured by a lien on such property superior to all other liens, claims, or titles, except city, county and State taxes, and such personal liability may be enforced by suit in any court of competent jurisdiction. In any suit brought under this article, it shall be proper to join as defendants two or more property owners who are interested in any single improvement or any single contract for such improvement. The person or persons who own property at the date of any ordinance providing for the assessment thereof, shall be severally and personally liable for their respective portions of the said assessment. The lien of such improvements shall revert back and take effect as of the date of the original resolution ordering the improvement, and the passage of such resolution shall operate as notice of such lien to all persons. Any error or mistake in such ordinance in the name of the owner of the property assessed, shall not invalidate the lien or personal liability thereby created, but the same shall nevertheless exist against the real and true owner of such property as if correctly described.

[Acts 1925, S.B. 84.]

Art. 1235. Suit

At any time within ten days after the hearing herein provided for has been concluded, any person or persons having an interest in any property which may be subject to assessment under this law, or otherwise having any financial interest in such improvement or improvements or in the manner in which the cost thereof is to be paid, who may desire to contest on any ground the validity of any proceeding that may have been had with reference to the making of such improvements or the validity in whole or in part of any assessment or lien or personal liability fixed by said proceedings, may institute suit for that purpose in any court of competent jurisdiction. Any person who shall fail to institute such suit in said period of ten days, or who shall fail to diligently prosecute such suit in good faith to final judgment, shall be forever barred from making any such contest or defense in any other action, and this estoppel shall bind their heirs, successors, administrators and assigns. The city and the person or persons to whom the contract has

been awarded shall be made defendants in such suit, and any other proper parties may be joined therein.

[Acts 1925, S.B. 84.]

Art. 1236. Proceedings

There shall be attached to the plaintiff's petition an affidavit of the truth of the matters therein alleged, except such matters as are alleged on information and belief, that said suit is brought in good faith and not to injure or delay the city or the contractor or any owner of real estate abutting on the improvement. Unless the provisions of this article are complied with by the plaintiff or plaintiffs, such suit shall be dismissed on motion of any defendant and in that event plaintiff or plaintiffs shall be barred and estopped to the same extent as if suit had not been brought. In any case where a suit is brought as above provided, then the performance of the work may be suspended at the election of either the city or contractor until such suit shall be finally determined in the court of original jurisdiction or any appellate court to which the same may be taken by appeal or writ of error. Every appeal or writ of error shall be perfected within thirty days from the adjournment of the term of court of original jurisdiction at which final judgment was rendered in such suit; and no appeal or writ of error to review the judgment of said court may thereafter be taken or sued out by either party. Any such suit shall be entitled to precedence in the courts of this State of appellate jurisdiction, and shall be heard and determined as promptly as practicable.

[Acts 1925, S.B. 84. Amended by Acts 1981, 67th Leg., p. 2627, ch. 707, § 4(1), eff. Aug. 31, 1981.]

Art. 1237. Certificates

The governing body may provide that for the cost, which is assessed against the abutting property and its owners, the contractor to whom the work may be let shall look only to such property owners and their property, and that the city shall be relieved of liability for such cost. The governing body may also authorize assignable certificates against abutting property or property owners. The recital in such certificates that the proceedings with reference to making such improvements have been regularly had in compliance with the terms of this law, and all prerequisites to the fixing of this lien and the claim of personal liability evidenced by such certificate, have been performed, shall be prima facie evidence of the facts so recited, and no other proof thereof shall be required, but in all courts the said proceedings and prerequisites shall, without further proof, be presumed to have been had or performed. Such certificates shall be executed by the chief executive of the city, and attested with the corporate seal by the city secretary or such other officer as may be designated by the governing body.

[Acts 1925, S.B. 84.]

Art. 1238. Public Improvements

The governing body, if it deems it to be more advantageous to the public, provided public funds are available therefor, may order by resolution the making of any local public improvement by installing a special lighting system as contemplated herein, and for such purpose shall prescribe the district composed of the street or streets, highways, boulevards or alleys, or any portion thereof, that are sought to be improved by the establishment and maintenance of such special lighting system. Specifications shall be prepared therefor under the direction of the governing body and bids shall be invited upon the same as provided herein for making such local improvements. Contracts shall be let as provided herein for making contracts in other cases. A hearing shall be accorded to all property owners owning property abutting upon the streets in such districts to be improved by the said lighting system, and the cost of the same shall be assessed against such property in the same manner as provided herein in other cases; a special lien shall be created against the abutting property and the owners thereof shall be personally liable as is provided herein in all other cases. The cost of making the said improvement shall be paid out of any available funds of the city which may be provided by said body. The amount of the cost of making such improvements so paid by the city to the contractor shall be reimbursed to the city by the property owners whose property is assessed in the manner provided for herein. All proceedings relative to making the assessments and issuing assignable certificates shall apply as far as practicable to the procedure to be followed in making the public improvements under the terms of this article.

[Acts 1925, S.B. 84.]

Art. 1239. General Powers

The governing body may provide additional rules and regulations governing hearings and the issuance of notices therefor as may be deemed advisable in order to afford a full hearing to all property owners concerning the assessments levied or to be levied against them on account of the special benefits received from the improvements so ordered. Such body may use such money as is at its disposal to assist in the financing of the public improvements herein provided for.

[Acts 1925, S.B. 84.]

Art. 1240. Control

After the public improvements provided for in the preceding nineteen articles have been completed and the job accepted by the city, the same shall become the property of the city, and the city shall maintain the same at its own expense, as a part of its regular lighting system.

[Acts 1925, S.B. 84.]

CHAPTER NINETEEN. ABOLITION OF CORPORATE EXISTENCE

- Art. 1241. Repealed.
- 1241a. Procedure for Abolition of Cities and Towns.
- 1242, 1243. Repealed.
- 1244. Receiver.
- 1245. Duties of Receiver.
- 1246. Claim.
- 1247. Notice of Claim.
- 1248. Adjustment.
- 1249. Contest, Suit.
- 1250. Judgment and Costs.
- 1251. Limitation.
- 1252. Certain Dissolutions.
- 1253. Suits Barred.
- 1254. Payment of Claims.
- 1255. Collection of Tax, Etc.
- 1256. Delinquent Taxes.
- 1257. Prior Claims.
- 1258. Public Schools.
- 1259. School Taxes.
- 1260. Public Buildings.
- 1261. Repealed.
- 1262. When Corporation Ceases to Function.
- 1263. Action for Debt.

Art. 1241. Repealed by Acts 1967, 60th Leg., p. 1988, ch. 736, § 5, eff. June 18, 1967

Art. 1241a. Procedure for Abolition of Cities and Towns

Authority to Abolish Corporate Existence

Sec. 1. Incorporated towns and villages, and cities and towns incorporated under the general laws, and cities and towns of ten thousand inhabitants or less chartered under special law, including those which may have heretofore accepted the provisions of Chapter 1 of Title 28, may abolish their corporate existence in the manner hereinafter provided.

Petition and Election

Sec. 2. When four hundred of the qualified voters resident in any such city, town, or village desire the abolishment of such corporation, they may petition the mayor to that effect, who shall thereupon order an election to be held in such city, town, or village on the same date provided by law for the next general election for mayor therein. If a majority of the qualified voters resident in any such city, town, or village is less than four hundred in number, then the mayor shall order an election as above provided upon the presentation to him of a petition signed by two-thirds of the resident voters of such city, town, or village.

Eligible Voters; Results; Declaration of Abolition

Sec. 3. All persons who are legally qualified resident voters of the city, town, or village where such election is to be held shall be entitled to vote at such election. If a majority of such voters voting at such election shall vote to abolish such corporation, the mayor shall declare such corporation abolished and

certify such fact to the commissioners court of the county. Such commissioners court shall enter said order upon its minutes, and said corporation shall cease to exist.

**Order; Conduct and Canvass of Election by Mayor;
Laws Governing Election**

Sec. 4. The election as herein provided shall be ordered, conducted and canvassed by the mayor as in the case of the incorporation of such city, town, or village, except that the mayor shall perform all acts performable in the case of incorporation by the county judge. Except as otherwise specifically provided herein, such election shall be governed by the laws of the State of Texas applicable generally to elections in incorporated cities.

Repeals

Sec. 5. The following statutes are specifically repealed: Acts 1895, p. 166, G.L. Vol. 10, p. 896; Acts 1899, p. 245; Acts 1897, p. 194; these being codified respectively as Articles 1241, 1242, 1243, and 1261. No other laws are hereby repealed except insofar as they are inconsistent herewith.

[Acts 1967, 60th Leg., p. 1989, ch. 736, eff. June 18, 1967. Amended by Acts 1975, 64th Leg., p. 648, ch. 267, § 1, eff. Sept. 1, 1975.]

Arts. 1242, 1243. Repealed by Acts 1967, 60th Leg., p. 1988, ch. 736, § 5, eff. June 18, 1967

Art. 1244. Receiver

In all cases where any city or town having theretofore had a valid corporate existence, under the laws of this State, has abolished said corporate existence in the manner provided by law, and in all cases where any city or town having a valid corporate existence under such laws may hereafter abolish their corporate existence, any creditor of any such city or town may apply to the judge of the district court of the district in which such city or town may be situated, for the appointment of a receiver for said corporation. After having posted up in at least three public places in the county where such city or town is located, one of which shall be in said city or town, written notice stating the substance of the application, when and before whom the same will be heard, such judge in term time or vacation, may appoint a suitable person as such receiver for such corporation, and shall fix the amount of bond to be given by such receiver in at least double the probable amount of the indebtedness or value of the property of such town or city, conditioned for the faithful performance of his duties as such officer, and for the paying over and delivery of all money and property coming into his hands as such receiver, to the parties entitled to receive same, such bond to be approved by the judge making the appointment; and same, together with order of appointment, shall be filed with, and recorded in, the minutes of said court by the district clerk of the county where such city or town is

situated. Receivers appointed under the provisions of this chapter shall receive such compensation as the court may allow.

[Acts 1925, S.B. 84.]

Art. 1245. Duties of Receiver

A receiver appointed under the preceding article, after having given the required bond, and after having same duly filed and recorded, shall take charge of all the real and personal property, including moneys, minute books, ordinances, etc., except such property as pertains to the public free schools or devoted exclusively to public use, and shall return an inventory of all such property, money, books, etc., so received by him to the next succeeding term of the district court for the county in which such city or town is situated; and; for the purpose of securing such property, money, books, etc., he may, under the order of said court, or the judge thereof in vacation, bring suit against any person in possession of such property, books, or moneys, or indebted to said city or town, the same as such city or town could were it still incorporated.

[Acts 1925, S.B. 84.]

Art. 1246. Claim

Any person, firm or corporation, having any claim against such city or town, shall within six months from the appointment of said receiver, present to him a statement of the amount of such claim, duly verified, which, if he finds correct, he will mark allowed, and file same in the district court; and at its next regular term, if no protest be filed, said claim shall be approved by said court and shall thereafter be considered a valid debt against such city or town.

[Acts 1925, S.B. 84.]

Art. 1247. Notice of Claim

No such claim or account against such city shall be allowed or approved by the receiver without notice of the presentment thereof first having been given, by publication in some newspaper, if any, in the town or city where same is filed or presented, for four consecutive weeks, and in case there be no newspaper published in such town or city, then by posting notice of the presentment of such claim at the courthouse door of the county in which said town or city is situated, for four weeks prior to the allowance of said claim or account. Such notice, whether published or posted, shall state the name and residence of the creditor, the amount and date of said claim and account, and for what purpose incurred.

[Acts 1925, S.B. 84.]

Art. 1248. Adjustment

If such receiver finds any claim so presented to him unjust, in whole or in part, he shall endorse his finding thereon, and return same to the claimant, who may file same with the district court, if he

desires to accept the findings of the receiver, and such claim for the amount allowed by the receiver may be acted upon by said court as other claims.

[Acts 1925, S.B. 84.]

Art. 1249. Contest, Suit

In case any protest by any taxpayer of said city or town be filed against any claim in said court, together with a bond to be approved by said court, that he will pay all costs of suit in case said claimant established his claim in full in any State court in which he may sue thereon, then such district court shall refuse to approve such claim until it shall have been established by judgment, recovered thereon in a State court of competent jurisdiction. Such suit to establish such claim or any claim disallowed in part or in whole, may be brought against the receiver, who shall make all legal defense against such claim. The court trying said claim is hereby authorized to hear and consider any material defense that may be or may have been urged against said claim, except that of limitation, though such claim, prior thereto, may have been reduced to judgment, but such judgment shall be considered, upon such trial, as prima facie evidence of the justness of such a claim.

[Acts 1925, S.B. 84.]

Art. 1250. Judgment and Costs

Any judgment recovered against such receiver upon a claim against such city or town shall be allowed by the receiver and approved by the district court wherein the receivership is pending. In all suits upon claims wherein protest and bond were filed in the district court, the claimant shall be liable for the costs of the suit, unless he recovers judgment for the full amount for which he asked the approval of the said district court. In suits upon claims rejected in part by the receiver, the claimant shall be liable for the costs of the suit, unless he establishes his claim for a greater amount than was allowed by the receiver.

[Acts 1925, S.B. 84.]

Art. 1251. Limitation

Limitations shall not run, begin to run or be plead against any claim against such city or town at any time prior to six months after the appointment of such receiver.

[Acts 1925, S.B. 84.]

Art. 1252. Certain Dissolutions

No receiver shall be appointed for any such city or town whose corporate existence was dissolved prior to July 17, 1905, where the application therefor was not filed in said court within two years from and after July 10, 1905.

[Acts 1925, S.B. 84.]

Art. 1253. Suits Barred

No suit shall be brought against such receiver upon any claim, against the allowance of which a protest has been filed, as herein provided for, at any time after six months from the date of filing such protest, nor after the expiration of six months from the date of the disallowance of any such claim in whole or in part, where the claim has not been filed in the district court, after such disallowance as hereinbefore provided.

[Acts 1925, S.B. 84.]

Art. 1254. Payment of Claims

The district court of the county in which such town or city is situated, and in which such receivership is pending, shall provide for the payment of all claims legally established against such city or town, and determine the priority of any claims and order the sale of all property in the hands of the receiver subject to sale for such purpose, and direct such receiver to pay such claims. If the money and proceeds of property are insufficient to pay such indebtedness, then said court, at the request of any creditor, at the first regular term of said court in each year, shall levy a tax upon all the property and real and personal estate situated within the limits of said city or town, as previously incorporated, on the first day of the preceding January, not exempt from taxation under the Constitution and laws of this State, sufficient to discharge the indebtedness, but not to exceed the rate allowed by existing law for such purposes in incorporated cities and towns.

[Acts 1925, S.B. 84.]

Art. 1255. Collection of Tax, Etc.

Whenever the district court, having jurisdiction in the premises, has or may order the assessment and collection of taxes for the payment of the indebtedness of such town, or city, the tax assessor for the county in which such town or city is situated, shall assess the taxes so ordered in like manner as taxes in rural school districts. The county tax collector for such county shall collect such taxes in like manner as taxes in rural school districts. This article shall not repeal any part of Articles 1245 to 1250 inclusive. For the services rendered under this article, the assessor and collector shall receive the same compensation as for like services for the assessment and collection of taxes in rural school districts; and said collector shall pay such taxes when collected, to the receiver of such city or town.

[Acts 1925, S.B. 84.]

Art. 1256. Delinquent Taxes

Suits may be brought by the receivers against delinquents, and a lien shall exist upon all property for such taxes, the same as though the corporate existence of such city or town had never been abolished, and such levy and assessment had been made by its council and assessor.

[Acts 1925, S.B. 84.]

Art. 1257. Prior Claims

The compensation of the receiver, together with all court costs and expenses, shall constitute a prior claim against such city or town, and shall be first paid out of any money on hand or collected. In case of taxation the money collected each year shall be paid pro rata upon all claims according to their priorities until all claims established and all costs and expenses are fully paid. On final settlement of such receivership, any money or property left on hand shall be turned over by the receiver to the trustees or other officers in charge of the public free school the district of which is wholly situated within the boundaries of such city or town for the benefit of such school, but if there be no public free school the district of which is within the boundaries of said city or town, then the money or property left on hand shall be turned over to the county in which said city or town is situated, the money to be placed in the general fund of such county, and property to be used for the benefit of such county.

[Acts 1925, S.B. 84. Amended Acts 1933, 43rd Leg., p. 768, ch. 227.]

Art. 1258. Public Schools

Where the public free schools of such city or town are under the management of trustees appointed or elected by the voters of the city or town, or by the city or town council, at the time its incorporation is abolished under the provisions of this chapter, such trustees shall have the management of said schools for the remainder of the term for which they were appointed or elected, subject to the supervision of the commissioners court, unless such city or town shall sooner become incorporated for school purposes only.

[Acts 1925, S.B. 84.]

Art. 1259. School Taxes

All taxes for municipal or school purposes which shall have been levied prior to the date of the abolishment of such corporation, and which shall not have been paid, shall be collected by the receiver, together with such penalties and interest as may be due; but the portion of such taxes levied for the purpose of maintaining the public free schools or said city or town shall be paid over by said receiver to the trustees of the public free schools of said city or town and applied by them for the purpose for which they were levied.

[Acts 1925, S.B. 84. Amended by Acts 1933, 43rd Leg., p. 768, ch. 227.]

Art. 1260. Public Buildings

When any corporation is abolished under the provisions of this chapter, and shall at the time of any such abolishment own any public buildings, public parks, public works or other property, and the same shall not have been sold or disposed of as provided in this chapter, the same shall be managed and controlled by the commissioners court of such coun-

ty for the purpose to which same were originally used and intended; and, for this purpose, the commissioners court shall have and exercise, with reference thereto, the powers originally conferred by charter upon the mayor and aldermen of such city.

[Acts 1925, S.B. 84.]

Art. 1261. Repealed by Acts 1967, 60th Leg., p. 1988, ch. 736, § 5, eff. June 18, 1967

Art. 1262. When Corporation Ceases to Function

When any corporation is abolished, or if any de facto corporation has been or shall be declared void by any court of competent jurisdiction, or if the same shall cease to operate and exercise the functions of such corporation or de facto corporation, when such corporation or de facto corporation has indebtedness outstanding, then the officers of such corporation, in office at the time of such dissolution, or at the time such corporation ceases to operate and exercise the functions of such corporation, shall take charge of the property of the corporation and sell and dispose of same, and shall settle the debts due by the corporation, and for said purpose shall have power to levy and collect a tax from the inhabitants of said city, town or village in the same manner as the said corporation. In the event of their failure or refusal to do so, and upon the petition of any number of the citizen taxpayers of such corporation or of the holders of the evidences of indebtedness of such corporation or de facto corporation, to the proper court within this State having jurisdiction in the county in which such dissolved or de facto corporation shall have been situated, the judge of said court shall appoint three trustees to take charge of such property and dispose of same and settle the debts of such corporation or de facto corporation, and for said purpose the said trustees so appointed shall be vested with all the powers herein given to the officers of such corporation.

[Acts 1925, S.B. 84.]

Art. 1263. Action for Debt

The holder of any indebtedness against any municipal corporation which has or may be dissolved in any way provided in the preceding article, including dissolution of a de facto corporation by a court of competent jurisdiction, may maintain a suit in the proper court within this State having jurisdiction in the county in which such dissolved or de facto corporation shall have been situated, to establish said indebtedness against said municipal corporation, and service may be had on such dissolved corporation by serving the citation upon any person who was the mayor, secretary or treasurer of said corporation or pretended to act as such, at the time of its dissolution, and judgment may be rendered in such suit in favor of the holder of such indebtedness against such municipal corporation as fully as if it had not been dissolved or its organization declared void. The status of such city, town or village shall be and remain the same in so far as it affects the

holders of its indebtedness, until such indebtedness has been paid.

[Acts 1925, S.B. 84.]

CHAPTER TWENTY. MISCELLANEOUS PROVISIONS

- Art. 1264. Current Expenses.
- 1265. Extension of Limits.
- 1266. Discontinuing Territory.
- 1267. Oil, Gas or Mineral Lands.
- 1268. Repealed.
- 1268a. Natural Gas Systems; Authority to Lease and Grant Option to Purchase.
- 1268b. Lease of City-owned Swimming Pools.
- 1269. Repealed.
- 1269a. Municipal Bands.
- 1269b. Same Subject—Establishment and Maintenance.
- 1269c. Same Subject—Election.
- 1269d. Same Subject—Subsequent Elections.
- 1269e. Same Subject—Ordinances.
- 1269f. Same Subject—Charters Affected.
- 1269g. Repealed.
- 1269h. Airports, Maintenance and Operation.
- 1269h-1. Validating Bonds Issued to Acquire Lands for Airports by Cities and Counties.
- 1269h-2. Pledge of Ad Valorem Tax to Payment of Airport Operation and Maintenance Expense.
- 1269h-3. Validation of Land Acquisition for County Airport Expansion.
- 1269i. Mortgage of Airports for Improvements.
- 1269j. Additional Powers of Certain Cities.
- 1269j-1. Validating Interest Bearing Time Warrants Issued to Finance Airports or Airport Improvements by Cities Having Over 285,000 Population.
- 1269j-2. Repealed.
- 1269j-3. Investments by Political Subdivisions of State in Defense Bonds or Other United States Obligations.
- 1269j-4. Auditoriums, Exhibition Halls and Similar Buildings; Cities Over 125,000 Population.
- 1269j-4.1. Public Improvements in City, Town or Village; Bonds; Occupancy Tax.
- 1269j-4.12. Public Improvement District Assessment Act of 1977.
- 1269j-4.15. Park Purposes; Acquisition and Improvement of Property by Cities of 1,200,000 or More.
- 1269j-4.2. Coliseums or Stadiums of Counties in Excess of 500,000; Sale to Certain Cities.
- 1269j-4.3. Parking Facilities; Revenue Bonds; Gulf Coast Cities of 60,000 to 75,000 or 110,000 to 120,000.
- 1269j-4.4. Sea Life Park and Oceanarium; Certificates of Indebtedness.
- 1269j-4.5. Civic Center Authority Act.
- 1269j-4.6. Contracts with Civic Center Authorities.
- 1269j-4.7. Certificates of Indebtedness Authorized for New Community Plan Adopted by City or Town Under Federal Act.
- 1269j-4.8. Off-Street Parking Facilities, Terminals, and Stations; Revenue Bonds; Cities Over 650,000.
- 1269j-4.9. Farmers' Markets; Revenue Bonds; Cities Over 650,000.

Art.

- 1269j-5. Airport Revenue Bonds; Cities with Population Over 70,000.
- 1269j-5.1. Airport Revenue Bonds.
- 1269j-5.2. Airport Revenue Bonds; Home Rule Cities with Population of 125,000 or More.
- 1269j-5.3. Airport Revenue Bonds; Cities of 1,200,000 or More or 400,000 or More; Proceeds.
- 1269j-6. Validating Bonds for Auditorium, Equipment and Facilities, Issued by Cities, Including Home-rule Cities.
- 1269j-7. Validating Interest-bearing Time Warrants and Scrip; Refunding Bonds; Proceedings; Exception.
- 1269j-8. Validating Notes and Warrants.
- 1269j-9. Validation of Proceedings for Public Improvements on Civil Centers, Etc.
- 1269j-10. Emergency Medical Technicians or Paramedics; Educational Incentive Pay.
- 1269j-11. Validation of Notes, Refunding Bonds, Instruments, Acts, and Proceedings; Cities and Towns of 3,500 or Less.
- 1269j-101. Repealed.

Art. 1264. Current Expenses

Any incorporated city or town in this State, whether incorporated under the general laws of this State, or incorporated by special charter adopted in the manner provided by law, and having a population of 161,000 or more according to the preceding Federal census, may, through its governing body, provide for the payment of its current expenses for any current fiscal year, or for any portion of such fiscal year, by the issuance of warrants or notes drawn against the current revenues of said city or town for such fiscal year, in the manner following:

1. Such warrants or notes shall be dated and numbered consecutively as they are issued, and shall become a lien upon all or any designated portion of the revenues of said city or town for such fiscal year, available for the payment thereof, and shall be paid either consecutively according to their respective dates and numbers as funds for the payment thereof become available or on any date or dates within such fiscal year on which, in the estimate of the governing body, sufficient revenues for the payment thereof will be available for such purpose.

2. Such warrants or notes may be issued in one or more installments in any fiscal year to provide for the payment of current expenses in that fiscal year or to refund, as to principal and interest, warrants or notes issued under this Act. However, the aggregate principal amount of warrants or notes outstanding at any time in any fiscal year may not exceed the greatest amount by which the proposed expenditures for such fiscal year are estimated by the governing body to exceed the estimated revenues, calculated as set out by Subdivision 3 of this Act, available for the payment thereof at any time during such fiscal year. Such warrants or notes may be issued at a discount and/or bear interest at any rate or rates permitted by law and may be sold at public or private sale for any price or

prices, all within the discretion of the governing body as may be provided in the ordinance authorizing the issuance and sale thereof.

3. In no event shall the governing body provide for the issuance of warrants or notes pursuant to this Act in excess of eighty per cent of the estimated revenues of said city or town for such fiscal year, after the deduction from the estimated revenues of all interest upon the bonded indebtedness of such city or town to be paid out of the revenues for such fiscal year, and such sums as may be required to be paid into any sinking fund or into any special fund or any special trust fund of said city or town out of its revenues for such fiscal year. However, this limitation does not apply to warrants or notes issued for refunding purposes.

4. Such warrants or notes and any coupons representing interest thereon constitute negotiable instruments and are investment securities governed by Chapter 8, Business & Commerce Code, notwithstanding any provision of law or court decision to the contrary.

5. All warrants or notes issued pursuant to this Act shall be and are hereby declared to be legal and authorized investments for banks, trust companies, building and loan associations, savings and loan associations, and insurance companies and shall be eligible to secure the deposit of any and all public funds of the State of Texas and any and all public funds of cities, towns, villages, counties, school districts or other political subdivisions of the State of Texas, and such obligations shall be lawful and sufficient security for said deposits to the extent of the principal amount thereof when accompanied by all unmatured coupons, if any, appurtenant thereto.

[Acts 1925, S.B. 84. Amended by Acts 1981, 67th Leg., p. 3222, ch. 847, § 1, eff. June 17, 1981; Acts 1983, 68th Leg., p. 5416, ch. 1006, § 1, eff. Aug. 29, 1983.]

Art. 1265. Extension of Limits

Any city having a population of 100,000 and under 150,000 as shown by the preceding Federal census, shall have the power and authority to amend its charter so as to extend its boundary limits by annexing additional territory adjacent and contiguous to such city, where the territory so annexed does not include any incorporated city or town having more than five thousand inhabitants according to the preceding Federal census. Such extension shall be effected in the manner following:

1. The governing body of such city may, upon its own motion, and shall upon the petition of at least ten per cent of the qualified voters of said city as shown by the preceding general election, submit such proposed amendment to a vote of the qualified voters of such city, which election shall be held as provided by chapter 13 of this title.

2. If such amendment is adopted by a majority of those voting at such election, and such annexed territory shall include any incorporated city or town of five thousand inhabitants or less, then, from and

after the adoption of such amendment, the incorporation of such city or town of five thousand inhabitants or less shall be abolished and shall cease to exist, and all record books, public property, public buildings, money on hand, credit accounts and other assets of the annexed incorporated city or town shall become the property of said larger city and shall be turned over to the officers thereof, and by such annexation, the offices existing in the smaller municipality shall be abolished and the persons holding such offices shall not be entitled to further remuneration or compensation; and all legal outstanding liabilities of such smaller city shall be assumed by the enlarged city.

3. Whenever such annexed city or town shall have on hand any bond funds for public improvement and not already appropriated or contracted for, such money shall be kept in a separate special fund and devoted to public improvements in the territory for which such bonds were voted, and shall not be diverted or used for any other purpose.

4. After such annexation, all claims, fines, debts and taxes due or payable to the annexed city or town shall thereupon become due and payable to said larger city and shall be collected by it. If taxes for the current year shall have been duly assessed prior to said annexation, then the amount so assessed shall remain as the amounts due and payable from the inhabitants of such annexed city or town for such current year.

5. Providing however that nothing in this Article shall be held or construed to repeal or nullify any charter provision of any city of over 100,000 and under 150,000 inhabitants, according to the preceding Federal census, operating under Article 11, Section 5 of the Constitution providing for the annexation of additional territory by ordinance but shall be construed as an additional power and cumulative of the said charter provisions, and all such charter provisions in effect at the time of the original passage of this Article are hereby ratified and confirmed and declared to be in full force and effect.

[Acts 1925, S.B. 84. Amended by Acts 1929, 41st Leg., 2nd C.S., p. 131, ch. 63, § 1.]

Art. 1266. Discontinuing Territory

Whenever there exists within the corporate limits of any city in this state of four thousand (4,000) or more population according to the preceding Federal Census located in a county having a population according to such census in excess of two hundred and five thousand (205,000) territory to the extent of at least three (3) acres contiguous, unimproved and adjoining the lines of any such city, or wherever there exists within the corporate limits of any city in this state of five hundred and ninety-six thousand (596,000) or more population according to the last preceding Federal Census, improved territory which is non-taxable to the city and which is contiguous and adjoining the lines of any such city, the governing body of any such city, whether organized by

Special Law, home rule charter, or General Laws of this state, may by ordinance duly passed discontinue said territory as a part of any such city. When said ordinance has been duly passed, the governing body shall cause to be entered an order to that effect on the minutes or records of such city; and from and after the entry of such order, said territory shall cease to be a part of such city.

[Acts 1925, S.B. 84. Amended by Acts 1959, 55th Leg., p. 563, ch. 254, § 1; Acts 1961, 57th Leg., 1st C.S., p. 152, ch. 39, § 1.]

Art. 1267. Oil, Gas or Mineral Lands

Sec. 1. Cities and towns chartered or organized under the general laws of Texas, or by special Act or charter, which may own oil, gas or mineral lands, shall have the power and right to lease such oil, gas or mineral lands for the benefit of such town or city in such manner and upon such terms and conditions as the governing body of such town or city may determine, but shall not lease for such purposes any street or alley or public square in said town or city; and no well shall be drilled within the thickly settled portion of any city or town, nor within two hundred feet of any private residence.

Sec. 2. If any portion of this Act is held unconstitutional by a court of competent jurisdiction, the remaining portion shall nevertheless be valid the same as if the invalid portion had not been a part hereof. A lease executed pursuant to the provisions of this Act shall not be deemed to be a sale within the meaning of the laws of this state relating to the sale of city land. The provisions of this Act shall be cumulative of all other laws which are by their terms expressly applicable to city land, and any such laws which are not by their terms expressly so applicable shall not be construed as affecting the right and power granted to towns and cities by this Act.

[Acts 1925, S.B. 84. Amended by Acts 1975, 64th Leg., p. 806, ch. 312, § 1, eff. May 27, 1975.]

Art. 1268. Repealed by Acts 1975, 64th Leg., p. 2352, ch. 721, § 90, eff. Sept. 1, 1976

See, now, the Public Utility Regulatory Act, classified as art. 1446c.

Art. 1268a. Natural Gas Systems; Authority to Lease and Grant Option to Purchase

Any city which owns its natural gas distribution system and has heretofore had an election resulting favorably to a sale of such system may, by majority vote of its governing body, enter into a contract leasing said system to any person, firm or corporation. Any such city may also grant an option to the lessee or to any other person, firm or corporation to purchase the system at a price specified or to be determined in the manner provided in such lease or option contract. It is provided, however, that if the city has any bonds outstanding payable from the revenues of its gas system, it shall not make such

lease or option contract except under conditions specified in the ordinance authorizing the bonds, unless provision is made for the full payment of the bonds with interest to their maturities or to the date they are to be redeemed prior to maturity.

[Acts 1959, 56th Leg., 2nd C.S., p. 92, ch. 8, § 1.]

Art. 1268b. Lease of City-owned Swimming Pools

Sec. 1. The governing body of any incorporated city or town (including home rule cities) is hereby authorized to lease any city-owned swimming pool, to be operated by the lessee as a public swimming pool under such terms and conditions as may be agreed upon by such governing body and such lessee. Any such lease shall be authorized by ordinance or resolution adopted by such governing body, and the lease agreement shall be executed on behalf of the city or town, by the mayor and the city secretary or clerk, and the seal of the city shall be impressed thereon. Such lease may cover any period of time not to exceed fifty (50) years.

[Acts 1963, 58th Leg., p. 1169, ch. 455, § 1.]

Art. 1269. Repealed by Acts 1929, 41st Leg., p. 667, ch. 299, § 1

Art. 1269a. Municipal Bands

That the word "band" as used in this Act shall mean a band composed of such musical instruments as are recognized in the standard instrumentation established for the use of United States Army Bands.

[Acts 1925, 39th Leg., ch. 22, p. 82, § 1.]

Art. 1269b. Same Subject—Establishment and Maintenance

That any incorporated city or town in this State is authorized to establish and maintain a band in such city or town, and to appropriate such part of the revenues of such city or town for the maintenance and operation of such band as the governing body of such city or town may determine. It is provided, however, that the total amount of such appropriation for any one year shall not exceed three mills for each one dollar of taxable value of property within such city or town.

[Acts 1925, 39th Leg., ch. 22, p. 82, § 2.]

Art. 1269c. Same Subject—Election

That it shall be the duty of the governing body of any city or town within this State upon a written petition signed by a number of property tax paying voters in such city or town equal to at least ten per cent of the total number of votes cast at the last regular municipal election, to submit to the qualified property tax paying voters within such city or town, at an election for that purpose, the question of whether or not a band shall be established and maintained by such city or town. Such elections shall be held as nearly as possible in accordance with the law in reference to regular elections in said

city or town, but said governing body is hereby empowered by resolution to order such elections and prescribe the form of ballot for use therein and the time and manner of holding the same. Such governing body shall canvass and determine the result of such elections in the manner provided by law for canvassing and returning the results of general elections held therein, and the result of the election shall be entered upon the minutes of said governing body. If the majority of the voters voting upon said question at such election shall vote to establish and maintain a band, the governing body shall thereupon proceed to establish, and thereafter maintain, such band.

[Acts 1925, 39th Leg., ch. 22, p. 82, § 3.]

Art. 1269d. Same Subject—Subsequent Elections

That the governing body of any city or town shall upon similar petition as provided in Section 3 of Chapter 22 of the General Laws of the 39th Legislature, Regular Session, 1925,¹ cause subsequent elections to be held for the purpose of determining whether or not a band shall be established and maintained by a city or town; or where any city or town has been previously authorized to establish and maintain a band, at an election held for that purpose, whether or not the establishment and maintenance of said band by said city or town shall be abrogated. If at an election held to abrogate the establishment and maintenance of a band by a city or town, a majority of the voters voting at such an election shall vote in favor of the proposition to abrogate the establishment and maintenance of a band, the governing body of said city or town shall thereupon discontinue said band and the maintenance thereof. Said elections shall be held and conducted in the same manner as provided in Section 3 of Chapter 22 of the General Laws of the 39th Legislature, Regular Session, 1925, but no two of such elections shall be held within the same city or town within a period of less than two (2) years.

[Acts 1925, 39th Leg., p. 82, ch. 22, § 4. Amended by Acts 1933, 43rd Leg., p. 185, ch. 86.]

¹ Article 1269c.

Art. 1269e. Same Subject—Ordinances

When it shall be determined to establish and maintain a band in any city or town, the governing body thereof shall have full power to pass all ordinances and resolutions to enable such city or town to maintain such band, and in addition thereto such governing body shall elect a non-partisan citizen commission of not more than five nor less than three members whose duty it shall be to negotiate contracts and formulate rules and regulations and do all things necessary or proper to establish, control and maintain said band.

[Acts 1925, 39th Leg., ch. 22, p. 83, § 5.]

Art. 1269f. Same Subject—Charters Affected

That this Act shall not modify or in any manner affect any special charter which has been heretofore granted by the Legislature, nor any charter heretofore adopted by the voters of any city or town.

[Acts 1925, 39th Leg., ch. 22, p. 83, § 6.]

Art. 1269g. Repealed by Acts 1929, 41st Leg., 1st C.S., p. 209, ch. 83, § 4a

Art. 1269h. Airports, Maintenance and Operation

Acquisition; Sale or Lease

Sec. 1. A—The governing body of any incorporated city in this State may receive through gift or dedication, and is hereby empowered to acquire, by purchase without condemnation or by purchase through condemnation proceedings, and thereafter maintain and operate as an airport, or lease, or sell, to the Federal Government, tracts of land either within or without the corporate limits of such city and within the county in which such city is situated, and the Commissioners Court of any county may likewise acquire, maintain and operate for like purpose tracts of land within the limits of the county.

B—The governing body of any incorporated city in this State may receive through gift or dedication, and is hereby empowered to acquire by purchase without condemnation, and thereafter maintain and operate as an airport, or lease, or sell to the Federal Government, tracts of land without the county in which such city is situated, provided said tracts are not within five (5) miles of another incorporated city that has a population of more than fifteen hundred (1500) people, according to the last preceding Federal Census.

C—The governing body of any incorporated city in this State may, and is hereby empowered, to acquire through condemnation proceedings, tracts of land located without the county in which said city is located, provided said tracts of land are within six (6) miles of the county boundary of the county in which said city is located, and are not within five (5) miles of another incorporated city having a population in excess of fifteen hundred (1500) people, according to the last preceding Federal Census; and that said city may thereafter maintain and operate as an airport, or lease, or sell, said tracts to the Federal Government; provided, however, that the grant herein made to acquire land through condemnation proceedings, without the county in which said city is located, shall expire on December 31, 1942, but that tracts of land acquired prior to that date, and under the authority of this Act, may continue to be operated, leased, or sold, as provided in this Act.

D—In addition to the power herein granted the Commissioners Courts of the several counties of this State are hereby authorized to lease any airport that has been or may be acquired by the county, as herein provided, to any incorporated city or munic-

pality within such county, or to the Federal Government, or to any other person, firm or corporation for the purpose of maintaining and operating an airport; and providing further that any incorporated city having acquired land for an airport, or an airport, under the authority of this Act shall have the right to lease said land or airport to the county in which such incorporated city is located.

E—In addition to the power which it may now have, the Commissioners Court of any county, or the governing body of any incorporated city in this State, shall have the power to sell, convey or lease all or part of any airport or property connected therewith, heretofore established or that may be hereafter established; also any land which has been or may be acquired under the provisions of this Act, to the United States of America for any purpose necessary for National Defense, or for air mail purposes or any other public purpose; or to the State of Texas or any branch of the State Government which may be authorized to own or operate airports, and to any person, firm or corporation. The Commissioners Court and governing body of any incorporated city shall promulgate rules and regulations for the use of any such airports.

Bond Issues and Tax

Sec. 2. (a) For the purpose of condemning or purchasing, either or both, lands to be used and maintained as provided in Section 1 hereof, and improving and equipping the same for such use, the governing body of any city or the Commissioners Court of any county, falling within the terms of such Section, may issue negotiable bonds of the city or of the county, as the case may be, and levy taxes to provide for the interest and sinking funds of any such bonds so issued, the authority hereby given for the issuance of such bonds and levy and collection of such taxes to be exercised in accordance with the provisions of Chapter 1 of Title 22 of the Revised Civil Statutes of 1925.¹

(b) In addition to the powers herein granted, the Commissioners Courts of counties having a population of not less than fifteen thousand (15,000) and not more than fifteen thousand, two hundred and fifty (15,250), according to the last preceding Federal Census, are hereby authorized to issue time warrants for the purposes herein stated, but the Commissioners Court of any such county proposing to issue such warrants shall comply with the provisions of Chapter 163, Acts of the Forty-second Legislature,² with reference to notice to issue such warrants and with reference to the levy and collection of taxes in payment thereof, and the right to referendum election therein shall apply.

¹ Article 701 et seq.

² Article 2368a.

Management by City or Commissioners Courts; Nonliability for Injuries

Sec. 3. Any Air Port acquired under and by virtue of the terms of this Act shall be under the

management and control of the governing body of the city or the Commissioners Court of the county acquiring the same, which is hereby expressly authorized and empowered to improve, maintain and conduct the same as an Air Port, and for that purpose to make and provide therein all necessary or fit improvements and facilities and to fix such reasonable charges for the use thereof as such governing body or Commissioners Court shall deem fit, and to make rules and regulations governing the use thereof. All proceeds, from such charges shall be devoted exclusively to the maintenance, up-keep, improvement and operation of such Air Port and the facilities, structures, and improvements therein, and no city or county shall be liable for injuries to persons resulting from or caused by any defective, unsound or unsafe condition of any such Air Port, or any part thereof, or thing of any character therein or resulting from or caused by any negligence, want of skill, or lack of care on the part of any governing Board or Commissioners Court, officer, agent, servant or employee or other person with reference to the construction, improvement, management, conduct, or maintenance of any such Air Port or any structure, improvement, or thing of any character whatever, located therein or connected therewith.

Special Tax for Maintenance or Operation

Sec. 4. That in addition to and exclusive of any taxes which may be levied for the interest and sinking fund of any bonds issued under the authority of this Act, the governing body of any city or the Commissioners Court of any county, falling within the terms hereof, may and is hereby empowered to levy and collect a special tax not to exceed for any one year five cents on each One Hundred Dollars for the purpose of improving, operating, maintaining and conducting any Air Port which such city or county may acquire under the provision of this Act, and to provide all suitable structures, and facilities therein. Provided that nothing in this Act shall be construed as authorizing any city or county to exceed the limits of indebtedness placed upon it under the Constitution.

[Acts 1929, 41st Leg., 1st C.S., p. 209, ch. 83. Amended by Acts 1941, 47th Leg., p. 65, ch. 51, § 1; Acts 1941, 47th Leg., p. 196, ch. 142, § 1; Acts 1941, 47th Leg., p. 1345, ch. 609, § 1; Acts 1947, 50th Leg., p. 473, ch. 273, § 1.]

Art. 1269h-1. Validating Bonds Issued to Acquire Lands for Airports by Cities and Counties

In instances wherein elections have been held or called prior to the effective date of this Act bonds otherwise issued in accordance with law and for purposes permitted under said Chapter 83, Acts of the First Called Session of the Forty-first Legislature,¹ are hereby validated, notwithstanding the fact that the proceeds from the sale of said bonds either have been used or may be used to purchase lands for airport purposes, which together with lands already owned by any such city for airport purposes will exceed six hundred and forty (640)

acres; provided, however, that this Section shall not apply to any bonds the validity of which has been attacked in any litigation pending at the time this Act becomes effective.

[Acts 1941, 47th Leg., p. 79, ch. 64, § 1.]

¹ Article 1269h.

Art. 1269h-2. Pledge of Ad Valorem Tax to Payment of Airport Operation and Maintenance Expense

Sec. 1. This Act shall be applicable to any city operating under its Home Rule Charter, either adopted pursuant to the Home Rule amendment to the Constitution of Texas, or granted by the Legislature and amended pursuant to said provision of the Constitution, having a population of 200,000 or more according to the last preceding Federal Census, which owns land acquired for airport purposes, and which, either in whole or in part, is leased to an airport operating company or corporation.

Sec. 2. In the event any such city shall determine to issue revenue bonds as authorized by Chapter 43, Acts of the 53rd Legislature of Texas, First Called Session, 1954, as amended,¹ to acquire the improvements constructed by any such airport operating company or corporation on any such land and to further improve its airport or airports, such city, in addition to the pledge of the revenues and income of said airport or airports to the payment of the operation and maintenance expenses and principal of and interest on such bonds, shall be authorized to levy and pledge to the payment of such operation and maintenance expenses, as a supplement to the pledge of revenues for such purpose, all or any part of the ad valorem tax authorized by Chapter 114, Acts 1947, 50th Legislature, Regular Session.² The proceeds of any tax thus pledged shall be utilized annually to the extent required by the ordinance authorizing such revenue bonds to assure the efficient operation and maintenance of such airport or airports and such city, in its discretion, may covenant in the proceedings authorizing the issuance of said bonds that certain costs of operating and maintaining such airport or airports, as may be enumerated in said proceedings, will be paid by the city from the proceeds of such tax. If it is deemed advisable by the city that revenue bonds theretofore issued under said Chapter 43, supra, and then outstanding, should be refunded so as to facilitate the financing of the acquisition of said improvements and the further improvement of its airport or airports, it shall be authorized to make a like pledge of said tax in the proceedings authorizing such refunding bonds and any additional revenue bonds issued for the purposes prescribed in said Chapter 43, supra.

[Acts 1959, 56th Leg., 2nd C.S., p. 102, ch. 13.]

¹ Article 1269j-5.

² Article 46d-1 et seq.

Art. 1269h-3. Validation of Land Acquisition for County Airport Expansion

Sec. 1. Where any county before the effective date of this Act has acquired land for the expansion of a county airport established under Chapter 83, Acts of the 41st Legislature, 1st Called Session, 1929, as amended (Article 1269h, Vernon's Texas Civil Statutes), and the acquisition was by purchase, gift, exchange, or a combination of those methods, the acquisition of the land and all transactions and proceedings related to it are validated in all respects.

Sec. 2. This Act does not apply to a matter that on the effective date of this Act is involved in litigation in a court of competent jurisdiction if the litigation ultimately results in a determination that the matter is invalid, nor does it apply to a matter that has been declared invalid by a final judgment of a court of competent jurisdiction.

[Acts 1977, 65th Leg., p. 626, ch. 231, §§ 1, 2, eff. May 24, 1977.]

Art. 1269i. Mortgage of Airports for Improvements

Cities to Which Applicable

Sec. 1. All cities having a population of more than One Hundred and Sixty Thousand (160,000) inhabitants according to the last preceding federal census shall have power to mortgage and encumber their airports and everything pertaining thereto acquired, or to be acquired, to secure the payment of funds to purchase the same or to build, improve, enlarge, extend, repair or construct any kind or character of permanent improvements, including buildings, repair shops and other structures, and, as additional security therefor, by the terms of such mortgage or encumbrance, may grant to the purchaser under sale or foreclosure thereunder a franchise to operate such airport and the improvements situated thereon for a term of not over thirty (30) years after such purchase, subject to all laws regulating the same then in force. No such obligation shall ever be a debt of such city, but solely a charge upon the properties so mortgaged or encumbered, and shall never be reckoned in determining the power of such city to issue any bonds for any purpose authorized by law.

Pledge of Income

Sec. 2. All cities having a population of more than One Hundred and Sixty Thousand (160,000) inhabitants according to the last preceding federal census shall have power to pledge the income from their airports and everything pertaining thereto acquired, or to be acquired, to secure the payment of funds to purchase the same or to build, improve, enlarge, extend, repair or construct any kind or character of permanent improvements including buildings, repair shops and other structures, and, as additional security therefor, by the terms of such pledge may grant to the purchaser under sale or

foreclosure thereunder a franchise to operate such airport and the improvements situated thereon for a term of not over thirty (30) years after such purchase, subject to all laws regulating the same then in force. No such obligation shall ever be a debt of such city, but solely a charge upon the properties so mortgaged or encumbered, and shall never be reckoned in determining the power of any such city to issue any bonds for any purpose authorized by law.

Notes or Warrants Issued Without Referendum

Sec. 3. Such cities shall have the power to issue notes or warrants in any sum not to exceed the sum of One Hundred Thousand Dollars (\$100,000.00) for such purposes without submitting such proposition to a vote of the qualified taxpaying voters. This law shall take precedence over all conflicting city charter provisions.

Repeals

Sec. 4. All laws and parts of laws in conflict herewith are hereby expressly repealed to the extent in conflict herewith.

Partial Invalidity

Sec. 5. If any section, portion, clause, or part of this Act be invalid or unconstitutional, the same shall not affect any remaining part or parts of this Act and it is expressly hereby declared that the Legislature would have passed such remaining parts of this Act with such invalid or unconstitutional section, portion, clause or part omitted.

[Acts 1934, 43rd Leg., 2nd C.S., p. 72, ch. 24.]

Art. 1269j. Additional Powers of Certain Cities

Acquisition; Bonds; Rates; Pledges; Definition

Sec. 1. In addition to the powers which it may now have, any City having a population of more than forty thousand (40,000) inhabitants, according to the last preceding Federal Census, shall have power (a) to own, maintain and operate in airport, either within or without, or partially within and partially without, the corporate limits of such city; (b) to construct, acquire by gift, purchase, lease or the exercise of the right of eminent domain, improve, enlarge, extend or repair any airport, and to acquire by gift, purchase, lease or the exercise of the right of eminent domain, lands or rights in land in fee simple in connection therewith; (c) to borrow money and issue its bonds or warrants to finance in whole or in part the cost of the acquisition, construction, improvement, enlargement, extension or repair of any airport; (d) to prescribe and collect rates, fees, rents, tolls or other charges for the service and facilities afforded by such airport; and (e) to pledge to the punctual payment of said warrants and interest thereon all or any part of the income, rents, revenues, tolls or other receipts derived from the operation of such airport, in addition to the taxes which shall be levied annually, for the payment of the principal and interest on such war-

rants. An airport within the meaning of this Act shall include all lands and buildings or other improvements necessary or convenient in the establishment and operation of an airport, and shall include such lands and improvements as are necessary to assemble or manufacture aircraft for military or naval uses, or for any other governmental purpose, and to provide housing and office space for employees necessary or incidental to such purposes.

Form and Contents of Warrants

Sec. 2. Warrants may be authorized to be issued under this Act by ordinance which may be adopted at the same meeting at which it is introduced by a majority of all the members of the governing body of the city then in office and shall take effect immediately upon adoption. Such warrants shall bear interest at such rate or rates not exceeding five (5) per centum per annum, payable semi-annually, may be made payable to bearer, may be in one or more series, may bear such date or dates, may be in such denomination or denominations, may be payable in such medium of payment, at such place or places, may carry such registration privileges, may be subject to such terms of redemption, may be executed in such manner, may contain such terms, covenants and conditions, and may be in such form, either coupon or registered, as such ordinance or subsequent ordinance may provide. Said warrants shall mature annually in such amounts so that the aggregate amount of principal and interest falling due in each year shall be substantially equal over a period not to exceed thirty (30) years from their date. Said warrants shall be sold at public or private sale at not less than par. Said warrants shall be negotiable instruments within the meaning of the Negotiable Instruments Law¹ of this State. Said warrants bearing the signature of the officers in office at the date of the signing thereof shall be valid and binding obligations notwithstanding that before the delivery thereof and payment therefor any or all of the persons whose signatures appear thereon shall have ceased to be officers of the city issuing the same.

¹ Article 5932 et seq. (repealed; see, now, Business and Commerce Code, § 3.101 et seq.)

Limitation on the Amount of Warrants Which May Be Issued

Sec. 3. No city shall issue any warrants pursuant to this Act in an aggregate amount in excess of One Hundred and Twenty-five Thousand Dollars (\$125,000).

No Election Necessary

Sec. 4. No election shall be necessary to authorize the issuance of warrants pursuant to this Act, but the city shall comply with the provisions of Chapter 163, Acts of the Forty-second Legislature,¹ with reference to bidders and notice of intention to

issue such warrants and the right to referendum therein specified shall apply.

¹ Article 2368a.

Tax Levy

Sec. 5. Whenever any city shall issue warrants pursuant to this Act, a tax sufficient to pay when due the principal and interest on such warrant shall be levied annually and assessed, collected and paid in like manner with other taxes of such city, provided, however, that if such warrants are payable from taxes and additionally secured by a pledge of the income, rents, revenues, tolls, and other receipts derived from the operation of the airport for which such warrants were issued, the tax to be levied and assessed by such city may be reduced by the amount of money on hand pledged to the payment of the principal and interest of such warrants.

Charges for Use of Airport

Sec. 6. The governing body of a city issuing warrants pursuant to this Act shall prescribe by ordinance and collect reasonable rates, fees, tolls, rentals or other charges for the service and facilities furnished by the airport for which such warrants have been issued. The rates, fees, tolls, rentals or other charges so prescribed shall be such as will produce revenues sufficient (a) to pay when due all warrants and interest thereon, for the payment of which such revenues shall have been pledged, including reserves therefor; (b) to provide for all expenses of operation and maintenance of such airport, including reserves therefor.

Sale or Lease of Airport

Sec. 7. The governing body of the City shall have the power to sell, convey, or lease all or any portion of such airports heretofore established, or that may be hereafter established, to the United States of America for the purpose of air mail or any other public purpose, including the purpose of runways for the landing of aircraft, the assembling or manufacture of aircraft or aircraft parts, or any other purpose deemed by the Government of the United States necessary for the national defense, or to the State of Texas or any branch of the State Government, or to any municipality for any such purpose, or to any other person, firm or corporation to carry out any necessary or incidental purpose; and that such governing body shall provide rules and regulations for the proper use of any such airports, whether used for pleasure, experiment, exhibition, commercial purpose, or for the national defense.

Airport a Public Purpose

Sec. 8. The acquisition and operation of an airport are hereby declared to be a public purpose and a matter of public necessity.

Approval of Attorney General

Sec. 9. Said warrants shall be presented to the Attorney General for examination and if he approves the same they shall be registered in the office of the State Comptroller. Such warrants after receiving the certificate of the Attorney General and having been registered in the Comptroller's office, shall be held in each action, suit or proceeding in which their validity is or may be brought into question, prima facie valid and binding obligations. The only defense which can be offered against the validity of such warrants shall be forgery or fraud. In each action brought to enforce collection of such warrants the certificate of the Attorney General, or a duly certified copy thereof shall be admitted and received in evidence of the validity of such warrant or warrants together with the coupons attached thereto.

Construction of Act

Sec. 10. The powers conferred by this Act shall be in addition and supplemental to the powers conferred by any other law, including any charter provision. In so far as the provisions of this Act are inconsistent with the provisions of any other law, including any charter provision, the provisions of this Act shall be controlling. If any provision of this Act, or the application of such provisions to any person, body or circumstance shall be held invalid, the remainder of the Act, or the application of such provision to persons, bodies, or circumstances other than as to which it is held invalid, shall not be affected thereby.

[Acts 1935, 44th Leg., p. 364, ch. 132. Amended by Acts 1941, 47th Leg., p. 67, ch. 54, § 1.]

Art. 1269j-1. Validating Interest Bearing Time Warrants Issued to Finance Airports or Airport Improvements by Cities Having Over 285,000 Population

All interest-bearing time warrants heretofore authorized by ordinance of the governing body of any city in Texas having a population of two hundred and eighty-five thousand (285,000) or more according to the latest United State Census, issued or authorized to be issued in payment or part payment for the construction of administration buildings, hangars, and hangar doors for its airport and/or to improve, enlarge, extend, or repair its airport, are hereby validated, ratified, and legalized, and such warrants shall not be invalid on account of irregularities in the notice to bidders, and shall not be invalid because the notice to bidders did not contain notice that it was the intention of the governing body to pay for such improvements and the contracts therefor by the issuance of time warrants. The contracts for such improvements and payment therefor by the issuance of interest-bearing time warrants shall not be invalid on account of the notice to bidders not containing a clause to the effect that it was the intention to pay for such improvements and the contracts therefore by the

issuance of interest-bearing time warrants and stating the maximum amount, interest rate, and maximum maturity date of such contemplated warrants. This Act shall apply to such warrants and the contracts on which they are based whether such warrants shall have been completely issued, or whether they have been authorized by ordinance and not as yet completely issued; and in so far as they have not as yet been completely issued, the governing body of such city is authorized in due course to complete the issuance thereof.

[Acts 1939, 46th Leg., Spec.Laws, p. 1006, § 1.]

Art. 1269j-2. Repealed by Acts 1947, 50th Leg., p. 784, ch. 391, § 16

Art. 1269j-3. Investments by Political Subdivisions of State in Defense Bonds or Other United States Obligations

All political subdivisions of the State of Texas which have balances remaining in their accounts at the end of any fiscal year may invest such balances in Defense Bonds or other obligations of the United States of America; provided, however, that when such funds are needed the obligations of the United States in which such balances are invested shall be sold or redeemed and the proceeds of said obligations shall be deposited in the accounts from which they were originally drawn.

[Acts 1943, 48th Leg., p. 481, ch. 321, § 1.]

Art. 1269j-4. Auditoriums, Exhibition Halls and Similar Buildings; Cities Over 125,000 Population

Powers of Cities; Obligations to be Charge on Property Only

Sec. 1. All incorporated cities and town, including home rule cities, having a population exceeding one hundred and twenty-five thousand (125,000) according to the last preceding Federal Census, shall have power to build and purchase, to mortgage and encumber their municipal auditoriums, exhibition halls, coliseums, and other buildings or structures for public gatherings, either, or all, and the income thereof and everything pertaining thereto acquired or to be acquired and to evidence the obligation therefor by the issuance of bonds, notes or warrants, and to secure the payment of funds to purchase same; or to purchase additional lands and facilities, or to build, improve, enlarge, extend or repair such buildings and structures, or any one of them, including the purchase of equipment and appliances necessary in the operation of such buildings and structures. No such obligation of any such municipal auditorium, exhibition hall, coliseum, or other building or structure for public gatherings shall ever be a debt of such city, but solely a charge upon the properties so encumbered, and shall never be reckoned in determining the power of any such city to issue any bonds for any purpose authorized by law.

Sale or Encumbrance; Submission to Voters

Sec. 2. No such municipal auditorium, exhibition hall, coliseum, or other building or structure for public gatherings, shall ever be sold until such sale is authorized by a majority vote of the qualified voters of such City; nor shall same be encumbered for more than Five Thousand Dollars (\$5,000) except for purchase money, or to refund any existing indebtedness lawfully created, until authorized in like manner. Such vote in either case shall be ascertained at an election, which election shall be held and notice thereof given as is provided in the case of the issuance of municipal bonds by such cities.

Lien of Expenses; Rates and Charges; System of Records and Account; Report of Operations

Sec. 3. Whenever the income of any municipal auditorium, exhibition hall, coliseum, or other building or structure for public gatherings, shall be encumbered under this law, the expenses of operation and maintenance, including all salaries, labor, materials, interest, repairs and additions necessary to render efficient service and every proper item of expense shall always be a first lien and charge against such income. Provided, that only such repairs and additions, as in the judgment of the governing body of such city, are necessary to keep such building or structure for public gatherings in operation and render adequate service to such city and the inhabitants thereof, or such as might be necessary to meet some physical accident or condition which would otherwise impair the original security, shall be a lien prior to any existing lien. The rates charged for the use and for services furnished by any such municipal auditorium, exhibition hall, coliseum, or other building or structure for public gatherings, shall be equal and uniform, and no free use or service shall be allowed except for activities and institutions operated by such city. There shall be charged and collected for such use and services a sufficient rate to pay all operating, maintenance, depreciation, replacement, betterment, and interest charges, and for interest and sinking fund sufficient to pay any bonds issued to purchase, construct or improve any such buildings or structures or any outstanding indebtedness against same. No part of the income of any such municipal auditorium, exhibition hall, coliseum, or other building or structure for public gatherings, shall ever be used to pay any other debt, expenses or obligation of such city, until the indebtedness so secured shall have been finally paid.

It shall be the duty of the chief executive officer of such city to install and maintain, or cause to be installed and maintained, a complete system of records and accounts showing the free uses and services rendered, and the value thereof, and showing separately the amounts expended and the amounts set aside for operation, salaries, labor, materials, repairs, maintenance, depreciation, replacements, additions, interest, and the creation of a

sinking fund to pay off such bonds and indebtedness.

It shall likewise be the duty of the superintendent or manager of such municipal auditorium or other building or structure for public gatherings, to file with the chief executive officer of such city, not later than February 1, a detailed report of the operation of such building or structure for the year ending January 1 preceding, showing the total sums of money collected and the balance due, as well as the total disbursements made and the amounts remaining unpaid as a result of operation of such building or structure during such calendar year.

Failure or refusal on the part of the chief executive officer to install and maintain, or cause to be installed and maintained, such system of records and accounts within ninety (90) days after the completion of such municipal auditorium, exhibition hall, coliseum, or other building or structure for public gatherings, or on the part of such superintendent or manager to file or cause to be filed such report, shall constitute a misdemeanor, and upon conviction therefor, such chief executive officer or such superintendent or manager shall be subject to a fine of not less than One Hundred Dollars (\$100) and not more than One Thousand Dollars (\$1,000); and any taxpayer or holder of such indebtedness, residing within such city shall have the right, by appropriate civil action in the district court of the county in which said city as located, to enforce the provisions of this Act.

Evidence of Indebtedness to Include Statement as to Funds from Which Payable; Approval and Registration of Bonds

Sec. 4. Every contract, bond, note or other evidence of indebtedness issued or included under this law shall contain this clause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation." Where bonds are issued hereunder, they may be presented to the Attorney General for his approval as is provided for the approval of municipal bonds issued by such cities. In such case, the bonds shall be registered by the State Comptroller as in the case of other municipal bonds.

Projects Self Liquidating

Sec. 5. Projects financed in accordance with this law are hereby declared to be self liquidating in character and supported by charge other than by taxation.

[Acts 1951, 52nd Leg., p. 595, ch. 350.]

Art. 1269j-4.1. Public Improvements in City, Town or Village; Bonds; Occupancy Tax

Applicability of Act

Sec. 1. In this Act, "city" means a home-rule city or a city, town, or village incorporated under general law.

Buildings, Structures, Parking Areas and Facilities; Leases

Sec. 2. Any such city is hereby authorized to establish, acquire, lease as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate or maintain (any or all) public improvements such as civic centers, civic center buildings, auditoriums, opera houses, music halls, exhibition halls, coliseums, museums, libraries, or other city buildings (either or all), and golf courses, tennis courts, and other similar recreational facilities, and to establish, acquire, lease as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate or maintain (any or all) structures, parking areas, or facilities, located at or in the immediate vicinity of such public improvements, to be used in connection with such public improvements for off-street parking or storage of motor vehicles or other conveyances; and provided that any such lease shall be on such terms and conditions as said city shall deem appropriate.

Revenue Bonds; Ordinance; Pledge of Revenues; Charges for Services; Leases

Sec. 3. (a) Any such city is hereby authorized to issue negotiable revenue bonds to provide all or part of the funds for the establishment, acquisition, purchase, construction, improvement, enlargement, equipment or repair (any or all) of public improvements such as civic centers, civic center buildings, auditoriums, opera houses, music halls, exhibition halls, coliseums, museums, libraries or other city buildings, either or all, and golf courses, tennis courts, and other similar recreational facilities, and the establishment, acquisition, purchase, construction, improvement, enlargement, equipment of repair (any or all) of structures, parking areas or facilities, located at or in the immediate vicinity of such public improvements, to be used in connection with such public improvements for off-street parking or storage of motor vehicles or other conveyances.

(b) Such revenue bonds may be issued when duly authorized by an ordinance passed by the governing body of such city and shall be secured by a pledge of and be payable from all or any designated part of the revenues of said public improvements or said parking or storage facilities, as may be provided in the ordinance or ordinances authorizing the issuance of such bonds. To the extent that such revenues may have been pledged to the payment of revenue or revenue refunding bonds which are still outstanding, the pledge securing the proposed bonds shall be inferior to the previous pledge or pledges. Within the discretion of the governing body of the city, and subject to limitations contained in previous pledges, if any, in addition to the pledge of revenues a lien may be given on all or any part of the physical properties acquired out of the proceeds from the sale of such bonds.

(c) When any of the revenues of such public improvements and facilities are pledged to the pay-

ment of bonds, issued under this Act, it shall be the duty of the governing body of the city to cause to be fixed, maintained and enforced charges for services rendered by properties and facilities, and revenues of which have been pledged, at rates and amounts at least sufficient to comply with and carry out the covenants, and provisions contained in the ordinance or ordinances authorizing the issuance of said bonds.

(d) If any such city leases as lessee any one or more such public improvements, structures, parking areas or facilities, such city shall have authority to pledge to the lease payments required to be made by such city all or any part of the revenues of such public improvements, structures, parking areas or facilities.

Occupancy Tax Authorized

Sec. 3a. (a) Any such city is hereby authorized to levy by ordinance a tax upon the cost of occupancy of any sleeping room furnished by any hotel, where the cost of occupancy is at the rate of \$2 or more per day. Such tax may not exceed seven percent of the consideration paid by the occupant of the sleeping room to the hotel. Any revenues from a tax in excess of four percent of the consideration paid by an occupant of the sleeping room to the hotel may only be used for the purposes specified in Subdivisions (1), (2), and (3) of Subsection (a) of Section 3c. No more than one percent of the consideration paid by an occupant of the sleeping room to the hotel may be used for the purposes specified in Subdivision (4) of Subsection (a) of Section 3c.

(b) A city imposing the tax authorized by this section may permit the person required to collect the tax to deduct and withhold from the person's payment to the city, as reimbursement for the cost of collecting the tax, an amount not to exceed one percent of the amount of tax collected and required to be reported to the city. The city may provide for forfeiture of reimbursement for the failure to pay the tax or to file reports as required by the city.

Ordinances, Bonds and Taxes; Validation

Sec. 3b. All ordinances heretofore passed and adopted by the governing body of any such city levying a tax upon the cost of occupancy of any sleeping room furnished by any hotel, where such cost of occupancy is at the rate of two dollars (\$2) or more per day and such tax is equal to or less than three percent (3%) of the consideration paid by the occupant of such room to such hotel, and any bonds heretofore issued that are secured in whole or in part by a pledge of such tax, are hereby in all respects validated and held to be enforceable as of the respective date of passage and adoption of said ordinances levying such tax or issuing such bonds. All such occupancy taxes to be levied or attempted to be levied pursuant to such ordinances are hereby validated and declared fully enforceable to the same extent as if levied or attempted to be levied pursuant to valid laws duly enacted by the Legislature of

this State specifically providing authority for the passage and adoption of such ordinances and the levy of such taxes.

Disposition of Revenue

Sec. 3c. (a) The revenue derived from any occupancy tax authorized or validated by this Act may only be used for:

(1) the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities including, but not limited to, civic center convention buildings, auditoriums, coliseums, civic theaters, museums, and parking areas or facilities for the parking or storage of motor vehicles or other conveyances located at or in the immediate vicinity of the convention center facilities;

(2) the furnishing of facilities, personnel and materials for the registration of convention delegates or registrants;

(3) for advertising for general promotional and tourist advertising of the city and its vicinity and conducting a solicitation and operating program to attract conventions and visitors either by the city or through contracts with persons or organizations selected by the city;

(4) the encouragement, promotion, improvement, and application of the arts, including music (instrumental and vocal), dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, television, radio, tape and sound recording, and the arts related to the presentation, performance, execution, and exhibition of these major art forms;

(5) historical preservation and restoration projects or activities at or in the immediate vicinity of convention center facilities or historical preservation and restoration projects or activities located elsewhere in the city that would be frequented by tourists and visitors to the city.

(b) Any city which levies and collects an occupancy tax which is authorized or validated by this Act may pledge a portion of the revenue derived therefrom to the payment of the bonds which the city may issue pursuant to the provisions of Section 3 of this Act, if such bonds are issued solely for one or more of the purposes set forth in the preceding subsection; provided that any city which levies and collects a tax of not more than three percent shall reserve a portion of the tax revenue equal to at least one-half of one percent of the cost of occupancy of hotel rooms, and any city which levies and collects a tax in excess of three percent shall reserve a portion of the tax revenue equal to at least one percent of the cost of the occupancy of hotel rooms for the purpose of advertising and conducting solicitation programs to acquaint potential users with public meeting and convention facilities, and for promotion of tourism and advertising of the city

and its vicinity either by the city or through contract with persons or organizations selected by the city.

(c) It is the intent of the legislature that revenues derived from the tax authorized by this Act are to be expended in a manner directly enhancing and promoting tourism and the convention and hotel industry.

Definitions

Sec. 3d. As hereinabove employed, the following words, terms and phrases are defined as follows:

(a) "Hotel" shall mean any building or buildings in which the public may, for a consideration, obtain sleeping accommodations. The term shall include hotels, motels, tourist homes, houses, or courts, lodging houses, inns, rooming houses, or other buildings where rooms are furnished for a consideration, but "hotel" shall not be defined so as to include hospitals, sanitariums, or nursing homes.

(b) "Consideration" shall mean the cost of the room in such hotel only if the room is one ordinarily used for sleeping, and shall not include the cost of any food served or personal services rendered to the occupant of such room not related to the cleaning and readying of such room for occupancy.

(c) "Occupancy" shall mean the use or possession, or the right to the use or possession, of any room in a hotel if the room is one ordinarily used for sleeping and if the occupant's use, possession, or right to use or possession extends for a period of less than thirty (30) days.

(d) "Occupant" shall mean anyone, who, for a consideration uses, possesses, or has a right to use or possess any room in a hotel if the room is one ordinarily used for sleeping.

Special Provisions for Certain Eligible Cities

Sec. 3e. (a) For purposes of this section:

(1) "Eligible city" means any city that has a population of at least 1,200,000, according to the most recent federal census, and that pursuant to an ordinance adopted by its governing body has approved and adopted a capital improvement plan for convention and exposition facilities for such city.

(2) "Convention and exposition facilities" means public structures, such as civic centers, civic center buildings, auditoriums, exhibition halls, coliseums, or other city buildings, that are suitable for use as convention and exposition facilities, and parking facilities located at or in the immediate vicinity of such public structures to be used in connection with those public structures for off-street parking or storage of motor vehicles or other conveyances.

(b) Subject to the limitations described in Subsections (c), (d), and (e) of this section, each eligible city may:

(1) levy by ordinance on the cost of occupancy of any sleeping room furnished by any hotel, in which

the cost of occupancy is at the rate of \$2 or more per day, (A) a tax not to exceed four percent of the consideration paid by the occupant of the sleeping room to the hotel during the period beginning with the calendar quarter following the quarter in which this section is enacted and ending on December 31, 1983, and (B) a tax not to exceed six percent of the consideration paid by the occupant of the sleeping room to the hotel beginning with the first calendar quarter following December 31, 1983; and

(2) pledge to the payment of revenue bonds and revenue refunding bonds issued pursuant to this Act all or any portion of the revenues derived from the occupancy tax described in subdivision (1) of this subsection, notwithstanding any provision to the contrary contained in Subsection (b) of Section 3c of this Act, and all or any portion of any other revenues of such eligible city as the governing body thereof shall determine in the ordinance authorizing the issuance of such bonds.

(c) As a condition precedent to the issuance by an eligible city of any revenue bonds secured in whole or in part from the revenues derived from the occupancy tax described in Subdivision (1) of Subsection (b) of this section, an eligible city shall certify that the average annual debt service on all such bonds outstanding prior to the date of issuance, and in the process of issuance, secured in whole or in part by the pledge of revenues derived from the occupancy tax described in Subdivision (1) of Subsection (b) of this section, and which were issued for purposes other than convention and exposition facilities, shall not exceed the sum of the maximum annual revenues that such city could derive from such occupancy tax under the sections of this Act other than this section plus any other revenues pledged to the payment of such bonds.

(d) Consistent with the requirements of Subsection (b) of Section 3c of this Act, any city which levies and collects a tax in excess of four percent under the provisions of this section shall reserve that portion of the tax revenues which are derived from the percentage of the tax in excess of four percent solely for the purposes described in Subdivision (1) of Subsection (a) of Section 3c of this Act and for the purpose of securing refunding bonds issued in connection therewith.

(e) The taxing authority granted under this section is in lieu of and not in addition to the taxing authority granted under Section 3a of this Act. Accordingly, any eligible city which levies and collects a tax under this section is prohibited from levying and collecting a tax under Section 3a of this Act.

(f) An eligible city imposing the tax authorized by this section may permit the person required to collect the tax to deduct and withhold from the person's payment to the city, as reimbursement for the cost of collecting the tax, an amount not to exceed one percent of the tax collected.

(g) Revenue received under this section not in excess of four percent may be used by the city as provided by Section 3c of this Act.

Special Provisions for Certain Eligible Coastal Cities

Sec. 3f. (a) In this section, "eligible coastal city" means a home-rule city that borders on the Gulf of Mexico and that has a population of less than 75,000, according to the most recent federal census. The definitions contained in Section 3d of this Act apply to this section.

(b) In lieu of the taxes authorized by Section 3a of this Act, an eligible coastal city may levy by ordinance on the cost of occupancy of any sleeping room furnished by any hotel, in which the cost of occupancy is \$2 or more a day, a tax not to exceed seven percent of the consideration paid by the occupant of the sleeping room to the hotel.

(c) A city that levies and collects an occupancy tax authorized by this section may pledge a portion of the revenue equal to not more than one percent of the cost of the occupancy of hotel rooms to the payment of the bonds which the city may issue pursuant to the provisions of Section 3 of this Act. The city is authorized to establish, acquire, lease as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate, or maintain (any or all) public improvements such as civic centers, civic center buildings, auditoriums, exhibition halls, and coliseums that serve the purpose of attracting visitors and tourists to the city and to establish, acquire, lease as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate, or maintain (any or all) structures, parking areas, or facilities located at or in the immediate vicinity of these public improvements to be used in connection with the public improvements for off-street parking or storage of motor vehicles or other conveyances. Any lease under this subsection shall be on the terms and conditions the city deems appropriate.

(d) If the tax authorized by this section is levied by the city at a rate of four percent or more, an amount of revenue equal to at least three percent of the cost of the occupancy of hotel rooms shall be reserved for the purpose of advertising and conducting solicitation programs to acquaint potential users with public meeting and convention facilities and for promotion of tourism and advertising of the city and its vicinity either by the city or through contract with persons or organizations selected by the city.

(e) If the tax authorized by this section is levied by the city at a rate of five percent or more, an amount of revenue equal to at least one percent of the cost of the occupancy of hotel rooms shall be reserved for beach patrol, lifeguard services, and marine water safety under the provisions of Senate Bill 713, Acts of the 67th Legislature, Regular Session, 1981.¹

(f) If the tax authorized by this section is levied by the city at a rate of six percent or more, an

amount of revenue equal to at least one percent of the cost of occupancy of hotel rooms shall be reserved for public beach cleaning funds for use as matching funds for state funds available to clean and maintain public beaches.

(g) This section does not permit the impairment of any bonds issued under the provisions of this Act and all revenue previously pledged to the payment of those bonds shall continue to be reserved for the payment of the principal and interest on those bonds.

¹ Chapter 59, adding, art. 6869.1, § 1, subsecs. (g), (h).

Additional Definitions; Levy of Tax by Certain Cities

Text of § 3g as added by Acts 1983, 68th Leg., p. 4930, ch. 879, § 1

Sec. 3g. (a) For purposes of this section and in addition to the definitions contained in Section 3d of this Act which apply to this section:

(1) "City" means any city having a population of at least 900,000, according to the last preceding federal census, that has adopted a council-manager form of government.

(2) "Convention Center Complex" means public structures, such as civic centers, civic center buildings, auditoriums, exhibition halls, coliseums, or other city buildings, that are suitable for use as convention and exposition facilities, and parking facilities, located at or in the immediate vicinity of such public structures, to be used in connection with those public structures for off-street parking or storage of motor vehicles or other conveyances.

(b) The city is not authorized to levy the taxes authorized by Section 3a of this Act, but instead may levy by ordinance on the cost of occupancy of any sleeping room furnished by any hotel, in which the cost of occupancy is \$2 or more a day, a tax not to exceed five percent of the consideration paid by the occupant of the sleeping room to the hotel.

(c) If the city levies and collects a tax in excess of four percent under the provisions of this section, it shall reserve that portion of the tax revenues which are derived from the percentage of the tax in excess of four percent solely for the following purposes:

(1) no more than 65 percent to:

(A) constructing, improving, enlarging, equipping, and repairing the Convention Center Complex; or

(B) pledging payment of revenue bonds and revenue refunding bonds issued pursuant to this Act for the Convention Center Complex;

(2) at least 35 percent to advertising and conducting solicitation programs to acquaint potential users with public meeting and convention facilities and promoting tourism and advertising of the city either by the city or through contract with persons or organizations selected by the city.

(d) Revenue received under this section not in excess of four percent may be used by the city as provided by Section 3c of this Act.

Failure to File Report or Pay Tax; Additional Remedy; Injunction From Operating Hotel

Text of § 3g as added by Acts 1983, 68th Leg., p. 5421, ch. 1009, § 1

Sec. 3g. In addition to other remedies provided by law or by city ordinance for the collection of a tax imposed under this Act, the city attorney, or other attorney acting for the city attorney, may bring suit against a person who is required to collect the tax imposed by this Act and pay the collections over to the city and who has failed to file a report or pay the tax when it is due to enjoin the person from operating a hotel in the city until the tax is paid or the report is filed or both, as applicable and as provided in the injunction.

Payment of Principal or Interest on Bonds

Sec. 4. The owners or holders of such revenue or revenue refunding bonds shall never have the right to demand payment of either the principal or interest on such bonds out of any funds raised or to be raised by taxation, except as to room taxes, if pledged.

Interest and Sinking Funds; Reserve Funds

Sec. 5. In the ordinance or ordinances authorizing the issuance of any revenue or revenue refunding bonds authorized hereunder, the city may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund or funds, reserve fund or funds, and other funds, and may make additional covenants with respect to the bonds and the pledged revenues and the operation and maintenance of those improvements and facilities, the revenues of which are pledged, including provision for the operation or for the leasing of all or any part of said improvements or facilities and the use of pledge of moneys derived from such operation contracts and leases, as it may deem appropriate. Such ordinance or ordinances may also prohibit the further issuance of bonds or other obligations payable from the pledged revenues, or may reserve the right to issue additional bonds to be secured by a pledge of and payable from said revenues on a parity with, or subordinate to, the lien and pledge in support of the bonds being issued, subject to such conditions as are set forth in said ordinance or ordinances. Such ordinance or ordinances may contain other provisions and covenants, as the city may determine, not prohibited by the Constitution of Texas or by this Act, and the city may adopt and cause to be executed any other proceedings or instruments necessary or convenient in the issuance of any of said bonds.

Payment of Interest; Expense of Sale and Delivery of Bonds; Investment of Proceeds

Sec. 6. From the proceeds of sale of any bonds issued hereunder, the city may appropriate or set aside, out of the bond proceeds an amount for the payment of interest expected to accrue during the period of construction, an amount or amounts to be deposited into the reserve fund or funds as may be provided in the bond ordinance or ordinances, and an amount necessary to pay all expenses incurred and to be incurred in the issuance, sale, and delivery of the bonds. Until such time or times a the bond proceeds are needed to carry out the bond purpose, such bond proceeds may be invested in direct obligations of the United States of America or may be placed on time deposit, or both. Moneys in the interest and sinking fund or funds, in the reserve fund or funds, and in any other fund or funds established or provided for the bond ordinance or ordinances may be invested in such manner and in such securities as may be provided in the bond ordinance or ordinances.

Signatures on Bonds; Maturity Dates; Examination and Approval; Registration

Sec. 7. All bonds shall be signed by the Mayor of the city and countersigned by the City Secretary or City Clerk, and shall have the seal of the city impressed thereon; provided, that the bond ordinance or ordinances may provide for the bonds and any attached interest coupons to be signed by facsimile signatures and for the seal of the city on the bonds to be a facsimile as provided by Acts 1961, 57th Legislature, page 406, Chapter 204 (Article 717j-1, V.A.C.S.). Such bonds shall mature serially or otherwise in not to exceed forty (40) years from their date or dates and may be sold at a price and under such terms determined by the governing body of the city to be the most advantageous reasonably obtainable, provided that the interest cost to the city, calculated by the use of standard bond interest tables currently in use by insurance companies and investment houses, does not exceed six per cent (6%) per annum, and within the discretion of the governing body such bonds may be callable prior to maturity at such time or times and at such price or prices as may be prescribed in the ordinance or ordinances authorizing such bonds. Any such bonds may be made registrable as to principal, or as to both principal and interest. All bonds issued hereunder and the record relating to their issuance shall be submitted to the Attorney General of the State of Texas for his examination as to the validity thereof, and after said Attorney General has approved the same, such bonds shall be registered by the Comptroller of Public Accounts of the State of Texas. When such bonds have been approved by the Attorney General, registered by the Comptroller of Public Accounts, and delivered to the purchasers, they shall thereafter be incontestable except for forgery or fraud.

**Revenue Refunding Bonds; Examination and
Approval; Registration**

Sec. 8. Any city to which this Act applies shall have the power and authority to issue revenue refunding bonds similarly secured to refund either original bonds or revenue refunding bonds theretofore issued by such city under this Act, and such refunding bonds shall bear interest at the same or lower rate or rates than that of the bonds refunded unless it is shown mathematically that a saving will result in the total amount of interest to be paid. Refunding bonds shall be authorized by ordinance or ordinances and shall be executed and shall mature as is provided in this Act for original bonds. They shall be approved by the Attorney General as in the case of original bonds, and shall be registered by the Comptroller of Public Accounts upon the surrender and cancellation of the bonds to be refunded, but in lieu thereof the ordinance or ordinances authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the place or places where the underlying bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the interest on and principal of the underlying bonds to their option or maturity date, and the Comptroller of Public Accounts shall register them without the surrender and cancellation of the underlying bonds. All such refunding bonds, after they have been approved by the Attorney General and registered by the Comptroller of Public Accounts, shall be incontestable except for forgery or fraud.

**Legal and Authorized Investment; Securing Deposit
of Public Funds**

Sec. 9. All bonds issued under this Act, whether original bonds or refunding bonds, shall be and are hereby declared to be, and to have all the qualifications of, negotiable instruments under the Negotiable Instruments Act of the State of Texas, and all such bonds shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies of every kind or type, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value when accompanied by all unma- tured coupons appurtenant thereto.

Cumulative Effect

Sec. 10. This Act is cumulative of all existing laws of the State of Texas, but to the extent that such existing laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this

Act shall govern and prevail; and this Act shall take precedence over any and all conflicting or inconsistent city charter provisions.

[Acts 1965, 59th Leg., p. 148, ch. 63, eff. April 2, 1965. Amended by Acts 1967, 60th Leg., p. 1239, ch. 563, § 1, eff. June 14, 1967; Acts 1971, 62nd Leg., pp. 1809, 1810, ch. 536, §§ 1, 2, eff. June 1, 1971; Acts 1973, 63rd Leg., p. 105, ch. 56, § 1, eff. Aug. 27, 1973; Acts 1973, 63rd Leg., pp. 797, 798, ch. 358, §§ 1 to 3, eff. June 12, 1973; Acts 1975, 64th Leg., p. 43, ch. 22, § 1, eff. March 20, 1975; Acts 1977, 65th Leg., p. 41, ch. 25, §§ 1, 2, eff. Aug. 29, 1977; Acts 1977, 65th Leg., p. 183, ch. 90, § 1, eff. Aug. 29, 1977; Acts 1981, 67th Leg., p. 960, ch. 366, § 2, eff. Oct. 1, 1981; Acts 1981, 67th Leg., p. 3046, ch. 796, § 1, eff. Aug. 31, 1981; Acts 1983, 68th Leg., p. 4930, ch. 879, § 1, eff. June 19, 1983; Acts 1983, 68th Leg., p. 5195, ch. 944, § 1, 2, eff. Aug. 29, 1983; Acts 1983, 68th Leg., p. 5421, ch. 1009, § 1, eff. Sept. 1, 1983.]

Section 3 of Acts 1981, 67th Leg., p. 960, ch. 366, provides: "This Act takes effect October 1, 1981, and applies to taxes collected on or after that date."

**Art. 1269j-4.12. Public Improvement District As-
sessment Act of 1977**

Title and Applicability

Sec. 1. (a) This Act shall be known as the Public Improvement District Assessment Act. The powers granted hereunder may be exercised by any incorporated city or town in which the governing body has initiated and/or received a petition requesting the establishment of a public improvement district. The petition shall include signatures of more than 50 percent of the property owners or represent more than 50 percent of the taxable land area and signatures of owners of taxable property representing more than 50 percent of the appraised value of the taxable real property including the value of structures and other improvements within the area as determined by the current roll of the countywide appraisal district in which the property is located.

(b) In this Act, the "city" means any authorized city to which this Act is applicable under Subsection (a) above.

Authorized Public Improvements

Sec. 2. (a) The governing body of a city may undertake improvement projects and/or services that confer a special benefit on a definable part of the city. The governing body may levy and collect special assessments on property in the area, based on the benefit conferred by the improvement project and/or services, to pay all or part of its cost.

(b) A public improvement project may include:

(1) landscaping; the erection of distinctive lighting and signs; the improvement, widening, narrowing, closing, or rerouting of streets or sidewalks; drainage improvements; the construction or improvement of pedestrian malls; the establishment or improvement of parks; the erection of fountains; the acquisition and installation of articles of art; and the acquisition, construction, or improvement of off-street parking facilities;

(2) other improvements similar to those described in Subdivision (1) of this subsection;

(3) the acquisition of real property in connection with an authorized improvement;

(4) special supplemental services for improvement and promotion of the district, including but not limited to advertising, promotion, health and sanitation, public safety, security, business recruitment, development, recreation and cultural enhancements; and

(5) expenses incurred in the establishment, administration, and operation of the district.

Act is Alternative

Sec. 3. This Act is a complete alternative to other methods by which a city may finance public improvements and/or special supplemental services by assessing property owners.

Financing Combined Improvements

Sec. 4. An improvement project on two or more streets or two or more types of improvements in, on, or adjacent to the same street or streets may be included in one proceeding and financed as one improvement.

Petition for Improvement District

Sec. 5. (a) A petition for any district authorized to be financed under this Act may be filed with the city secretary or other officer who performs the function of city secretary. The petition must state:

(1) the general nature of the proposed improvement and/or services;

(2) the estimated cost of the improvement and/or services;

(3) the boundaries of the proposed assessment district;

(4) the proposed method of assessment;

(5) the proposed apportionment of cost between the improvement district and the city as a whole;

(6) the proposed management structure for administration of the district by the city, the private sector, or public-private partnership;

(7) that the persons signing the petition request and/or concur with the making of the improvement district; and

(8) that an advisory body may be established with the responsibility of developing and recommending a service and improvement plan to the governing body. The composition of the advisory body shall include more than 50 percent of owners of record of property or record owners of property of more than 50 percent of the land area and owners of taxable property representing more than 50 percent of the appraised value of the taxable real property including the value of structures and other improvements within the area as determined by the current roll of the countywide appraisal district in which the prop-

erty is located. The composition and appointments shall be approved by the governing body.

(b) The petition is sufficient if signed by:

(1) more than 50 percent of the owners of record of property liable for assessment under the proposal; or

(2) the record owners of property composing more than 50 percent of the area liable for assessment under the proposal; and

(3) owners of taxable property representing more than 50 percent of the appraised value of the taxable real property including the value of structures and other improvements within the area as determined by the current roll of the countywide appraisal district in which the property is located.

(c) When a petition which meets the requirements of this section is filed, the governing body of the city may make findings by resolution as to the advisability of the improvement, the estimated cost, the method of assessment, and the apportionment of cost between the improvement district and the city as a whole.

Feasibility Report, Etc.

Sec. 6. (a) Before holding a hearing on the advisability of a proposed improvement district, the governing body of a city may require that a feasibility report be made to assist in determining whether an improvement and/or service should be made as proposed or otherwise or whether it should be made in combination with other improvements and/or services authorized by this Act. The governing body may also require that a preliminary estimate of the cost of the improvement and/or service or combination of improvements and/or services be made. The governing body may use the services of employees of the city to make the report or estimate, or it may employ consultants.

(b) The governing body may also take other preliminary steps prior to the hearing or before establishing a district or letting a contract that will be of assistance in determining the feasibility and desirability of an improvement district.

Hearing as to Advisability

Sec. 7. (a) A district may be established, and services and/or an improvement may be financed under this Act after notice of the hearing has been given as required by this section and the governing body of the city holds a public hearing on the advisability of the improvements and/or services.

(b) Notice of the hearing shall be given in a newspaper of general circulation in the city. The final publication must be at least 15 days before the date of the hearing. The notice shall include the following information:

(1) the time and place of the hearing;

(2) the general nature of the proposed improvement;

(3) the estimated cost of the improvement;

(4) the boundaries of the proposed assessment district;

(5) the proposed method of assessment; and

(6) the proposed apportionment of cost between the improvement district and the city as a whole.

(c) Written notice containing the information required in Subsection (b) of this section shall be mailed at least 15 days before the hearing to "Property Owner," in care of the current address of the subject property as reflected on the tax rolls.

(d) The hearing may be adjourned from time to time until the governing body makes findings by resolution as to the advisability of the improvement and/or services, the nature of the improvement and/or services, the estimated cost, the boundaries of the improvement district, the method of assessment, and the apportionment of cost between the district and the city as a whole.

(e) The area of the improvement district to be assessed according to the findings of the governing body may be less than the area proposed in the notice of the hearing, but it may not include any property not within the original proposed boundaries unless there is an additional hearing, preceded by the required notice.

May Order Improvements

Sec. 8. (a) At any time within six months after the final adjournment of the hearing to establish an improvement district, the governing body of the city by a majority vote of all members may adopt a resolution authorizing the improvement district in accordance with its finding as to the advisability of the improvements and/or services. The authorization takes effect when it has been published one time in a newspaper of general circulation in the city. Actual construction of the improvements or implementation of the services may not begin until 20 days after the authorization takes effect.

(b) An improvement may not be commenced if, within 20 days after the authorization takes effect, written protests signed by at least two-thirds of the owners of record of property within the improvement district or the owners of record of at least two-thirds of the total area of the district are filed with the city secretary or other officer who performs the function of city secretary.

(c) A public hearing as provided for in Section 7 of this Act may be called to dissolve a district and eliminate special supplemental services upon receipt of a petition signed by more than 50 percent of the owners of record of property within the district or the owners of record of more than 50 percent of the taxable land area of the district and owners of taxable property representing more than 50 percent of the appraised value of the taxable real property including the value of structures and other improvements within the area as determined by the current roll of the countywide appraisal district in which the

property is located. However, the district shall remain in effect for the purpose of meeting obligations of indebtedness for improvements.

(d) Any person may withdraw his name from a protest at any time before the governing body convenes its meeting to determine the sufficiency of the protest.

Service and Assessment Plan

Sec. 9. (a) An ongoing service plan shall be prepared by the advisory body for review and approval by the governing body. The governing body shall assign responsibility for the plan in the absence of an advisory body. The plan shall be for a period not less than five years and shall be reviewed and updated annually to determine the annual budget for improvements and/or special supplemental services. The amount of assessment for each property owner may be adjusted annually, following approval of the plan.

(b) The portion of the cost of an improvement to be assessed against the property in the improvement district shall be apportioned by the governing body of the city based on the special benefits accruing to the property because of the improvement.

(c) The cost may be assessed equally per front foot or per square foot against all property within the district; it may be assessed against property according to the value of the property as determined by the governing body of the city, with or without regard to structures or other improvements on the property; or it may be assessed on the basis of any other reasonable assessment plan that results in imposing equal shares of the cost on property similarly benefitted.

(d) The governing body may establish by ordinance reasonable classifications and formulas for the apportionment of the cost between the city and the area to be assessed and the methods of assessing the special benefits for various classes of improvements.

Apportionment of Costs

Sec. 10. (a) An assessment plan must provide that at least 20 percent of the cost of an improvement be paid by special assessments against property in the improvement district.

(b) The city shall be responsible for payment of assessment for exempt city-owned property which is part of the district. Payment of assessment by other exempt jurisdictions shall be established by contract. Assessments paid by the city as a whole under this subsection are counted as having been paid by special assessment for the purpose of Subsection (a) of this section.

(c) The assessment plan shall be a part of the annual service plan which defines the annual indebtedness for improvements and the projected costs for all special supplemental services.

Preparing Assessment Roll; Notice; Etc.

Sec. 11. (a) When the total cost of an improvement and/or services are determined, the governing body shall cause the assessments against each parcel of land within the benefit district to be determined in accordance with the manner of assessment set forth in the resolution as to the advisability of the improvement district. The governing body shall also cause a proposed assessment roll to be prepared.

(b) The proposed assessment roll shall be filed with the city secretary or other officer who performs the function of city secretary and be open for public inspection. The governing body shall direct the secretary to publish notice that the governing body will meet to consider the proposed assessments at a public hearing. The notice must be published in a newspaper of general circulation in the city at least 10 days before the hearing and shall state the date, time, and place of the hearing, the general nature of the improvement and/or services, the cost of the improvement and/or services, the boundaries of the assessment district, and that written or oral objections will be considered at the hearing.

(c) At the time the assessment roll is filed with the city secretary or other officer, the city secretary or other officer shall also mail to the owners of property liable for assessment, at their last known address, a notice of the hearing which contains all the information required of the notice published in a newspaper. The failure of a property owner to receive the notice does not invalidate the proceedings.

Assessments: Hearing, Levy, Payment

Sec. 12. (a) At the hearing on proposed assessments or at any adjournment of the hearing, the governing body shall hear and pass on all objections to each proposed assessment. The governing body may amend the proposed assessments as to any parcel. When all objections have been heard and action has been taken with regard to them, the governing body by ordinance shall levy the assessments as special assessments on the property. The governing body by ordinance shall specify the method of payment of the assessments and may provide that they be payable in periodic installments which shall meet annual costs for special supplemental services and improvements as set forth in Section 9 of this Act and shall continue for the number of years required to retire indebtedness.

(b) All assessments bear interest at a rate specified by the governing body, which may not exceed one-half percentage point above the actual interest rate paid on the public debt being used to finance the improvements and/or services. Interest on the assessment between the effective date of the ordinance levying the assessment and the date the first installment is payable shall be added to the first installment. The interest for one year on all unpaid

installments shall be added to each subsequent installment until paid. An assessment or any reassessment is a lien against the property until it is paid. The owner of any property assessed may pay the entire assessment against any lot or parcel with accrued interest to the date of the payment at any time.

Supplemental Assessments

Sec. 13. After notice and hearing in the manner required for original assessments, the governing body may make supplemental assessments to correct omissions or mistakes in the assessment relating to the total cost of the improvement and/or services.

Reassessments and New Assessments

Sec. 14. If an assessment against a parcel of land is set aside by a court of competent jurisdiction, found excessive by the governing body, or determined to be invalid by the governing body on the written advice of counsel, the governing body may make a reassessment or new assessment as to the parcel.

Separate Improvement Funds

Sec. 15. A separate improvement district fund shall be created in the city treasury for each district. The proceeds from the sale of bonds, temporary notes and time warrants, and any other sums appropriated to the fund by the governing body shall be credited to the fund. The fund may be used solely to pay the costs incurred in the making of the improvement and/or providing the services. When the improvement is completed, the balance of that portion of the assessment for improvements shall be transferred to the fund established for the retirement of the bonds.

Special Improvement District Fund

Sec. 16. (a) A city proposing to establish a district to be financed under the authority of this Act may establish by ordinance a special improvement district fund in the city treasury. The city may levy annually a tax for the purpose of the fund.

(b) The fund may be used to pay the costs of planning, administration any improvement authorized by this Act, and for preparing preliminary plans, studies, and engineering reports preparatory to the consideration of the feasibility of an improvement and/or services and to pay the initial cost of the improvement and/or services when ordered by the governing body until temporary notes, time warrants, or improvement bonds have been issued and sold.

(c) The fund need not be budgeted for expenditure during any year, but the amount of the fund shall be stated in the city's annual budget. The fund shall be based on an annual service plan which shall define the public improvements and special supplemental services for the fiscal year. All

grants-in-aid or contributions made to the city for planning and preparation of plans for improvements which are authorized under this Act may be credited to the special improvement district fund, and the amount of the aid or contribution shall not be considered in calculating the limitation on the fund imposed by Subsection (c) of this section.

Payment of Costs

Sec. 17. (a) The cost of any improvement and/or services made under the authority of this Act shall be paid in accordance with this section.

(b) All costs payable by the city as a whole may be paid from general funds available for the purpose or from other available general funds.

(c) Costs payable by special assessments which have been paid in full shall be paid from those assessments.

(d) Costs payable by special assessments to be paid in installments and costs made payable by the city as a whole but not payable from available general funds or other available general improvement funds shall be paid by the issuance and sale of revenue or general obligation bonds.

(e) During the progress of an improvement and/or services the governing body may issue temporary notes or time warrants of the city to pay costs of the improvements and/or services and on the completion of the work issue revenue or general obligation bonds.

(f) The costs of more than one improvement and/or services may be paid from a single issue and sale of bonds without other consolidation proceedings prior to the bond issue.

General Obligation Bonds

Sec. 18. A city may issue general obligation bonds under the provisions of Chapter 1, Title 22, Revised Statutes, as amended (Article 701 et seq., Vernon's Texas Civil Statutes), to pay all or part of the costs covered by Section 17(d) of this Act.

Issuance of Revenue Bonds

Sec. 19. For the payment of all or part of the costs covered by Section 17(d) of this Act, the governing body may issue revenue bonds from time to time in one or more series to be payable from and secured by liens on all or part of the revenue derived from improvements authorized under this Act, including installment payments of special assessments.

Terms and Conditions of Bonds

Sec. 20. (a) Revenue bonds may be issued to mature serially or otherwise within not more than 40 years from their date, and provision may be made for the subsequent issuance of additional parity bonds or subordinate lien bonds under any terms or conditions that may be set forth in the ordinance authorizing the issuance of the bonds.

(b) The bonds and any interest coupons appertaining thereto are negotiable instruments within the meaning and for all purposes of the Texas Uniform Commercial Code. The bonds may be issued registrable as to principal alone or as to both principal and interest, and shall be executed, and may be made redeemable prior to maturity, and may be issued in such form, denominations, and manner, and under such terms, conditions, and details, and may be sold in such manner, at such price, and under such terms, and said bonds shall bear interest at such rates, all as shall be determined and provided in the ordinance authorizing the issuance of the bonds.

(c) If so provided in the bond ordinance, the proceeds from the sale of the bonds may be used for paying interest on the bonds during and after the period of the acquisition or construction of any improvement to be provided through the issuance of the bonds, for creating a reserve fund for the payment of the principal of and interest on the bonds, and for creating any other funds. The proceeds of the bonds may be placed on time deposit or invested, until needed, all to the extent, and in the manner provided, in the bond ordinance.

Pledges

Sec. 21. (a) The governing body may pledge all or any part of the income from improvements financed under this Act, including the installment payments described in Section 17(d) of this Act, to the payment of the bonds, including the payment of principal, interest, and any other amounts required or permitted in connection with the bonds. The pledged income shall be fixed and collected in amounts that will be at least sufficient, together with any other pledged resources, to provide for all payments of principal, interest, and any other amounts required in connection with the bonds, and, to the extent required by the ordinance authorizing the issuance of the bonds, to provide for the payment of expenses in connection with the bonds, and for the payment of operation, maintenance, and other expenses in connection with the improvements authorized under this Act.

(b) The bonds may be additionally secured by mortgages or deeds of trust on any real property relating to the facilities authorized under this Act owned or to be acquired by the city and by chattel mortgages, liens, or security interests on any personal property appurtenant to that real property. The governing body may authorize the execution of trust indentures, mortgages, deeds of trust, or other forms of encumbrances to evidence the indebtedness.

(c) The governing body may also pledge to the payment of the bonds all or any part of any grant, donation, revenues, or income received or to be received from the United States government or any other public or private source, whether pursuant to an agreement or otherwise.

Refunding Bonds

Sec. 22. (a) Any revenue bonds issued pursuant to this Act may be refunded or otherwise refinanced by the issuance of refunding bonds for that purpose, under any terms or conditions, as are determined by ordinance of the governing body of the local government. All appropriate provisions of this Act are applicable to refunding bonds, and the refunding bonds shall be issued in the manner provided in this Act for other bonds. The refunding bonds may be sold and delivered in amounts necessary to pay the principal, interest, and redemption premium, if any, of bonds to be refunded, at maturity or on any redemption date.

(b) The refunding bonds may be issued to be exchanged for the bonds being refunded by them. In that case, the comptroller of public accounts shall register the refunding bonds and deliver them to the holder or holders of the bonds being refunded in accordance with the provisions of the ordinance authorizing the refunding bonds. The exchange may be made in one delivery or in several installment deliveries.

(c) General obligation bonds issued under this Act also may be refunded in the manner provided by law.

Approval and Registration of Bonds

Sec. 23. (a) All revenue bonds issued under this Act and the appropriate proceedings authorizing their issuance shall be submitted to the attorney general for examination. If the bonds recite that they are secured by a pledge of revenues or rentals from a contract or lease, a copy of the contract or lease and the proceedings relating to it shall be submitted to the attorney general also. If he finds that the bonds have been authorized and any contract or lease has been made in accordance with law, he shall approve the bonds and the contract or lease, and thereupon the bonds shall be registered by the comptroller of public accounts. After approval and registration the bonds and any contract or lease relating to them are incontestable in any court or other form for any reason and are valid and binding obligations for all purposes in accordance with their terms.

(b) General obligation bonds issued under this Act shall be approved and registered as provided by law.

Authorized Investments and Security for Deposits

Sec. 24. All bonds issued under this Act are legal and authorized investments for all banks, trust companies, building and loan associations, savings and loan associations, insurance companies of all kinds and types, fiduciaries, trustees, and guardians, and for all interest and sinking funds and other public funds of the state and all agencies, subdivisions, and instrumentalities of the state, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public

agencies, and bodies politic. The bonds also are eligible and lawful security for all deposits of public funds of the state and all agencies, subdivisions, and instrumentalities of it, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of the bonds, when accompanied by any unmatured interest coupons appurtenant thereto.

[Acts 1977, 65th Leg., p. 1205, ch. 467, eff. Aug. 29, 1977. Amended by Acts 1983, 68th Leg., p. 3794, ch. 587, § 1, eff. June 19, 1983.]

Art. 1269j-4.15. Park Purposes; Acquisition and Improvement of Property by Cities of 1,200,000 or More**Applicability of Act**

Sec. 1. This Act shall be applicable to all incorporated cities, including home-rule cities, having a population of 1,200,000 or more according to the last preceding federal census.

Acquisition, Construction and Improvement of Property; Operating Contracts

Sec. 2. Any such city is authorized to acquire by purchase, lease, or otherwise, any or all, property (real, personal, or mixed) and to construct or otherwise acquire, improve, and equip any property for park purposes, including, but not by way of limitation: establishing, acquiring, leasing, or contracting as lessee or lessor, purchasing, constructing, improving, enlarging, equipping, repairing, operating, or maintaining (any or all) golf courses, clubhouses, and pro shops, tennis courts, and facilities, swimming pools, marinas, recreation centers, rugby fields, baseball fields, zoos, clarification lakes or pools, park transportation systems and equipment, theaters, bicycle trails, multipurpose shelters, service facilities, and any other recreational facilities, all or any (hereinafter called "Facility" or "Facilities"), together with all necessary water, sewer, and drainage facilities, and to establish, acquire, lease, or contract as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate, or maintain (any or all) structures, parking areas, or parking facilities to be used in connection with such Facilities for parking and storage of motor vehicles or other conveyances; and provided that any of such leases or contracts may be on such terms and conditions as said city shall deem appropriate. Also, such city shall have authority to enter into a contract or agreement under which the Facilities may be operated on behalf of the city, such operating contracts or agreements to contain such terms or conditions as said city shall deem appropriate. Each and all of the foregoing purposes are hereby found and declared to be public purposes and proper municipal functions.

Revenue Bonds Authorized

Sec. 3. For any purpose or purposes authorized under Section 2 of this Act, the governing body of

the city may issue its revenue bonds from time to time in one or more series to be payable from and secured by liens on all or part of the revenues derived from any Facility or Facilities.

**Issuance of Bonds; Proceeds From Sale of Bonds;
Ad Valorem Tax**

Sec. 4. (a) Said bonds may be issued when authorized by ordinance duly adopted by the city's governing body and may mature serially or otherwise within not to exceed 40 years from their date or dates, and provision may be made for the subsequent issuance of additional parity bonds, or subordinate lien bonds, under any terms or conditions that may be set forth in the ordinance authorizing the issuance of the bonds.

(b) Said bonds, and any interest coupons appertaining thereto, shall be deemed and construed to be a "Security" within the meaning of Chapter 8, Investment Securities, Business & Commerce Code.¹ The bonds may be issued registrable as to principal alone or as to principal and interest and shall be executed and may be made redeemable prior to maturity and may be issued in such form, denominations, and manner and under such terms, conditions, and details and may be sold in such manner, at such price, and under such terms, and such bonds shall bear interest at such rates, all as shall be determined and provided in the ordinance authorizing the issuance of the bonds.

(c) If so provided in said ordinance, the proceeds from the sale of the bonds may be used for paying interest on the bonds during and after the period of the acquisition, construction, or improvement of any Facility, for paying expenses of operation and maintenance of said Facilities, for creating a reserve fund for the payment of the principal of and interest on the bonds, and for establishing any other funds. The proceeds of sale of the bonds may be placed on time deposit or invested, until needed, all to the extent and in the manner provided in the bond ordinance.

(d) Any such city shall also be authorized to levy and pledge to the payment of the operation and maintenance of any Facility or Facilities, either as a supplement to the pledge of revenues for such purpose or in lieu thereof, a continuing annual ad valorem tax at a rate on each \$100 valuation of taxable property within said city sufficient for such purposes, all as may be provided in said ordinance authorizing the issuance of such bonds; provided, that such taxes shall be within any constitutional or charter limit for cities included by this Act; and provided further, that no part of any moneys raised by such taxes shall ever be used for the payment of the interest on or principal of any bonds issued hereunder. The proceeds of any such taxes thus pledged shall be utilized annually to the extent required by or provided in the ordinance for operation and maintenance of such Facilities, and such city in its discretion may covenant in such ordinance that certain costs of operating and maintaining such

Facilities, as may be enumerated therein, or all of such costs will be paid by the city from the proceeds of such tax.

¹ Business and Commerce Code, § 8.101 et seq.

Fees, Rentals, Rates and Charges

Sec. 5. Each such city shall be authorized to fix and collect fees, rentals, rates, and charges for the occupancy, use, or availability of all or any of the Facilities in such amounts and in such manner as may be determined by the governing body of the city.

**Pledge of Revenues, Income or Receipts; Mortgages
or Deeds of Trust**

Sec. 6. (a) The city may pledge all or any part of the revenues, income, or receipts from such fees, rentals, rates, and charges to the payment of the bonds, including the payment of principal, interest, and any other amounts required or permitted in connection with the bonds. The pledged fees, rentals, rates, and charges shall be fixed and collected in amounts that will be at least sufficient, together with any other pledged resources, to provide for all payments of principal, interest, and any other amounts required in connection with the bonds, and, to the extent required by the ordinance authorizing the issuance of the bonds, to provide for the payment of expenses in connection with the bonds, and for the payment of operation, maintenance, and other expenses in connection with the Facilities.

(b) The bonds may be additionally secured by mortgages or deeds of trust on any real property relating to the Facilities owned or to be acquired by the city and by chattel mortgages, liens, or security interests on any personal property appurtenant to that real property. The governing body of the city may authorize the execution of trust indentures, mortgages, deeds of trust, or other forms of encumbrances to evidence the indebtedness.

(c) The city may also pledge to the payment of the bonds all or any part of any grant, donation, revenues, or income received or to be received from the United States government or any other public or private source, whether pursuant to an agreement or otherwise.

Refunding Bonds

Sec. 7. (a) Any bonds issued pursuant to this Act may be refunded or otherwise refinanced by the issuance of refunding bonds for that purpose under any terms or conditions as are determined by ordinance of the governing body of the city. All appropriate provisions of this Act are applicable to refunding bonds, and the refunding bonds shall be issued in the manner provided in this Act for other bonds. The refunding bonds may be sold and delivered in amounts necessary to pay the principal, interest, and redemption premium, if any, of bonds to be refunded, at maturity or on any redemption date.

(b) The refunding bonds may be issued to be exchanged for the bonds being refunded by them. In that case, the comptroller of public accounts shall register the refunding bonds and deliver them to the holder or holders of the bonds being refunded in accordance with the provisions of the ordinance authorizing the refunding bonds. The exchange may be made in one delivery or in several installment deliveries.

(c) Bonds issued at any time by a city under this Act also may be refunded in the manner provided by any other applicable law.

Examination, Approval and Registration of Bonds

Sec. 8. All bonds issued under this Act and the appropriate proceedings authorizing their issuance shall be submitted to the attorney general for examination. If the bonds recite that they are secured by a pledge of revenues or rentals from a contract or lease, a copy of the contract or lease and the proceedings relating to it shall be submitted to the attorney general also. If he finds that the bonds have been authorized and any contract or lease has been made in accordance with law, he shall approve the bonds and the contract or lease, and thereupon the bonds shall be registered by the comptroller of public accounts. After approval and registration, the bonds and any contract or lease relating to them are incontestable for any reason and are valid and binding obligations for all purposes in accordance with their terms.

Legal and Authorized Investments; Security for Deposit of Public Funds

Sec. 9. All bonds issued under this Act are legal and authorized investments for all banks, trust companies, building and loan associations, savings and loan associations, insurance companies of all kinds and types, fiduciaries, trustees, and guardians, and for all interest and sinking funds and other public funds of the state and all agencies, subdivisions, and instrumentalities of the state, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic. The bonds also are eligible and lawful security for all deposits of public funds of the state and all agencies, subdivisions, and instrumentalities of it, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of the bonds, when accompanied by any unmatured interest coupons appurtenant thereto.

Cumulative Effect; Conflicting Provisions

Sec. 10. This Act is cumulative of all other law on the subject, but this Act shall be wholly sufficient authority within itself for the issuance of the bonds and the performance of the other acts and procedures authorized by it without reference to any other law or any restrictions or limitations contained therein, except as herein specifically pro-

vided. When any bonds are issued under this Act, then to the extent of any conflict or inconsistency between any provisions of this Act and any provision of any law or home-rule charter provision, the provisions of this Act shall prevail and control. A city shall have the right to use the provisions of any other laws, not in conflict with the provisions of this Act, to the extent convenient or necessary to carry out any power or authority, express or implied, granted by this Act.

Severability

Sec. 11. In case any one or more of the sections, provisions, clauses, or words of this Act or the application thereof to any situation or circumstance shall for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other sections, provisions, clauses, or words of this Act or the application thereof to any other situation or circumstance, and it is intended that this Act shall be severable and shall be construed and applied as if any such invalid or unconstitutional section, provision, clause, or word had not been included herein.

[Acts 1975, 64th Leg., p. 640, ch. 264, eff. Sept. 1, 1975.]

Art. 1269j-4.2. Coliseums or Stadiums of Counties in Excess of 500,000; Sale to Certain Cities

Sec. 1. This Act shall be applicable to any city to which Chapter 63, Acts of the 59th Legislature, Regular Session, 1965, as amended (Article 1269j-4.1, Vernon's Texas Civil Statutes), shall apply (each such city herein called an "authorized city") and to any county which has a population in excess of 500,000 according to the then most recent federal census, which county has issued bonds for the purpose of constructing a coliseum or stadium within the county and which is operating such coliseum directly and is not having the same operated by another through a lease or other agreement not subject to cancellation by the county in event of a sale of such facilities (each such county being herein called an "authorized county").

Sec. 2. The commissioners court of any authorized county, upon finding (a) that the coliseum or stadium owned and operated by it is in need of expansion or other improvement, and (b) that such expansion or other improvement may be better accomplished without resort to the tax funds and resources of the county by the sale of such coliseum or stadium and related land to an authorized city in which such facility is located, may sell such coliseum or stadium and related land and facilities to such authorized city pursuant to an agreement of sale and purchase entered into in accordance with the provisions of this Act.

Sec. 3. A sale and purchase, as authorized in Section 2 of this Act, shall be upon such terms and for such price as shall be agreed between the authorized county and the authorized city, but in no event shall such price be less than the amount of the then

outstanding bonds of the county issued for the purpose of constructing and equipping such coliseum or stadium. Such sale and purchase price may be paid by the authorized city in cash and the funds to pay the same may be obtained by such city in any manner now permitted by law; or, such sale and purchase price may be paid by the city in installments with interest at not lower than the same rates borne by the county's outstanding coliseum or stadium bonds. The funds with which to make such installments may be obtained by such city in any lawful manner, including, but not limited to, one or a combination of the following methods, to-wit: (a) Such installments, by the agreement, may be made payable to the authorized county out of revenues of the stadium or coliseum thus sold on dates coinciding with or earlier than the dates upon which principal and interest on such county's outstanding coliseum or stadium bonds shall mature and come due. If this method of payment is selected, the payments due the county may be treated as a fixed operating expense of the stadium or coliseum payable solely from the revenues of such facilities. When received by the county, such funds shall be utilized for the purpose of retiring and paying interest upon its outstanding coliseum or stadium bonds when due. (b) Such city and such county may agree that the city shall issue a series of coliseum or stadium acquisition revenue bonds (or include such purpose as a part of a larger series of coliseum or stadium revenue bonds), which revenue bonds (or part of a larger series allocable to such purchase) shall be delivered to the county in payment of the purchase price for said stadium or coliseum. Such bonds shall be at least payable at the times and in the same amounts as, and bear not lower than the same rates of interest borne by, the county's outstanding coliseum or stadium bonds, so as to provide funds from such revenue bonds to the county with which to pay the principal and interest when due upon its said outstanding bonds. Such revenue bonds of the city may be upon such other terms as the city and the county may agree and may include any mortgage security authorized by Chapter 63, Acts of the 59th Legislature, Regular Session, 1965, as amended. Upon delivery of such bonds to the county, the county shall hold the same for the account of the Interest and Sinking Fund created in connection with its outstanding coliseum or stadium bonds and shall utilize the payments when received to pay the principal and interest on its said bonds when due.

Sec. 4. Any such sale authorized by this law shall be effected by delivery of a deed, with reservation of such vendor's liens on such facilities as may be appropriate in connection with the selected method for payment of the purchase price, from the county and approved by the commissioners court and accepted by the city in accordance with the terms of such sale and purchase agreement. From and after the delivery of such deed, the city shall be the complete and total owner of the coliseum or stadium, and the land and facilities thus conveyed, and may thereafter exercise all the powers with

respect thereto authorized and implied by Chapter 63, Acts of the 59th Legislature, Regular Session, 1965, as amended, and any other laws applicable to such city, for the purpose of operating, maintaining, improving, or expanding a coliseum or stadium, and may in connection with the financing thereof include such indoor and outdoor recreational facilities, properties and entertainment attractions as may be considered by the city to be appropriate in connection therewith and may lease, or enter into operating agreements with respect to, all or any part of the same for such periods and upon such terms as the city may determine.

Sec. 5. If the city council of any city which has acquired and owns a stadium or coliseum under the authority granted in this Act shall affirmatively find that escalating burdens and costs of operating its stadium or coliseum have caused continued ownership to cease to be economically feasible, resulting in increasing and unnecessary burdens on the taxpayers of the city, then, the city council, after giving at least 14 days' notice of and holding a public hearing on the question, may sell such stadium or coliseum to another public or private entity upon such terms and conditions as the city council may approve, and such city shall have all power necessary and appropriate to complete such sale in accordance with the terms of the sale.

[Acts 1969, 61st Leg., p. 1296, ch. 400, eff. May 29, 1969. Amended by Acts 1981, 67th Leg., p. 2459, ch. 635, § 1, eff. June 15, 1981.]

Art. 1269j-4.3. Parking Facilities; Revenue Bonds; Gulf Coast Cities of 60,000 to 75,000 or 110,000 to 120,000

Application to Certain Cities

Sec. 1. This Act shall apply to every incorporated city or town (including Home Rule Cities) located on the Coast of the Gulf of Mexico, or any channel, canal, bay or inlet connected therewith, having a population of more than sixty thousand (60,000) and less than seventy-five thousand (75,000) inhabitants or having a population of more than one hundred ten thousand (110,000) and less than one hundred twenty thousand (120,000) inhabitants according to the last preceding federal census.

Parking Facilities

Sec. 2. That any such city is hereby authorized to establish, acquire, lease as lessor or lessee, purchase, construct, improve, enlarge, equip, repair, operate or maintain (any or all) permanent public improvements, to-wit: structures, parking areas or facilities (hereinafter called "improvements") for off-street parking or storage of motor vehicles or other conveyances; provided that any such lease shall be on such terms and conditions as said city shall deem appropriate.

Revenue Bonds

Sec. 3. (a) Any such city is hereby authorized to issue negotiable revenue bonds to provide all or part of the funds for the establishment, acquisition, lease, purchase, construction, improvement, enlargement, equipment or repair (any or all) of said improvements.

(b) Such revenue bonds may be issued when duly authorized by an ordinance passed by the governing body of such city and shall be secured by a pledge of and be payable from all or any designated part of the revenues of said improvements (any or all) as may be provided in the ordinance or ordinances authorizing the issuance of such bonds. To the extent that such revenues may have been pledged to the payment of revenue or revenue refunding bonds which are still outstanding, the pledge securing the proposed bonds shall be inferior to the previous pledge or pledges. Within the discretion of the governing body of the city, and subject to the limitations contained in previous pledges, if any, in addition to the pledge of revenues a lien may be given on all or any part of the physical properties acquired out of the proceeds from the sale of such bonds.

(c) When any of the revenues of such improvements are pledged to the payment of bonds issued under this Act, it shall be the duty of the governing body of the city to cause to be fixed, maintained and enforced charges for services rendered by such improvements, the revenues of which have been pledged, at rates and amounts at least sufficient to comply with and carry out the covenants and provisions contained in the ordinance or ordinances authorizing the issuance of said bonds.

Bonds; Demand of Payment

Sec. 4. The owners or holders of such revenue or revenue refunding bonds shall never have the right to demand payment of either the principal of or interest on such bonds out of any funds raised or to be raised by taxation.

Funds; Additional Bonds and Covenants

Sec. 5. In the ordinance or ordinances authorizing the issuance of any revenue or revenue refunding bonds authorized hereunder, the city may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund or funds, reserve fund or funds, and other funds, and may make additional covenants with respect to the bonds and the pledged revenues and the operation and maintenance of those improvements and facilities, the revenues of which are pledged, including provisions for the operation or for the leasing of, as lessor or lessee, all or any part of said improvements and the use or pledge of moneys derived from such operation contracts and leases, as it may deem appropriate. Such ordinance or ordinances may also prohibit the further issuance of bonds or other obligations payable from the pledged reve-

nuces, or may reserve the right to issue additional bonds to be secured by a pledge of and payment from said revenues on a parity with, or subordinate to, the lien and pledge in support of the bonds being issued, subject to such conditions as are set forth in said ordinance or ordinances. Such ordinance or ordinances may contain other provisions and covenants, as the city may determine, not prohibited by the Constitution of Texas or by this Act, and the city may adopt and cause to be executed any other proceedings or instruments necessary or convenient in the issuance of any of said bonds.

Bond Proceeds; Appropriation; Investment

Sec. 6. From the proceeds of sale of any bonds issued hereunder, the city may appropriate or set aside, out of the bond proceeds, an amount for the payment of interest expected to accrue during the period of construction, an amount or amounts to be deposited in the reserve fund or funds as may be provided in the bond ordinance or ordinances, and an amount necessary to pay all expenses incurred or to be incurred in the issuance, sale and delivery of the bonds. Until such time or times as the bond proceeds are needed to carry out the bond purpose, such bond proceeds may be invested in direct obligations of the United States of America or may be placed on time deposit, either or both, moneys in the interest and sinking fund or funds, and the reserve fund or funds, and any other fund or funds established or provided for in the bond ordinance or ordinances may be invested in such manner and in such securities as may be provided in the bond ordinance or ordinances.

Bond; Signatures; Seal; Facsimiles; Maturity; Interest; Approval and Registration

Sec. 7. That all bonds shall be signed by the mayor of the city and countersigned by the city secretary or city clerk, and shall have the seal of the city impressed thereon; provided, that the bond ordinance or ordinances may provide for the bonds and any attached interest coupons to be signed by facsimile signatures and for the seal of the city on the bonds to be in facsimile as provided by Acts, 1961, 57th Legislature, page 406, Chapter 204 (Art. 717j-1, V.A.C.S.), as amended. Such bonds shall mature serially or otherwise in not to exceed forty (40) years from their date or dates and may be sold at a price and under such terms determined by the governing body of the city to be the most advantageous and reasonably obtainable, provided that the interest cost to the city, calculated by the use of standard bond interest tables currently in use by insurance companies and investment houses, does not exceed six and one-half per cent (6½%) per annum, and within the discretion of the governing body such bonds may be called prior to maturity at such time or times and at such price or prices as may be prescribed in the ordinance or ordinances authorizing such bonds. Any such bonds may be made registrable as to principal, or as to both principal and interest. All bonds issued hereunder

and the record relating to their issuance shall be submitted to the Attorney General of the State of Texas for his examination as to the validity thereof, and after said Attorney General has approved the same, such bonds shall be registered by the Comptroller of Public Accounts of the State of Texas. When such bonds have been approved by the Attorney General, registered by the Comptroller of Public Accounts, and delivered to the purchasers, they shall thereafter be incontestable.

Refunding Bonds; Approval and Registration

Sec. 8. Any city to which this Act applies shall have the power and authority to issue revenue refunding bonds to refund either original bonds or revenue refunding bonds theretofore issued by said city under this Act, and such refunding bonds shall bear interest at the same or lower rate or rates than that of the bonds refunded unless it is shown mathematically that a saving will result in the total amount of interest to be paid. Refunding bonds shall be authorized by ordinance or ordinances and shall be executed and shall mature as is provided in this Act for original bonds. They shall be approved by the Attorney General as in the case of original bonds, and shall be registered by the Comptroller of Public Accounts upon the surrender and cancellation of the bonds to be refunded, but in lieu thereof the ordinance or ordinances authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the place or places where the underlying bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the interest on and principal of the underlying bonds to their option or maturity date, and the Comptroller of Public Accounts shall register them without the surrender and cancellation of the underlying bonds. All such refunding bonds, after they have been approved by the Attorney General and registered by the Comptroller of Public Accounts, shall be incontestable.

Bonds; Negotiability; Legal Investments; Security for Deposits

Sec. 9. All bonds issued under this Act, whether original bonds or refunding bonds, shall be and are hereby declared to be, and to have all the qualifications of, negotiable instruments under the Negotiable Instruments Act of the State of Texas, and all such bonds shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies of every kind or type, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of

their face value when accompanied by all unmatured coupons appurtenant thereto.

Cumulative Effect; Precedence

Sec. 10. This Act is cumulative of all existing laws of the State of Texas, but to the extent that such existing laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall govern and prevail; and this Act shall take precedence over any and all conflicting or inconsistent city charter provisions.

[Acts 1969, 61st Leg., p. 1966, ch. 665, eff. June 12, 1969. Amended by Acts 1971, 62nd Leg., p. 1839, ch. 542, § 94, eff. Sept. 1, 1971; Acts 1981, 67th Leg., p. 560, ch. 237, § 8, eff. Sept. 1, 1981.]

Art. 1269j-4.4. Sea Life Park and Oceanarium; Certificates of Indebtedness

Authorization

Sec. 1. Any city or town which owns a sea life park and oceanarium, the same having been, or the same being, constructed, equipped and developed wholly or partly with the proceeds of general obligation park bonds duly voted by the inhabitants of such city or town, is hereby authorized to issue Certificates of Indebtedness for the purpose of obtaining funds for operating, maintaining, repairing, further equipping, developing, expanding or obtaining inventories for such sea life park and oceanarium or for paying for such services and items when performed, obtained or acquired by others for the benefit of any such city or town under the terms of any lease, use, purchase, or concession agreement, operating agreement or other type of agreement relating to the development, operation, equipping, staffing, maintenance or upkeep of any such facilities; and for the same purposes, such obligations may be issued in connection with any other public facilities which are owned by such city or town in conjunction with such sea life park and oceanarium and which are of the type authorized by Chapter 63, Acts of the 59th Legislature, Regular Session, 1965 (Article 1269j-4.1, Vernon's Texas Civil Statutes) or under said Act and Chapter 400, Acts of the 61st Legislature, Regular Session, 1969 (Article 1269j-4-2, Vernon's Texas Civil Statutes).

Acquisition of Facilities and Rights by Cities and Towns from Person or Corporation

Sec. 1(a). If any such city or town has heretofore or shall hereafter cause any part or all of said facilities to be operated on its behalf by a person or corporation under the terms of a lease, use, purchase, concession agreement, operating agreement, or other type of agreement, such city or town, upon a determination by the governing body thereof that the same could be better and more efficiently operated directly by it or by another method, including an operating board appointed by it, with such powers as may be granted by ordinance, or by any other method, and with the consent and agreement of such person or corporation to the rescission of any

such agreement shall be authorized to purchase or otherwise acquire all or any part of the properties, assets, rights and facilities of any such person or corporation and to issue certificates of indebtedness therefor in accordance with the terms of this Act, expressly including the right to purchase or acquire any broadcasting or similar rights, and the same may be used, sold or resold by such city or town and in conjunction with which such use or sales, such city or town may promote or advertise such city or town or any such facilities or any events to be conducted therein or in connection therewith.

Issuance; Terms and Conditions; Security

Sec. 2. The Certificates of Indebtedness authorized by this Act may be issued when authorized by ordinance adopted by the governing body of any such city or town and may mature serially or otherwise and may be issued upon such other terms and conditions as may be contained and specified in any such ordinance, including, but not limited to, provisions as to interest rate or rates, registration and redemption privileges, and any manner and method of sale, exchange for goods, property or services, and for the delivery thereof; and the same may be secured by and made payable from taxes or revenues, or both; provided that, in the issuance of any such obligations payable from taxes, the issuer shall comply with the provisions of the Texas Constitution requiring in such cases that sufficient taxes to pay the principal thereof and interest thereon when due be duly and properly levied.

Pledge of Revenues to Payment of Certificates of Indebtedness; Deed of Trust or Mortgage Lien

Sec. 2(a). If any such city or town shall elect to pledge the revenues from the aforesaid facilities to the repayment of any certificate of indebtedness issued under this Act, or in connection with the refunding thereof as herein permitted, either alone or in combination with taxes, as permitted in Section 2 of this Act, then such city or town may pledge all or any part of the designated revenues to result from the ownership or operation of any or all of the facilities, properties and rights described in Section 1 and Section 1(a) of this Act, and, within the discretion of the governing body of such city or town, may additionally secure the same by a deed of trust or mortgage lien on any part or all of the physical properties of the city which are described in this Act, in which event, such deeds of trust or mortgages may be executed as may be deemed appropriate in addition to the ordinance contemplated in Section 1 hereof. If any such city or town shall elect to refund any certificates of indebtedness issued hereunder pursuant to Section 4 of this Act, it is hereby expressly provided that any such refunding bonds may be secured by any part or all of the aforesaid revenues and by a deed of trust or other mortgage lien upon said properties or by taxes or by any combination thereof, and irrespective of the nature of the initial security pledged or

committed to the payment of the certificate of indebtedness as initially issued.

Certificates as Investment Securities

Sec. 3. Any Certificates of Indebtedness issued under authority of this Act shall constitute "Investment Securities" under Chapter 8 of the Texas Uniform Commercial Code,¹ and may be issued in such form and denominations and under such other terms, conditions and details, and may be executed, all as provided in the proceedings authorizing the same; and all Certificates of Indebtedness which shall recite that they have been issued under authority of this Act for the purposes herein authorized shall be incontestable for any reason and shall be valid and binding obligations in accordance with their terms and for all purposes.

¹ Business and Commerce Code, § 8.101 et seq.

Refunding into Bonds

Sec. 4. The Certificates of Indebtedness authorized by this Act may be wholly or partially refunded into bonds in any manner and upon such terms as now permitted by law with respect to the refunding of other indebtedness or obligations of any such city or town, including Chapter 503, Acts of the 54th Legislature, 1955, as amended, and Chapter 784, Acts of the 61st Legislature, 1969 (Article 717k, and Article 717k-3, Vernon's Texas Civil Statutes).

Legal and Authorized Investments; Security for Deposit of Public Funds

Sec. 5. All Certificates of Indebtedness issued under this Act shall be legal and authorized investments for all banks, savings banks, trust companies, building and loan associations, savings and loan associations, and insurance companies of all kinds and types, and for the interest and sinking funds and other public funds of any city, county or other political subdivision of this State. Said obligations also shall be eligible and lawful security for all deposits of public funds of any city, county or other political subdivision or public agency.

Contracts and Agreements; Operation, etc. of Facilities; Proceeds of Certificates

Sec. 6. Upon or in anticipation of the issuance of any Certificates of Indebtedness authorized by this Act, (or in anticipation of the receipt of revenues from said facilities in lieu of the issuance of Certificates of Indebtedness) the governing body of any such city or town shall be authorized and permitted to make and enter into such contracts and agreements relating to the operation, maintenance, upkeep, equipment, development, expansion or supplying of or for any said public facilities, of such types and kinds, upon such terms, in such manner and in accordance with such procedures as the governing body of such city or town shall deem best, necessary and proper; and the proceeds of such Certificates of Indebtedness (or in lieu thereof such reve-

nues) may be utilized and devoted to the satisfaction thereof.

Abandonment; Sale or Lease

Sec. 6a. In the event it shall be determined by proper findings of the governing body of any such city or town that the continuation of property wholly or partially financed under this Act as a sea life park and oceanarium has ceased to be economically feasible, that continuation for such purpose would be unprofitable, and that such purpose should be abandoned, then such governing body may by ordinance abandon such purpose and sell or lease such land and facilities for such other purpose or purposes as the governing body may deem appropriate and in the interest of the citizens thereof after notice and publication as provided in Chapter 455, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 5421c-12, Vernon's Texas Civil Statutes); provided that if any of such land shall be sold, then same shall be sold to the highest and best bidder as required for other land owned by any such city or town. If any part or all of the land is to be leased for another purpose, then the lease shall be for such term, terms and renewal terms and shall contain such other provisions as may be agreed by the governing body, provided that the rentals derived by the city from such source shall be applied to the same purposes required by any ordinances authorizing the issuance of bonds secured in whole or in part by the revenues derived from the sea life park and oceanarium prior to the abandonment of that purpose.

Cumulative Effect

Sec. 7. This Act shall be cumulative of all other laws on the subject, but this Act shall be wholly sufficient authority within itself for the issuance of such Certificates of Indebtedness and the performance of the other acts, powers and procedures authorized hereby, without reference to any other laws or any restrictions, procedures or limitations on borrowing or contracting contained therein, including the Bond and Warrant Law of 1931, as amended (Article 2368a, Vernon's Texas Civil Statutes), except as may be specifically required herein, and when any obligations are being issued or any act or contract is undertaken or made under this Act, then to the extent of any conflict or inconsistency between any provisions of this Act and any provisions of any other law otherwise applicable to such city or town, the provisions of this Act shall prevail and control.

Severability

Sec. 8. In case any one or more of the sections, provisions, clauses, or words of this Act, or the application thereof to any situation or circumstance, shall for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other sections, provisions, clauses, or words of this Act, or the application thereof

to any other situation or circumstance, and it is intended that this Act shall be severable and shall be construed and applied as if any such invalid or unconstitutional section, provision, clause, or word had not been included herein.

[Acts 1971, 62nd Leg., p. 1284, ch. 327, eff. May 24, 1971. Amended by Acts 1973, 63rd Leg., pp. 482, 483, ch. 209, §§ 1, 2, eff. May 26, 1973; Acts 1979, 66th Leg., p. 401, ch. 188, § 1, eff. May 15, 1979.]

Art. 1269j-4.5. Civic Center Authority Act

SUBCHAPTER A. GENERAL PROVISIONS

Short Title

Sec. 1. This Act may be cited as the "Civic Center Authority Act."

Definitions

Sec. 2. As used in this Act, unless the context requires a different definition:

- (1) "County" means any county in the state.
- (2) "Judge" or "county judge" means the county judge of a county.
- (3) "Authority" means a civic center authority created under this Act.
- (4) "Board" or "board of directors" means the board of directors of an authority.
- (5) "Bond resolution" means the resolution authorizing the issuance of revenue bonds.
- (6) "Person" means any individual, public agency as defined in this Act, public or private corporation, copartnership, association, firm, trust, estate, or any other entity.
- (7) "Public agency" means a city, as defined in this Act, the United States, this state, or a political subdivision or governmental agency of the United States or of this state.
- (8) "City" means an incorporated city, town, or village, whether operating under general law or under a home rule charter.
- (9) "Facility" means the improvements and facilities described in Section 21 of this Act, or a designated portion of those improvements and facilities.

SUBCHAPTER B. CREATION OF AUTHORITIES

Creation Authorized

Sec. 3. Civic center authorities without taxing power may be created in accordance with this Act.

Authority a Political Subdivision

Sec. 4. An authority created in accordance with this Act is a body politic and corporate and is a political subdivision of the state.

Composition of Authority

Sec. 5. An authority may include the area of any county or portion thereof, including cities and

other public agencies, and the area comprising an authority need not be in one body, but may consist of separate bodies of land separated by land not included in the boundaries of the authority.

Petition Required

Sec. 6. (a) When it is proposed to create an authority, a petition requesting creation shall be filed with the county judge of the county in which such authority is proposed to be created. The petition shall be signed by a majority of the members of each of the governing bodies of two or more cities. Such petition shall describe the boundaries of the proposed authority by metes and bounds or by lot and block number, if there is a recorded map or plat and survey of such area, or by natural or artificial boundaries or survey lines. If the area of the authority is to be composed entirely of cities, it shall be sufficient if the petition recites that fact and specifies the cities to be included. Such petition shall contain the names of those persons recommended for the authority's first board of directors, the number of said directors shall be an odd number, but not less than five nor more than eleven. Such petition shall state the desirability of or the need for the creation of the authority and shall include the name of the authority which shall be generally descriptive of the locale of the authority followed by the words "Civic Center Authority." A copy of such petition shall be recorded in the deed records of the county in which the authority is located, and no other authority in the same county shall have the same name.

(b) The petition shall be accompanied by a deposit of \$200 to cover the cost of publishing notice of the hearing hereinafter mentioned. If all of such moneys are not required for such purpose, the excess shall be returned to the petitioners.

Hearing

Sec. 7. (a) Upon the filing of a petition with the county judge, said judge shall fix a date, time and place at which the petition shall be heard by him, such date to be not more than 20 days from the date of such filing of the petition. The county judge shall issue notice of the date, time, and place of hearing, and the notice shall inform all persons of their right to appear and contest the form and allegations of the petition and the desirability of or need for the creation of the authority.

(b) Notice of the hearing shall be published in a newspaper having general circulation in the county in which the authority is located at least one time, the date of publication to be at least 10 days prior to the date fixed for the hearing.

(c) The county judge shall examine the petition to ascertain the sufficiency thereof, and any person interested may appear before him in person or by attorney and offer testimony touching the sufficiency of the petition and whether the creation of the authority is desirable or necessary. The county

judge shall have jurisdiction to determine all issues raised touching the sufficiency of the petition and creation of the authority. The hearing may be adjourned from day to day, and the county judge shall have the power to make all incidental orders in respect to the matters before him.

(d) If, upon the hearing of the petition, the county judge finds that it conforms to the requirements of Section 6 of this Act and that the creation of the authority is desirable or necessary, the county judge shall so declare by his order and grant the petition. If he finds that such authority is neither desirable nor necessary, he shall refuse to grant the petition.

(e) Any person who signed the petition or any person who did actually appear and protest the petition and offer testimony for or against the creation of the authority may appeal to an appropriate district court from the order of the judge, granting or refusing the petition, within 30 days after the entry of such order.

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

Board of Directors

Sec. 8. An authority shall be governed by a board of not less than five nor more than eleven directors, as provided in Section 6 of this Act.

Qualifications of Directors

Sec. 9. To be qualified to serve as a director of an authority a person shall be 21 or more years of age, a resident citizen of the State of Texas and must reside within the boundaries of the authority.

Term of Office

Sec. 10. The term of office of the first board of directors shall be two years from the date the authority is created and until their successors are appointed and qualified. Thereafter, at two-year intervals the members of such boards of directors shall be appointed by the county judge upon the advice and consent of, and only from among those persons recommended by, all of the respective cities included within the boundaries of the authority and contracting with the authority under the terms of this Act. Such directors shall serve for a term of two years and until their successors are appointed and qualified.

Vacancies

Sec. 11. A vacancy in the office of a director or any office on the board shall be filled by appointment by the board of directors for the unexpired term. If at any time the number of qualified directors shall be less than a majority of the board because of the failure or refusal of one or more directors to qualify to serve, or because of his or their death or incapacitation, or for any other reason, then the county judge shall, upon the petition of any resident of the authority, appoint the neces-

sary number of directors to fill all vacancies on the board.

Organization of Board; Election of Officers

Sec. 12. After the directors have qualified by making the proper bond and taking the proper oath, they shall organize by electing a president, a vice president, a secretary, and such other officers as in the judgment of the board are deemed necessary. The authority's treasurer may be a director of a state or national bank. The treasurer shall give bond in such amount as may be required by the board, conditioned that he or it will faithfully account for all moneys which shall come into his or its custody as treasurer of the authority.

Quorum

Sec. 13. A majority of the directors appointed shall constitute a quorum and a concurrence of such majority shall be sufficient in all matters pertaining to the business of the authority. The president shall preside at all meetings of the board and shall be the chief executive officer of the authority. The vice president shall act as president in case of the absence or disability of the president. The secretary shall act as president if both the president and vice president are absent or disabled. The secretary shall act as secretary of the board and shall be charged with the duty of seeing that all records and books of the authority are properly kept. The board may appoint another director, the general manager or any employee as assistant or deputy secretary to assist the secretary and any such person shall be entitled to certify as to the authenticity of any record of the authority.

Bylaws

Sec. 14. The board is empowered to adopt bylaws to govern:

- (1) the time, place, and manner of conducting its meetings;
- (2) the powers, duties, and responsibilities of its officers and employees;
- (3) the disbursement of funds by checks, drafts, and warrants;
- (4) the appointment and authority of director committees; and
- (5) the keeping of records and accounts and such other matters as the board deems appropriate.

Meetings and Notice

Sec. 15. The board shall establish regular meetings to conduct authority business and may hold special meetings at such other times as the business of the authority requires. The board shall hold its meetings at one of its designated meeting places. Notice of the time, place and purpose of any meeting of the board shall be given by posting at a place convenient to the public within the boundaries of the authority. A copy of the notice shall be fur-

nished to the clerk of the county in which the authority is located who shall post the same on a bulletin board in the county courthouse or sub-courthouse used for such purpose. The notice of the meeting shall be posted for at least three days prior to a meeting, unless there is an emergency or urgent public necessity, which shall be expressed in the notice. Failure to post notice as required herein shall not affect the validity of any action taken at a regular meeting of the board but shall affect the validity of action taken at a special meeting unless the board declares in action taken at that special meeting that an emergency existed. Any interested person may attend any meeting of the board.

Authority Office and Meeting Place

Sec. 16. The board of directors shall designate, establish and maintain an authority office and meeting place within the authority. The board may also establish a meeting place outside the authority. If the board establishes a meeting place outside the authority, it shall give notice of the location thereof by filing a true copy of its order establishing the location of the authority office with the county clerk and also by publishing the location in a newspaper of general circulation in the county in which the authority is located. If the location of the meeting place outside the authority is thereafter changed, notice of the change shall be given in the same manner.

Fees of Office

Sec. 17. The directors may receive as fees of office the sum of not to exceed \$25 per day for each day of service necessary to discharge their duties, but such fees shall not exceed the sum of \$100 in any one month regardless of the number of days of necessary service during that month.

General Manager

Sec. 18. A director may be employed as general manager of the authority at such compensation as may be fixed by the other directors, and, when so employed, he shall continue to perform the duties of a director. If the general manager is not a director, he shall furnish a fidelity bond payable to the authority in the amount of \$5,000 conditioned upon the faithful performance of his duties.

Bond and Oath of Office

Sec. 19. As soon as practicable after a director is appointed, he shall give a bond for \$5,000 payable to the authority and conditioned upon the faithful performance of his duties. Each director shall take the oath of office prescribed for the commissioners court, except that the name of the authority shall be substituted for the county. The bond and oath shall be filed with the authority and retained in its records.

Qualification of Directors

Sec. 20. After an authority has been created by the granting of a petition therefor, the first members of the board of directors shall make their bonds and take the oath of office and thereafter shall meet and organize. Said bonds of the first board of directors shall be approved by the county judge. The bonds for subsequent directors shall be approved by the board of directors of the authority.

SUBCHAPTER D. POWERS AND DUTIES**General Powers**

Sec. 21. Any authority created under this Act is authorized to establish, acquire, lease as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate or maintain (any or all) public improvements such as civic centers, civic center buildings, auditoriums, opera houses, music halls, exhibition halls, coliseums, museums, libraries, recreational buildings or facilities, or other public buildings and related facilities (either or all), and to establish, acquire, lease as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate or maintain (any or all) structures, parking areas, or facilities, located at or in the immediate vicinity of such public improvements, to be used in connection with such public improvements for off-street parking or storage of motor vehicles or other conveyances. Any such lease may be on such terms and conditions as the board of directors of said authority shall deem appropriate as in this Act provided.

Addition of Cities

Sec. 22. A city may be added to and become a part of an authority upon filing a petition to that effect with an authority's board of directors. Such petition must be signed by a majority of the members of the governing body of such city. If the authority's board determines such addition to the authority is desirable or necessary, such board shall so find and enter its order adding such city to such authority, and a copy of same shall be recorded in the county deed records. Such an added city, however, shall not have any authority or power with respect to recommending or appointing members to the authority's board of directors unless and until it becomes a contracting city as mentioned in Section 10 of this Act.

Management of District

Sec. 23. The board shall have control over and management of all of the affairs of the authority and shall employ persons, firms, partnerships, or corporations deemed necessary by the board for the conduct of the affairs of said authority, including, but not limited to, engineers, attorneys, financial advisors, a general manager, bookkeepers, auditors, and secretaries. The board of directors shall determine the term of office and compensation of all employees. All employees may be removed by the board. The board of directors may require a bond

of any employee payable to the authority and conditioned upon the faithful performance of his duties.

Supplies

Sec. 24. The board shall also have the right to purchase all materials, supplies, equipment, vehicles, and machinery needed by the authority.

Seal

Sec. 25. The directors shall adopt a seal for the authority.

Destruction of Records

Sec. 26. All original minutes and orders of the board, all construction contracts and all instruments relating thereto, all bonds of the authority's board of directors, and all bonds of the authority's officers and employees shall be kept in a safe place and maintained as permanent records of said authority. No minutes or orders or resolutions of the board of directors shall be destroyed. All records necessary for the authority's annual audits and necessary to comply with the term of its bond resolutions shall be retained for at least one full year after the expiration of the next preceding fiscal year. Authority contracts other than construction contracts and records relating thereto shall be retained for at least four years after the performance thereof. Except for the foregoing, an authority's records may be destroyed when the board determines that they are no longer needed or useful. As to any authority records destroyed, the board of directors shall designate the person or persons to destroy same and the manner of such destruction. If the board deems it advisable it may cause any instruments to be first inventoried or microfilmed before they are destroyed.

Director Interested in Contract

Sec. 27. A director who is financially interested in any contract with the authority shall disclose that fact to the other directors and may not vote on the acceptance of the contract or participate in the discussion on the contract. The failure of a director to disclose his financial interest shall invalidate the contract.

Suits

Sec. 28. All authorities created under the provisions hereof shall be governmental agencies and bodies politic and corporate, and may, through their directors, sue and be sued in any and all courts of this state in the name of such authority. Service of process in any suit may be had by serving any three directors. All courts of this state shall take judicial knowledge of the establishment of such authorities.

Contracts in Name of Authority

Sec. 29. Authority shall contract and be contracted with in the name of said authority.

Fees and Charges

Sec. 30. An authority shall have the power to adopt, promulgate, and enforce all necessary charges, fees or rentals for providing any authority facilities or services.

Rules and Regulations

Sec. 31. An authority may adopt and enforce reasonable rules and regulations as to any or all of its facilities.

Acquisition of Land

Sec. 32. An authority is empowered to acquire lands, materials, easements, rights-of-way, and everything deemed necessary, incidental, or helpful for the purpose of accomplishing any one or more of the purposes provided in Section 21 of this Act. An authority shall have the right to acquire all such property by gift, grant, purchase, or condemnation, and the right to acquire property shall include property deemed necessary for the construction, improvement, extension, enlargement, operation, or maintenance of its facilities. An authority may acquire either the fee simple title to, or an easement upon, all lands, both public and private, either within or beyond its boundaries and may acquire the title to, or an easement upon, property other than lands held in fee. An authority may also lease property upon such terms and conditions as the board of directors may determine advantageous to the authority.

Eminent Domain

Sec. 33. An authority may acquire any lands, easements, or other property within its boundaries by condemnation, and in case of a condemnation, the authority may elect to condemn either the fee simple title, or an easement only. The right of eminent domain shall be exercised in the manner provided in Title 52, Revised Civil Statutes of Texas, 1925, as amended (Article 3264, et seq., Vernon's Texas Civil Statutes), except that an authority shall not be required to give bond for appeal or bond for costs in any condemnation suit or other suit to which it is a party and shall not be required to deposit double the amount of any award in any such suit. Such proceedings shall be instituted under the direction of the directors and in the name of the authority.

Costs of Relocation of Property

Sec. 34. In the event that the authority, in the exercise of the power of eminent domain or power of relocation, or any other power, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocations, raising, rerouting, changing of grade, or alteration of construction shall be accomplished at the sole expense of the authority. The term "sole expense" shall mean the

actual cost of such relocation, raising, rerouting, or changing grade, or alteration of construction and providing comparable replacement without enhancing such facilities after deducting therefrom the net salvage value derived from the old facility.

Sale of Surplus Land

Sec. 35. Any property or land owned by the authority which may be found to be surplus and not needed by the authority may be sold under order of the directors of the authority either by public or private sale or such property may be exchanged for other property.

Leases

Sec. 36. An authority may lease to or from any person, all or any part of any facilities constructed or acquired or to be constructed or acquired by it. The lease may contain the terms and provisions which the board determines to be advantageous to the authority. The term of any lease shall not exceed 40 years from the date thereof.

Contracts

Sec. 37. An authority shall have authority to contract with a public agency for furnishing or making available all or a part of the authority's facilities or services and for the joint ownership and operation of any improvements, facilities, and equipment necessary to accomplish any purpose or function permitted by an authority. An authority may enter into contracts with any person in the performance of any purpose or function permitted by an authority, such contracts not to exceed 40 years' duration and to be on such terms and conditions as the board of directors may deem desirable, fair and advantageous.

Contracts Over \$10,000

Sec. 38. (a) The board shall advertise a contract for more than \$10,000 for the purchase of materials and all things to constitute the facilities of the authority or for construction as specified in Subsections (b) through (d) of this section.

(b) The board shall advertise the letting of a contract, including the general conditions, time, and place of opening of sealed bids. The notice shall be published in one or more newspapers published in the county. The notice shall be published once a week for two consecutive weeks prior to the date that the bids are opened, and the first publication shall be at least 14 days before the opening of sealed bids.

(c) A contract may cover all the facilities to be provided by the authority, or the various elements of the facilities may be segregated for the purpose of receiving bids and awarding contracts. A contract may provide that the facilities will be constructed in stages over a period of years.

(d) A contract may provide for the payment of a total sum which is the completed cost of the facili-

ties or may be based on bids to cover cost of units of the various elements entering into the work as estimated and approximately specified by the authority's architects or engineers or a contract may be let and awarded in any other form or composite of forms and to any responsible person or persons which, in the board's judgment, will be most advantageous to the authority and result in the best and most economical completion of the authority's proposed facilities.

Additional Work; Change Orders

Sec. 39. After a contract has been awarded and the authority determines that additional work is needed or that the character or type of work or facilities should be changed, the board may authorize change orders to such contract provided same does not increase the total cost of the contract by more than 25 percent.

Construction Bids

Sec. 40. (a) A person who desires to bid on proposed construction work shall submit to the board a written sealed bid together with a certified or cashier's check on a responsible bank in the state or a bidder's bond for at least two percent of the total amount of the bid.

(b) Bids shall be opened at the same time, and the board may reject any or all of the bids.

(c) If the successful bidder fails or refuses to enter into a proper contract with the authority or fails or refuses to furnish the bond required by law, he shall forfeit the amount of the check or bond which accompanied his bid.

Executing and Recording Construction Contract

Sec. 41. (a) Contracts for construction work shall be in writing and signed by the board and the contractor.

(b) The contract shall be kept in the authority's records and be available for public inspection.

Contractor's Bond

Sec. 42. Any person, firm, partnership, or corporation to whom a contract is let must give good and sufficient performance and payment bonds in accordance with Article 5160, Revised Civil Statutes of Texas, 1925, as amended.

Repayment of Organizational Expenses

Sec. 43. The authority's directors are authorized to pay all costs and expenses necessarily incurred in the creation and organization of an authority, the cost of investigation and making plans, engineer's or architect's report, and other incidental expenses, and to reimburse any person for money advanced for such purposes. Any such payments may be made from money obtained from the sale of bonds first issued by the authority.

Premium on Directors or Employees Bonds

Sec. 44. The board of directors may pay the premium on surety bonds required of officials or employees of the authority out of any available funds of the authority including proceeds from the sale of bonds.

Depository

Sec. 45. The board of directors shall by order or resolution designate one or more banks within or without the authority to serve as the depository for the funds of the authority. All funds of the authority shall be deposited in the depository bank or banks unless otherwise required by orders or resolutions authorizing the issuance of the authority's bonds. To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for the security of funds of counties of the State of Texas.

Investments

Sec. 46. Funds of the authority may be invested and reinvested by the board of directors in direct or indirect obligations of the United States of America or any agency thereof, of the State of Texas or of any county, city, school district, or other political subdivision of the State of Texas. Funds of the authority may be placed in certificates of deposit of state or national banks or savings and loan associations within the State of Texas provided that the same are secured in the manner provided for the security of the funds of counties of the State of Texas.

Accounts and Records; Audits

Sec. 47. A complete system of accounts shall be kept by the authority and an audit of its affairs for each year shall be prepared by an independent certified public accountant or a firm of independent certified public accountants. The fiscal year of the authority shall be from January 1 to December 31, unless and until changed by the board of directors. A signed copy of the audit report shall be delivered to each member of the board of directors not later than 120 days after the close of each fiscal year. A copy of the audit shall be kept on file at the authority office and shall constitute a public record open for inspection by any interested person or persons during normal office hours.

SUBCHAPTER E. REVENUE BONDS

Issuance of Bonds

Sec. 48. The authority is authorized to issue its revenue bonds for all or any of the purposes set forth in this Act. Said bonds may be issued when duly authorized by a resolution adopted by the board and shall be secured by a pledge of and be payable from all or any designated part of the authority's revenues from its facilities or whatever source derived, including but not limited to the

proceeds of contracts and leases. Said bonds shall mature serially or otherwise in not more than 40 years from their date or dates, and shall bear interest at any rate or rates permitted by the Constitution and laws of the State of Texas, all as shall be determined by the board. Said bonds and interest coupons, if any, appertaining thereto, shall be investment securities under the terms of Chapter 8 of the Business & Commerce Code and may be issued registrable as to principal or as to both principal and interest and may be made redeemable prior to maturity, at the option of the board, or they may contain a mandatory redemption provision all as may be provided by said board. Such bonds may be issued in such form, denominations, and manner and under such terms, conditions and details, and shall be signed and executed, as provided by the board in the resolution authorizing their issuance.

Additional Security for Bonds

Sec. 49. The bonds, within the discretion of the board, may be additionally secured by a deed of trust or mortgage lien upon part or all of the physical properties of the authority, and franchises, easements, leases, and contracts and all rights appurtenant to such properties, vesting in the trustee power to sell such properties for payment of the bonds or interest thereon, power to operate the properties and all other powers and authority for the further security for the bonds. Such trust indenture, regardless of the existence of the deed of trust or mortgage lien on the properties, may contain provisions prescribed by the board for the security of the bonds and as preservation of the trust estate, and may make provisions for amendment or modification thereof, and may condition the right to expend authority money or sell authority property upon approval of a registered professional engineer or architect selected as provided therein and may make provisions for investment of funds of the authority. Any purchaser under a sale under the deed of trust or mortgage lien, where one is given, shall be absolute owner of the properties, facilities and rights so purchased and shall have the right to maintain and operate same.

Provisions of Bonds

Sec. 50. In the resolutions authorizing the issuance of bonds as provided in this Act (including refunding bonds) the board may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund or funds, the reserve fund or funds, and other funds, and may make additional covenants with respect to the bonds and the pledged revenues and the operation and maintenance of those facilities (the revenues of which are pledged), including provisions for the operation or for the leasing of all or any part of said facilities and the use or pledge of moneys derived from such operation, contracts and leases, as such board may deem appropriate. The resolutions of the board authorizing the issuance of bonds may be

also prohibit the further issuance of bonds or other obligations payable from the pledged revenues or may reserve the right to issue additional bonds to be secured by a pledge of and payable from said revenues on a parity with, or subordinate to, the lien and pledge in support of the bonds being issued, subject to such conditions as are set forth in such resolutions. The resolutions of the board issuing bonds may contain other provisions and covenants, as the authority's board may determine, not prohibited by the Texas Constitution or by this Act, and said board may adopt and cause to be executed any other proceedings or instruments necessary and/or convenient in the issuance of any authority bonds.

Use of Bond Proceeds

Sec. 51. From the proceeds of sale of any bonds issued under the provisions of this Act, the board may appropriate or set aside an amount for the payment of interest and administrative and operating expenses expected to accrue during the period of construction, as may be provided in the bond resolutions, and an amount necessary to pay all expenses incurred and to be incurred in the issuance, sale, and delivery of the bonds.

Sale of Bonds

Sec. 52. After the issuance of said bonds, the board shall sell the bonds on the best terms and for the best possible price.

Approval by Attorney General; Registration by Comptroller

Sec. 53. All bonds issued by an authority shall be submitted to the Attorney General of the State of Texas for examination. If he finds that the bonds have been authorized in accordance with law he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas. After the approval and registration of bonds by the comptroller, they shall be incontestable in any court or other forum, for any reason, and shall be valid and binding obligations in accordance with their terms for all purposes. If said bonds recite that they are secured partially or otherwise by a pledge of the proceeds of a contract or contracts or a lease or leases made between the authority and another party or parties (public agencies, cities, or otherwise), a copy of each such contract or lease and of the proceedings authorizing same may or may not be submitted to the attorney general along with the bond records, and, if so submitted, then the approval by the attorney general of the bonds shall constitute an approval of such contract or lease, and thereafter such contract or lease shall be incontestable.

Refunding Bonds

Sec. 54. (a) By resolutions adopted by its board, an authority shall have the power and authority to issue bonds to refund all or any part of its outstand-

ing bonds, including matured but unpaid interest coupons. Refunding bonds shall mature serially or otherwise not more than 40 years from their date and shall bear interest at any rate or rates permitted by the Constitution and laws of the State of Texas. Refunding bonds may be payable from the same source as the bonds being refunded or from other additional sources, shall be approved by the attorney general as in the case of original bonds, and shall be registered by the comptroller of public accounts upon the surrender and cancellation of the bonds to be refunded, but in lieu thereof, the resolutions authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the place or places where the underlying bonds are payable, in which case the refunding bonds may be issued before the cancellation of the bonds being refunded provided an amount sufficient to pay the interest and principal on the underlying bonds to their maturity dates, or to their option dates if said bonds have been duly called for payment prior to maturity according to their terms, has been so deposited in the place or places where said underlying bonds are payable, and the comptroller of public accounts shall register them without the surrender and cancellation of the underlying bonds. The refunding may be accomplished in one or several installment deliveries. Refunding bonds, and the interest coupons appurtenant thereto, shall be investment securities under the provisions of Chapter 8 of the Business & Commerce Code¹ and shall be issued as provided in this Act.

(b) In lieu of the method set forth in Subsection (a) of this section, an authority may refund its bonds as provided by the general laws of the State of Texas.

¹ Business and Commerce Code, § 8.101 et seq.

Bonds Legal Investments; Security for Funds

Sec. 55. All bonds issued by the authority shall be legal and authorized investments for all banks, trust companies, building and loan associations, insurance companies of all kinds and types, fiduciaries, and trustees, and for all interest and sinking funds and other public funds of the State of Texas, and all agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic. Authority bonds also shall be eligible and lawful security for all deposits of public funds of the State of Texas, and all agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of said bonds, when accompanied by any unmatured interest coupons appurtenant thereto.

Paid Bonds or Coupons

Sec. 56. All authority bonds and interest coupons, or notes and warrants when paid, shall be

delivered to the authority or destroyed and evidence of such destruction furnished the board.

[Acts 1971, 62nd Leg., p. 2468, ch. 807, eff. June 8, 1971.]

Art. 1269j-4.6. Contracts with Civic Center Authorities

Applicability of Act

Sec. 1. This Act shall be applicable to any incorporated city, town, or village (hereinafter "city") of the State of Texas, whether operating under the general laws or under a home-rule charter.

Contracts Authorized; Purposes

Sec. 2. A city, pursuant to approval by a majority of its governing body, is hereby authorized to enter into a contract or contracts with a civic center authority under which the authority, for the benefit of the contracting city or contracting cities, may establish, acquire, lease as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate, or maintain (any or all) public improvements within or without the boundaries of such city such as civic centers, civic center buildings, auditoriums, opera houses, music halls, exhibition halls, coliseums, museums, libraries, or other public buildings and related facilities (either or all), and may establish, acquire, lease as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate, or maintain (any or all) structures, parking areas, or facilities, located at or in the immediate vicinity of such public improvements, to be used in connection with such public improvements for off-street parking or storage of motor vehicles or other conveyances, as may be authorized to the authority by the laws of this state (hereinafter "facilities"), and under which the authority may furnish all or any part of its authorized services and facilities within or without the boundaries of such city to the contracting city or cities. Such contract may be upon such terms and conditions as the city may deem desirable, fair and advantageous, such contract not to exceed 40 years' duration.

Payments by City to Authority; Sources

Sec. 3. Payments by a city to an authority shall be made, as prescribed in the contract between the city and the authority, from any available funds, including, without limitation of the above, ad valorem taxes; provided, however, that if a city wishes to pledge ad valorem taxes as part or all of the required payments under the contract with an authority, it must follow the alternative procedure prescribed in Section 4. Unless the alternative procedure prescribed in Section 4 is followed, neither an authority nor the holder of any bonds of the authority shall have the right to demand payment of the city's obligation out of any funds raised or to be raised by taxation. If the alternative procedure prescribed in Section 4 is followed, payments under the contract may be payable from and constitute solely an obligation against the taxing powers of

the city or may be payable both from taxes and from such funds and revenues as may be prescribed in the contract.

Election by City; Authority to Levy and Collect Ad Valorem Tax; Contracts as Obligations against Taxing Power; Qualified Electors

Sec. 4. (a) If an election is held, substantially according to applicable procedure prescribed in Chapter 1, Title 22, Revised Civil Statutes of Texas, 1925, as amended,¹ in reference to the issuance of bonds by cities, by a city and carried, determining that the governing body of the city is authorized to levy and collect an ad valorem tax to pay all or a portion of the payments to be made by the city under a contract to be entered into by and between the city and an authority, the contract, in such event, will constitute an obligation against the taxing power of the city to the extent therein provided. After such election and at or prior to the time such city enters into such contract it shall, in accordance with the Texas Constitution, make provision for assessing and collecting annually a sufficient sum to pay such contract and creating a sinking fund of at least two percent thereon. No election is required for the exercise of any power conferred by this Act except for the levy of such tax.

(b) Only electors of the city who are qualified to vote at such elections under the Constitution and laws of the State of Texas and the Constitution of the United States shall be entitled to vote at such elections.

¹ Article 701 et seq.

Authority of this Act

Sec. 5. If there be any conflict or inconsistency between this Act and the general laws of the State of Texas and/or any provision of a home-rule charter of a contracting city, the provisions of this Act shall control.

[Acts 1971, 62nd Leg., p. 2481, ch. 808, eff. June 8, 1971.]

Art. 1269j-4.7. Certificates of Indebtedness Authorized for New Community Plan Adopted by City or Town Under Federal Act

Authorization

Sec. 1. Any city or town, which has by duly adopted resolution, order or ordinance approved or approved in principle a New Community plan in connection with a New Community Development project under the Urban Growth and New Community Development Act of 1970, enacted by the United States Congress as Title VII of the Housing and Urban Development Act of 1970, Public Law 91-609,¹ is hereby authorized to issue Certificates of Indebtedness for the purposes of acquiring, purchasing, constructing, repairing, renovating, improving and/or equipping any public projects or public facilities of any type, including but not excluding others, parks, streets, drainage facilities,

water supply and distribution facilities, sewage and waste collection, disposal and treatment facilities, plants and properties, and for the purpose of planning, developing, engineering and financing such public projects and the payment for professional services incident thereto and in connection therewith.

¹ 42 U.S.C.A. § 4501 et seq.

Issuance; Ordinance; Terms and Conditions; Interest; Pledge of Revenues; Levy of Taxes

Sec. 2. The Certificates of Indebtedness authorized by this Act may be issued when authorized by ordinance adopted by the governing body of any such city or town and may mature serially or otherwise and may be issued upon such other terms and conditions as may be contained and specified in any such ordinance, including but not limited to provisions as to interest rate or rates, registration and redemption privileges, and any manner and method of sale, or as to exchange for goods, property or services, and for the delivery thereof. Said Certificates of Indebtedness may be issued in amount sufficient to provide for escrowed interest during such periods, not exceeding three years as such ordinance may direct, and/or may provide for deferred interest payments for such period as may be agreed upon with the purchaser thereof; and the same may be secured by and made payable from taxes or revenues by utility system or systems of the issuer, or both; provided that, in the issuance of any such obligations payable from taxes, the issuer shall comply with the provisions of the Texas Constitution requiring in such cases that sufficient taxes to pay the principal thereof and interest thereon when due be duly and properly levied.

Investment Securities; Incontestability

Sec. 3. Any Certificates of Indebtedness issued under authority of this Act shall constitute "Investment Securities" under Chapter 8 of the Texas Uniform Commercial Code,¹ and may be issued in such form and denominations and under such other terms, conditions and details, and may be executed, all as provided in the proceedings authorizing the same; and all Certificates of Indebtedness which shall recite that they have been issued under authority of this Act for the purposes herein authorized shall be incontestable for any reason and shall be valid and binding obligations in accordance with their terms and for all purposes.

¹ Business and Commerce Code, § 8.101 et seq.

Refunding Bonds; Security

Sec. 4. The Certificates of Indebtedness authorized by this Act may be wholly or partially refunded into bonds in any manner and upon such terms as now permitted by law with respect to the refunding of other indebtedness or obligations of any such city or town, including Chapter 503, Acts of the 54th Legislature, 1955, as amended (Article 717k, Vernon's Texas Civil Statutes), and Chapter 784, Acts of the 61st Legislature, 1969 (Article 717k-3, Ver-

non's Texas Civil Statutes), which refunding bonds may be secured by taxes and/or any revenues of any utility system and/or in any other manner permitted by said acts, irrespective of the purposes for which such Certificates of Indebtedness were issued or the manner in, or source from, which they were secured or were payable.

Legal Investments and Security for Deposits

Sec. 5. All Certificates of Indebtedness issued under this Act shall be legal and authorized investments for all banks, savings banks, trust companies, building and loan associations, savings and loan associations, and insurance companies of all kinds and types, and for the interest and sinking funds and other public funds of any city, county or other political subdivision of this State. Said obligations also shall be eligible and lawful security for all deposits of public funds of any city, county or other political subdivision or public agency.

Cumulative and Prevailing Effect

Sec. 6. This Act shall be cumulative of all other laws on the subject, but this Act shall be wholly sufficient authority within itself for the issuance of such Certificates of Indebtedness and the performance of the other acts, powers and procedures or limitations on borrowing contained therein, except as may be specifically required herein, and when any obligations are being issued under this Act, then to the extent of any conflict or inconsistency between any provisions of this Act and any provisions of any other law otherwise applicable to such city or town, the provisions of this Act shall prevail and control.

Severability

Sec. 7. In case any one or more of the sections, provisions, clauses or words of this Act, or the application thereof to any situation or circumstance, shall for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other sections, provisions, clauses, or words of this Act, or the application thereof to any other situation or circumstance, and it is intended that this Act shall be severable and shall be construed and applied as if any such invalid or unconstitutional section, provision, clause, or word had not been included herein.

[Acts 1971, 62nd Leg., p. 2895, ch. 957, eff. June 15, 1971.]

Art. 1269j-4.8. Off-Street Parking Facilities, Terminals, and Stations; Revenue Bonds; Cities Over 650,000

Application

Sec. 1. This Act applies to any city with a population of more than 650,000 according to the last preceding federal census.

General Authority

Sec. 2. A city subject to this Act may acquire, lease as lessor or lessee, construct, improve, enlarge, equip, and operate off-street parking facilities, and may acquire, lease as lessor or lessee, construct, improve, enlarge, equip, and operate terminals, stations, and related properties and facilities for the use of passengers, commuters, travelers, shippers, and other members of the public and by companies or individuals engaged in the business of transporting the general public, goods, cargo, parcels, mail, commodities, or freight by bus, truck, or rail.

Issuance of Revenue Bonds

Sec. 3. For any purpose authorized under Section 2 of this Act, the governing body of the city may issue revenue bonds from time to time in one or more series to be payable from and secured by liens on all or part of the revenue derived from a facility authorized under this Act.

Terms and Conditions of Bonds

Sec. 4. (a) The bonds may be issued to mature serially or otherwise within not to exceed 40 years from their date, and provision may be made for the subsequent issuance of additional parity bonds, or subordinate lien bonds, under any terms or conditions that may be set forth in the resolution authorizing the issuance of the bonds.

(b) The bonds, and any interest coupons appertaining thereto, are negotiable instruments within the meaning and for all purposes of the Texas Uniform Commercial Code. The bonds may be issued registrable as to principal alone or as to both principal and interest, and shall be executed, and may be made redeemable prior to maturity, and may be issued in such form, denominations, and manner, and under such terms, conditions, and details, and may be sold in such manner, at such price, and under such terms, and said bonds shall bear interest at such rates, all as shall be determined and provided in the ordinance authorizing the issuance of the bonds.

(c) If so provided in the bond ordinance the proceeds from the sale of the bonds may be used for paying interest on the bonds during and after the period of the acquisition or construction of any facilities to be provided through the issuance of the bonds, for paying expenses of operation and maintenance of facilities authorized under this Act, for creating a reserve fund for the payment of the principal of and interest on the bonds, and for creating any other funds. The proceeds of the bonds may be placed on time deposit or invested, until needed, all to the extent, and in the manner provided, in the bond ordinance.

Rentals, Rates, and Charges; Contracts and Leases; Development

Sec. 5. (a) Each eligible city shall be authorized to fix and collect fees, rentals, rates, and charges for the occupancy, use, or availability of all or any of its property, buildings, structures, or other facilities described in Section 2 of this Act in such amounts and in such manner as may be determined by the governing body of the city.

(b) The city may contract with any public or private entity for the performance of any function related to the facilities described in Section 2 of this Act, and may, as lessor, lease any of such properties or facilities to any public or private entity upon such terms, for such rentals, revenues and payments, and for such period or periods of years as shall be approved by the governing body of the city.

(c) Any of the properties and facilities described in Section 2 of this Act may be developed in conjunction with other public or private developments pursuant to agreements with the owners thereof upon such terms as may be approved by the city. The city may negotiate and include as a part of any such agreement such provisions as it may deem appropriate providing for the use, lease, or sale of any part of the subsurface, or airspace above the surface, of the city's property as the city may find to be surplus and not necessary for the purposes of such properties and facilities.

Pledges

Sec. 6. (a) The city may pledge all or any part of the revenues, income, or receipts from such fees, rentals, rates, and charges to the payment of the bonds, including the payment of principal, interest, and any other amounts required or permitted in connection with the bonds. The pledged fees, rentals, rates, and charges, shall be fixed and collected in amounts that will be at least sufficient, together with any other pledged resources, to provide for all payments of principal, interest, and any other amounts required in connection with the bonds, and, to the extent required by the ordinance authorizing the issuance of the bonds, to provide for the payment of expenses in connection with the bonds, and for the payment of operation, maintenance, and other expenses in connection with the facilities authorized under this Act.

(b) The bonds may be additionally secured by mortgages or deeds of trust on any real property relating to the facilities authorized under this Act owned or to be acquired by the city, and by chattel mortgages, liens, or security interests on any personal property appurtenant to that real property. The governing body of the city may authorize the execution of trust indentures, mortgages, deeds of trust, or other forms of encumbrances to evidence the indebtedness.

(c) The city may also pledge to the payment of the bonds all or any part of any grant, donation, revenues, or income received or to be received from

the United States government or any other public or private source, whether pursuant to an agreement or otherwise.

(d) The city may create an off-street parking system by combining one or more parking facilities provided pursuant to this Act with one or more parking facilities previously owned by the city or hereafter acquired pursuant to any law or provision authorizing the ownership and operation of such parking facilities apart from this Act, whether or not such previously owned or hereafter acquired facility is operated in connection with any other city-owned facility.

(e) Any city which proposes to create an off-street parking system pursuant to this Act may issue bonds for the purposes of creating, extending, or improving the system to the same extent otherwise provided herein for bonds issued for a single parking facility hereunder, and the city may pledge to the payment of such bonds all or any part of the revenues, income, or receipts derived from the ownership and operation of any or all of the facilities comprising a part of the system upon such terms as the city shall deem appropriate. Additionally, the city may pledge to the payment of such bonds all or any part of the revenues derived by the city from parking meters on or adjacent to the public streets of the city.

Public Purpose

Sec. 7. The acquisition, purchase, construction, improvement, enlargement, equipment, operation, and maintenance by a city of any property, buildings, structures, or other facilities described in Section 2 of this Act, whether on land already owned by the city or hereafter acquired, is a public purpose and a proper municipal function.

Refunding Bonds

Sec. 8. (a) Any bonds issued pursuant to this Act may be refunded or otherwise refinanced by the issuance of refunding bonds for that purpose, under any terms or conditions, as are determined by ordinance of the governing body of the city. All appropriate provisions of this Act are applicable to refunding bonds, and the refunding bonds shall be issued in the manner provided in this Act for other bonds. The refunding bonds may be sold and delivered in amounts necessary to pay the principal, interest, and redemption premium, if any, of bonds to be refunded, at maturity or on any redemption date.

(b) The refunding bonds may be issued to be exchanged for the bonds being refunded by them. In that case, the comptroller of public accounts shall register the refunding bonds and deliver them to the holder or holders of the bonds being refunded in accordance with the provisions of the ordinance authorizing the refunding bonds. The exchange may be made in one delivery or in several installment deliveries.

(c) Bonds issued at any time by a city under this Act also may be refunded in the manner provided by any other applicable law.

Approval and Registration of Bonds

Sec. 9. All bonds issued under this Act and the appropriate proceedings authorizing their issuance shall be submitted to the attorney general for examination. If the bonds recite that they are secured by a pledge of revenues or rentals from a contract or lease, a copy of the contract or lease and the proceedings relating to it shall be submitted to the attorney general also. If he finds that the bonds have been authorized and any contract or lease has been made in accordance with law, he shall approve the bonds and the contract or lease, and thereupon the bonds shall be registered by the comptroller of public accounts. After approval and registration the bonds and any contract or lease relating to them are incontestable in any court, or other forum, for any reason, and are valid and binding obligations for all purposes in accordance with their terms.

Authorized Investments and Security for Deposits

Sec. 10. All bonds issued under this Act are legal and authorized investments for all banks, trusts companies, building and loan associations, savings and loan associations, insurance companies of all kinds and types, fiduciaries, trustees, and guardians, and for all interest and sinking funds and other public funds of the state and all agencies, subdivisions, and instrumentalities of the state, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic. The bonds also are eligible and lawful security for all deposits of public funds of the state and all agencies, subdivisions, and instrumentalities of it, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of the bonds, when accompanied by any unmatured interest coupons appurtenant thereto.

Cumulative Effect

Sec. 11. This Act is cumulative of all other law on the subject, but this Act shall be wholly sufficient authority within itself for the issuance of the bonds and the performance of the other acts and procedures authorized by it without reference to any other law or any restrictions or limitations contained therein, except as herein specifically provided. When any bonds are issued under this Act, then to the extent of any conflict or inconsistency between any provisions of this Act and any provision of any other law, the provisions of this Act shall prevail and control. A city shall have the right to use the provisions of any other laws, not in conflict with the provisions of this Act, to the extent convenient or necessary to carry out any power or authority, express or implied, granted by this Act.

Severability

Sec. 12. In case any one or more of the sections, provisions, clauses, or words of this Act, or the application thereof to any situation or circumstance, shall for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other sections, provisions, clauses, or words of this Act, or the application thereof to any other situation or circumstance, and it is intended that this Act shall be severable and shall be construed and applied as if any such invalid or unconstitutional section, provision, clause, or word had not been included herein.

[Acts 1973, 63rd Leg., p. 709, ch. 305, eff. June 11, 1973. Amended by Acts 1981, 67th Leg., p. 2747, ch. 750, § 1, eff. June 16, 1981; Acts 1983, 68th Leg., p. 5370, ch. 986, § 1, eff. Aug. 29, 1983.]

Art. 1269j-4.9. Farmers' Markets; Revenue Bonds; Cities Over 650,000

Definition

Sec. 1. In this Act, "farmers' market" means a public marketplace at which persons are permitted to sell agricultural and other products.

Application

Sec. 2. This Act applies to any city with a population of more than 650,000 according to the last preceding federal census.

General Authority

Sec. 3. A city subject to this Act may acquire, lease as lessor or lessee, construct, improve, enlarge, and operate a farmers' market. The city may contract with any public or private entity for the performance of any function authorized under this section.

Issuance of Revenue Bonds

Sec. 4. For any purpose authorized under Section 3 of this Act, the governing body of the city may issue revenue bonds from time to time in one or more series to be payable from and secured by liens on all or part of the revenue derived from a facility authorized under this Act.

Terms and Conditions of Bonds

Sec. 5. (a) The bonds may be issued to mature serially or otherwise within not to exceed 40 years from their date, and provision may be made for the subsequent issuance of additional parity bonds, or subordinate lien bonds, under any terms or conditions that may be set forth in the resolution authorizing the issuance of the bonds.

(b) The bonds, and any interest coupons appertaining thereto, are negotiable instruments within the meaning and for all purposes of the Texas Uniform Commercial Code. The bonds may be issued registrable as to principal alone or as to both principal and interest, and shall be executed, and

may be made redeemable prior to maturity, and may be issued in such form, denominations, and manner, and under such terms, conditions, and details, and may be sold in such manner, at such price, and under such terms, and said bonds shall bear interest at such rates, all as shall be determined and provided in the ordinance authorizing the issuance of the bonds.

(c) If so provided in the bond ordinance the proceeds from the sale of the bonds may be used for paying interest on the bonds during and after the period of the acquisition or construction of any facilities to be provided through the issuance of the bonds, for paying expenses of operation and maintenance of facilities authorized under this Act, for creating a reserve fund for the payment of the principal of and interest on the bonds, and for creating any other funds. The proceeds of the bonds may be placed on time deposit or invested, until needed, all to the extent, and in the manner provided, in the bond ordinance.

Rentals, Rates, and Charges

Sec. 6. Each eligible city shall be authorized to fix and collect fees, rentals, rates, and charges for the occupancy, use, or availability of all or any of its property, buildings, structures, or other facilities authorized under this Act in such amounts and in such manner as may be determined by the governing body of the city.

Pledges

Sec. 7. (a) The city may pledge all or any part of the revenues, income, or receipts from such fees, rentals, rates, and charges to the payment of the bonds, including the payment of principal, interest, and any other amounts required or permitted in connection with the bonds. The pledged fees, rentals, rates, and charges, shall be fixed and collected in amounts that will be at least sufficient, together with any other pledged resources, to provide for all payments of principal, interest, and any other amounts required in connection with the bonds, and, to the extent required by the ordinance authorizing the issuance of the bonds, to provide for the payment of expenses in connection with the bonds, and for the payment of operation, maintenance, and other expenses in connection with the facilities authorized under this Act.

(b) The bonds may be additionally secured by mortgages or deeds of trust on any real property relating to the facilities authorized under this Act owned or to be acquired by the city, and by chattel mortgages, liens, or security interests on any personal property appurtenant to that real property. The governing body of the city may authorize the execution of trust indentures, mortgages, deeds of trust, or other forms of encumbrances to evidence the indebtedness.

(c) The city may also pledge to the payment of the bonds all or any part of any grant, donation,

revenues, or income received or to be received from the United States government or any other public or private source, whether pursuant to an agreement or otherwise.

Public Purpose

Sec. 8. The acquisition, purchase, construction, improvement, enlargement, equipment, operation, and maintenance by a city of any property, buildings, structures, or other facilities for providing a farmers' market is a public purpose and a proper municipal function.

Refunding Bonds

Sec. 9. (a) Any bonds issued pursuant to this Act may be refunded or otherwise refinanced by the issuance of refunding bonds for that purpose, under any terms or conditions, as are determined by ordinance of the governing body of the city. All appropriate provisions of this Act are applicable to refunding bonds, and the refunding bonds shall be issued in the manner provided in this Act for other bonds. The refunding bonds may be sold and delivered in amounts necessary to pay the principal, interest, and redemption premium, if any, of bonds to be refunded, at maturity or on any redemption date.

(b) The refunding bonds may be issued to be exchanged for the bonds being refunded by them. In that case, the comptroller of public accounts shall register the refunding bonds and deliver them to the holder or holders of the bonds being refunded in accordance with the provisions of the ordinance authorizing the refunding bonds. The exchange may be made in one delivery or in several installment deliveries.

(c) Bonds issued at any time by a city under this Act also may be refunded in the manner provided by any other applicable law.

Approval and Registration of Bonds

Sec. 10. All bonds issued under this Act and the appropriate proceedings authorizing their issuance shall be submitted to the attorney general for examination. If the bonds recite that they are secured by a pledge of revenues or rentals from a contract or lease, a copy of the contract or lease and the proceedings relating to it shall be submitted to the attorney general also. If he finds that the bonds have been authorized and any contract or lease has been made in accordance with law, he shall approve the bonds and the contract or lease, and thereupon the bonds shall be registered by the comptroller of public accounts. After approval and registration the bonds and any contract or lease relating to them are incontestable in any court, or other forum, for any reason, and are valid and binding obligations for all purposes in accordance with their terms.

Authorized Investments and Security for Deposits

Sec. 11. All bonds issued under this Act are legal and authorized investments for all banks, trust companies, building and loan associations, savings and loan associations, insurance companies of all kinds and types, fiduciaries, trustees, and guardians, and for all interest and sinking funds and other public funds of the state and all agencies, subdivisions, and instrumentalities of the state, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic. The bonds also are eligible and lawful security for all deposits of public funds of the state and all agencies, subdivisions, and instrumentalities of it, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of the bonds, when accompanied by any unmatured interest coupons appurtenant thereto.

Cumulative Effect

Sec. 12. This Act is cumulative of all other law on the subject, but this Act shall be wholly sufficient authority within itself for the issuance of the bonds and the performance of the other acts and procedures authorized by it without reference to any other law or any restrictions or limitations contained therein, except as herein specifically provided. When any bonds are issued under this Act, then to the extent of any conflict or inconsistency between any provisions of this Act and any provision of any other law, the provisions of this Act shall prevail and control. A city shall have the right to use the provisions of any other laws, not in conflict with the provisions of this Act, to the extent convenient or necessary to carry out any power or authority, express or implied, granted by this Act.

Severability

Sec. 13. In case any one or more of the sections, provisions, clauses, or words of this Act, or the application thereof to any situation or circumstance, shall for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other sections, provisions, clauses, or words of this Act, or the application thereof to any other situation or circumstance, and it is intended that this Act shall be severable and shall be construed and applied as if any such invalid or unconstitutional section, provision, clause, or word had not been included herein.

[Acts 1973, 63rd Leg., p. 724, ch. 314, eff. June 11, 1973.]

Art. 1269j-5. Airport Revenue Bonds; Cities with Population Over 70,000

Sec. 1. All cities having a population of more than seventy thousand (70,000) according to the last preceding federal census, may issue revenue bonds for enlarging, or extending, or repairing, or improving its airport, or for any two (2) or more such uses. Included within the meaning of improvements with-

out limiting the generality of the term, is the construction or enlargement of hangars and related buildings for use by tenants or concessionaires of the airport, including persons, firms or corporations rendering repair or other services to air carriers. Such revenue bonds may be issued when duly authorized by an ordinance passed by the governing body of such city. Such revenue bonds shall be secured by a pledge of all, or such part of, the revenues from the operation of the city's airport as may be prescribed in such ordinance. To the extent that the revenues of the airport may have been pledged to the payment of revenue bonds which are still outstanding, the pledge securing the proposed revenue bonds shall be inferior to the previous pledge or pledges. Within the discretion of the governing body of the city and subject to limitations contained in previous pledges, if any, in addition to the pledge of revenues, a lien may be given on all or any part of the physical properties comprising such airport. Included within the authority to pledge revenues and without limiting the generality of such authority is the right to pledge all or any part of the lease consideration to be received by the city for any such hangars or buildings, and within the discretion of the governing body of the city the sole security for such bonds may be the revenues to be received from leasing any one or more of such hangars and buildings, together with or without a lien upon such hangars or buildings and the land on which they are to be situated.

Sec. 2. No money raised or to be raised from taxation shall be used to pay the principal or interest on any revenue or refunding bonds issued under this Act. When any of the revenues of such airport are pledged to the payment of bonds issued under this Act, it shall be the duty of the governing body of the City in reference to the revenues pledged, to cause to be fixed, maintained and enforced charges for services to be rendered by properties and facilities whose revenues have been pledged at rates and amounts sufficient to provide for the expense of maintenance and operation of such properties and facilities and to provide the amounts of money required under such ordinance to pay principal of and interest on the revenue bonds and to provide the reserve funds required by such ordinance.

Sec. 3. The Revenue Bonds shall be sold at a price or prices so that the interest cost of the money received therefor, computed to maturity in accordance with standard bond interest tables, shall not exceed five per-cent (5%) per annum; shall mature serially or otherwise within thirty (30) years from their date; shall be negotiable instruments under the Negotiable Instruments Act of the State of Texas; shall not be finally issued until approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of the State of Texas, and after such approval shall be incontestable.

Sec. 4. Refunding Bonds bearing an interest rate or interest rates which result in the same or a lower over-all interest cost to City may be either issued in exchange for or to provide funds to repurchase and retire any such revenue bonds.

Sec. 4(a). Bonds issued by any city having a population of one hundred fifty thousand (150,000) or more, according to the last preceding Federal Census, pursuant to the provisions of this law shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations and all insurance companies. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, counties, school districts, or other political corporations or subdivisions of the State of Texas, and such bonds shall be lawful and sufficient security for said deposits to the extent of the principal amount thereof, or their value on the market, whichever is the lesser, when accompanied by all unmatured coupons appurtenant thereto.

[Acts 1954, 53rd Leg., 1st C.S., p. 93, ch. 43. Amended by Acts 1957, 55th Leg., p. 465, ch. 225, § 1; Acts 1961, 57th Leg., p. 1183, ch. 535, § 1.]

Art. 1269j-5.1. Airport Revenue Bonds

Sec. 1. This Act shall be applicable to all incorporated cities, including Home Rule Cities.

Sec. 2. (a) Any such city is hereby authorized to issue revenue bonds for the purpose of establishing, improving, enlarging, extending or repairing (any or all) the airport or airports of such city, including the acquisition of land therefor, said bonds to be issued in the manner provided and as authorized by Chapter 43, Acts of the 53rd Legislature of Texas, First Called Session, 1954, as presently or hereafter amended,¹ the bonds issued hereunder to be payable from all or any designated part or parts of the revenues of said airport or airports (including the revenues from any airport or airports then existing or to be thereafter acquired, either or both) as may be provided in the ordinance or ordinances authorizing the issuance of such bonds; and, except as the same may be inconsistent or in conflict with the provisions of this Act, the provisions of said Chapter 43, as presently or hereafter amended, shall apply to revenue bonds issued under the provisions of this Act (the provisions of said Act to govern and take precedence in the event of any such inconsistency or conflict). Without in any way limiting the generality of "establishing, improving, enlarging, extending, or repairing (any or all) the airport or airports of such city, including the acquisition of land therefor," as used above, it is expressly provided that the same shall include, among other things, buildings, improvements, landing fields, and such other facilities and services that the city deems to be necessary, desirable, or convenient to the efficient operation and maintenance of its airport or airports. With respect to the pledge of revenues and income of said airport or airports to the pay-

ment of the operation and maintenance expenses and principal of and interest on such bonds, as provided by said Chapter 43, such city shall be authorized to levy and pledge to the payment of such operation and maintenance expenses, either as a supplement to the pledge of revenues for such purpose or in lieu thereof, a continuing, annual ad valorem tax at a rate or rates on each One Hundred Dollars (\$100.00) sufficient for such purposes, all as may be provided in the ordinance or ordinances authorizing the issuance of any revenue bonds pursuant to the provisions of this Act; provided, that such tax or taxes shall be within the Constitutional or Charter limit for the cities covered by this Act; and provided further, that no part of any moneys raised by such tax or taxes shall ever be used for the payment of the interest on or principal of any bonds issued hereunder. The proceeds of any such tax or taxes thus pledged shall be utilized annually to the extent required by, or provided in, the ordinance or operation and maintenance of such airport or airports, and such city in its discretion may covenant in such ordinance or ordinances that certain costs of operating and maintaining such airport or airports, as may be enumerated therein, or all of such costs, will be paid by the city from the proceeds of such tax.

(b) In the ordinance or ordinances authorizing the issuance of any revenue bonds authorized hereunder, the city may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund or funds, reserve fund or funds, and other funds, and may make additional covenants with respect to the bonds and the pledged revenues and the operation and maintenance of those improvements and facilities (the revenues of which are pledged), including provision for the operation or for the leasing of all or any part of said improvements and facilities and the use or pledge of moneys derived from such operation contracts and leases, as it may deem appropriate. Such ordinance or ordinances may also prohibit the further issuance of bonds or other obligations payable from the pledged revenues, or may reserve the right to issue additional bonds to be secured by a pledge of and payable from said revenues on a parity with, or subordinate to, the lien and pledge in support of the bonds being issued, subject to such conditions as are set forth in said ordinance or ordinances. Such ordinance or ordinances may contain other provisions and covenants, as the city may determine, not prohibited by the Constitution of Texas or by this Act, and the city may adopt and cause to be executed any other proceedings or instruments necessary and/or convenient in the issuance of any of said bonds.

(c) From the proceeds of sale of any bonds issued hereunder, the city may appropriate or set aside out of the bond proceeds an amount for the payment of interest expected to accrue during the period of construction, an amount or amounts to be deposited into the reserve fund or funds as may be provided in the bond ordinance or ordinances, and an amount

necessary to pay all expenses incurred and to be incurred in the issuance, sale, and delivery of the bonds. Until such time or times as the bond proceeds are needed to carry out the bond purpose, such bond proceeds may be invested in direct obligations of the United States of America or may be placed on time deposit (either or both). Moneys in the interest and sinking fund or funds, in the reserve fund or funds, and in the other fund or funds established or provided for in the bond ordinance or ordinances may be invested in such manner and in such securities as may be provided in the bond ordinance or ordinances.

(d) All bonds shall be signed by the Mayor of the city and counter-signed by the City Secretary (or City Clerk), and shall have the seal of the city impressed thereon; provided, that the bond ordinance or ordinances may provide for the bonds to be signed by the facsimile signatures of said Mayor and City Secretary (or City Clerk), either or both, and for the seal of the city on the bonds to be a facsimile seal of the seal of the city; and provided further, that the interest coupons attached to said bonds may also be executed by the facsimile signatures of said officers. Such bonds shall mature serially or otherwise in not to exceed forty (40) years from their date or dates and may be sold at a price and under such terms determined by the governing body of the city to be the most advantageous reasonably obtainable, provided that the interest cost to the city, calculated by the use of standard bond interest tables currently in use by insurance companies and investment houses, does not exceed six per cent (6%) per annum, and within the discretion of the governing body such bonds may be callable prior to maturity at such time or times and at such price or prices as may be prescribed in the ordinance or ordinances authorizing such bonds. Any such bonds may be made registrable as to principal, or as to both principal and interest. All bonds issued hereunder and the record relating to their issuance shall be submitted to the Attorney General of the State of Texas for his examination as to the validity thereof, and after said Attorney General has approved the same, such bonds shall be registered by the Comptroller of Public Accounts of the State of Texas. When such bonds have been approved by the Attorney General, registered by the Comptroller of Public Accounts, and delivered to the purchasers, they shall thereafter be incontestable except for forgery or fraud.

(e) Any city covered by this Act shall have the power and authority to issue revenue refunding bonds to refund revenue bonds (either original bonds or refunding bonds) theretofore issued by such city under Chapter 43, supra, or under said Chapter 43 and this Act, and such refunding bonds shall bear interest at the same or lower rate or rates than that of the bonds refunded unless it is shown mathematically that a saving will result in the total amount of interest to be paid. Refunding bonds shall be authorized by ordinance or ordi-

nances and shall be executed and mature as is provided in this Act for original bonds. They shall be approved by the Attorney General as in the case of original bonds, and shall be registered by the Comptroller of Public Accounts upon the surrender and cancellation of the bonds to be refunded, but in lieu thereof, the ordinance or ordinances authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the place or places where the underlying bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the interest on the underlying bonds to their option or maturity date, and the Comptroller of Public Accounts shall register them without the surrender and cancellation of the underlying bonds. All such refunding bonds, after they have been approved by the Attorney General and registered by the Comptroller of Public Accounts, shall be incontestable except for forgery or fraud. The provisions of Sections 2(a) and 2(b) of this Act shall apply with equal force to refunding bonds issued hereunder.

(f) All bonds issued under this Act, whether original bonds or refunding bonds, shall be and are hereby declared to be, and to have all the qualifications of, negotiable instruments under the Negotiable Instruments Law of the State of Texas, and all such bonds shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies of every kind or type, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value when accompanied by all unmaturing coupons appurtenant thereto.

[Acts 1962, 57th Leg., 3rd C.S., p. 50, ch. 19, §§ 1, 2. Amended by Acts 1967, 60th Leg., p. 906, ch. 396, § 1, eff. Aug. 28, 1967; Acts 1975, 64th Leg., p. 46, ch. 24, § 1, eff. March 20, 1975.]

¹ Article 1269j-5.

Art. 1269j-5.2. Airport Revenue Bonds; Home Rule Cities with Population of 125,000 or More

Sec. 1. This Act shall be applicable to any home-rule city having a population of 125,000 or more according to the last preceding federal census, which owns or has leased or has otherwise acquired control of land for airport purposes, and which is operating such land for such purposes.

Sec. 2. In the event any such city shall determine to issue revenue bonds under and for any of the purposes and secured by any of the revenues authorized by Chapter 43, Acts of the 53rd Legisla-

ture of Texas, 1st Called Session, 1954, as amended (compiled as Article 1269j-5, Vernon's Texas Civil Statutes), such city, in addition to the revenues and income of said airport or airports pledged to the payment of operation and maintenance expenses and principal of and interest on such bonds, shall be authorized to levy and pledge to the payment of such operation and maintenance expenses, as a supplement to the pledge of revenues for such purpose, all or any part of the ad valorem tax authorized by Section 8 of Chapter 114, Acts of the 50th Legislature, Regular Session, 1947 (compiled as Article 46d-8, Vernon's Texas Civil Statutes). The proceeds of any tax thus pledged shall be utilized annually to the extent required by the ordinance authorizing such revenue bonds to assure the efficient operation and maintenance of such airport or airports, and such city, in its discretion, may covenant in the proceedings authorizing the issuance of said bonds that certain costs of operating and maintaining such airport or airports, as may be enumerated in said proceedings, will be paid by the city from the proceeds of such tax. If it is deemed advisable by the city that revenue bonds theretofore issued under said Chapter 43, supra, and then outstanding, should be refunded so as to facilitate the financing of the acquisition of any improvements to and the further improvement of its airport or airports, it shall be authorized to make a like pledge of said tax in the proceedings authorizing such refunding bonds and any additional revenue bonds issued for the purposes prescribed in said Chapter 43, supra.

[Acts 1967, 60th Leg., p. 112, ch. 56, eff. April 17, 1967.]

Art. 1269j-5.3. Airport Revenue Bonds; Cities of 1,200,000 or More; Proceeds

Sec. 1. This Act applies to any city having a population of 1,200,000 or more, according to the most recent federal census.

Sec. 2. (a) If a city covered by this Act issues revenue bonds to finance the construction or acquisition of buildings, improvements, or facilities at one or more airports owned and operated by the city, to be leased by the city to a private entity pursuant to a lease agreement under which the lessee is obligated to maintain the buildings, improvements, or facilities solely at its expense and is unconditionally obligated throughout the term of the bonds to make payments of net rent, which are pledged to the payment of the bonds, in amounts and at times as are sufficient to provide for the timely payment of all principal, interest, redemption premiums, and other costs and expenses arising or to arise in connection with the payment of the bonds, the city may spend or agree to spend all or any portion of the proceeds of the bonds without inviting, advertising for, or otherwise requiring competitive bids for the construction or acquisition of the buildings, improvements, or facilities or requiring or obtaining payment or performance bonds in connection with the construction or acquisition.

(b) This Act does not apply to the expenditure of the proceeds of bonds unless the bonds provide by their own terms that:

- (1) they are payable solely from net rents as provided by Subsection (a) of this section; and
- (2) they may not be repaid in any circumstances from tax revenues.

(c) This Act does not apply to the expenditure of the proceeds of bonds that create or provide for the creation of a lien against real property owned by the city.

(d) This Act does not affect the obligation of the city to obtain competitive bids or require a payment or performance bond in connection with a contract for the construction of a building, improvement, or facility if the contract is awarded by the city.

(e) Any expenditure of or agreement to spend proceeds of bonds covered by this Act for the construction of buildings, improvements, or facilities must be conditioned on the payment of not less than the rate of per diem wages for work of a similar character in the city as ascertained and established by the governing body of the city as provided by Chapter 45, General Laws, Acts of the 43rd Legislature, Regular Session, 1933, as amended (Article 5159a, Vernon's Texas Civil Statutes).

[Acts 1979, 66th Leg., p. 2057, ch. 805, eff. June 13, 1979. Amended by Acts 1981, 67th Leg., p. 470, ch. 201, § 1, eff. May 25, 1981; Acts 1983, 68th Leg., p. 4536, ch. 748, § 1, eff. June 19, 1983.]

Section 2 of the 1981 amendatory act provides:

"In case any one or more of the sections, provisions, clauses, or words of this Act, or the application thereof to any situation or circumstance, shall for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other sections, provisions, clauses, or words of this Act, or the application thereof to any other situation or circumstance, and it is intended that this Act shall be severable and shall be construed and applied as if any such invalid or unconstitutional section, provision, clause, or word had not been included herein."

Section 2 of the 1983 amendatory act provides:

"The expenditure of the proceeds from airport revenue bonds issued before the effective date of this Act by a city affected by this Act is covered by the law as it existed before being amended by this Act, and the former law is continued in effect for that purpose."

Art. 1269j-6. Validating Bonds for Auditorium, Equipment and Facilities, Issued by Cities, Including Home-rule Cities

Sec. 1. All bonds heretofore authorized by an incorporated city, including home-rule cities, for the purpose of constructing a municipal auditorium and to purchase or acquire the necessary lands, equipment and facilities therefor, including lands for parking and the necessary equipment and facilities therefor, and which pledge the revenues of the auditorium to be acquired, constructed and equipped by the use of the proceeds of such bonds, and which pledge the revenues of a coliseum, if any, owned by the city, together with the parking facilities in connection therewith, for either or both, including all present and future extensions, additions, replace-

ments and improvements thereto, for either or both, and which pledge other revenues to be derived from parking meters in the city and from certain existing swimming pools in the city, and any and all acts and proceedings pertaining to the authorization and issuance thereof, are hereby validated, ratified, approved and confirmed notwithstanding any lack of statutory or general authority of such city or the governing body thereof to authorize such bonds and make such pledge of the revenue or revenues; and such bonds, when approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas and sold and delivered, regardless of whether such sale and delivery is made prior to or after the effective date of this Act, shall be binding, legal, valid and enforceable obligations against the revenues so encumbered, and said bonds shall be incontestable.

Sec. 2. This Act shall take precedence over any law or parts of any law to the contrary or in conflict herewith.

Sec. 3. This Act shall not be construed as validating any such proceedings or bonds issued or to be issued, the validity of which is contested or under attack in any suit or litigation pending at the time this Act becomes effective, if such suit or litigation is ultimately determined against the validity of the proceedings.

[Acts 1955, 54th Leg., p. 237, ch. 63.]

Art. 1269j-7. Validating Interest-bearing Time Warrants and Scrip; Refunding Bonds; Proceedings; Exception

Sec. 1. In every instance since the approval by the Governor of Texas, of Chapter 362, Acts of the Fifth-fourth Legislature, Regular Session, 1955,¹ where the governing body of any city in this State has entered into contracts or agreements, or has incurred and recognized or approved claims for the construction of public works or improvements, or for the purchase of materials, supplies, equipment, labor, supervision, or professional or personal services, and has heretofore adopted orders authorizing the issuance of scrip or interest-bearing time warrants to pay for or to evidence the indebtedness incurred by such city for the cost of such public works or improvements, and such materials, supplies, equipment, labor, supervision or professional or personal services, all such contracts or agreements and claims, and assignments of such claims and such scrip and interest-bearing time warrants, and the proceedings adopted by such governing body relating thereto, are hereby in all things validated, ratified, confirmed and approved. All scrip and interest-bearing time warrants heretofore issued by the governing body of any city in this State in payment for or to evidence the indebtedness incurred for work done by such city and paid for by the day as the work progressed, and for materials, supplies, equipment, labor, supervision or professional or personal services purchased or secured in

connection with such work, are hereby in all things validated, ratified, confirmed and approved. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify or confirm any scrip or interest-bearing time warrants issued by the governing body of a city in this State unless such city has received full value and consideration for the issuance of such scrip or interest-bearing time warrants as may be evidenced by certificate of the Mayor and City Secretary. It is expressly further provided, however, that this Act shall neither apply to nor validate, ratify or confirm any contract, scrip warrant, or time warrant executed or issued by any city the validity of which is involved in litigation at the time this Act becomes effective.

Sec. 2. All proceedings, orders, resolutions, and other instruments heretofore adopted or executed by any governing body of a city in this State authorizing the issuance of bonds for the purpose of refunding time warrants issued by any such city and all refunding bonds heretofore issued for such purpose are hereby in all things validated, ratified, approved and confirmed. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify, or confirm any proceedings, orders, resolutions or other instruments, or bonds executed, adopted, or issued by any city the validity of which is involved in litigation at the time this Act becomes effective.

[Acts 1957, 55th Leg., p. 793, ch. 328.]

¹ Article 2368a-4.

Art. 1269j-8. Validating Notes and Warrants

Sec. 1. All notes, warrants, time warrants, and treasury warrants heretofore issued and sold or authorized to be issued and sold or attempted to be issued and sold by any and all cities in the state for the purpose of obtaining funds for public purposes are in all respects validated.

Sec. 2. All orders, ordinances, and resolutions of the governing bodies of such cities authorizing such notes, warrants, time warrants, and treasury warrants, or attempting to authorize the same, or any of the same, and the sales and attempted sales thereof for cash for the par or principal amount thereof plus accrued interest to the date of delivery thereof, are in all respects validated.

Sec. 3. All orders, ordinances, and resolutions of said governing bodies of said cities levying and directing the levying and assessing of taxes to provide for the payment of interest and principal of such notes, warrants, time warrants, and treasury warrants, as they respectively mature, are in all respects validated.

Sec. 4. All notes, warrants, time warrants, and treasury warrants validated by this Act may be refunded into bonds at any time after the effective date of this Act upon proper authorization thereof by a duly adopted bond ordinance of the governing body of any such city. Such bonds shall be made to mature serially or otherwise in not to exceed 40

years, and shall bear interest at a rate or rates not exceeding six percent per annum, and shall contain such other covenants, details and specifications as may be contained in such bond ordinance, and after approval thereof by the attorney general and registration by the comptroller shall be incontestable for any cause.

Sec. 5. This Act is not intended to validate nor does it apply to any notes, warrants, time warrants, or treasury warrants which are on the effective date hereof the subject matter of any litigation pending in any court in this state in which the validity thereof is being challenged.

[Acts 1967, 60th Leg., p. 869, ch. 375, eff. June 8, 1967.]

Art. 1269j-9. Validation of Proceedings for Public Improvements on Civic Centers, Etc.

Sec. 1. All proceedings, including all revenue bonds and all provisions, pledges, security, and other terms thereof, and the terms and conditions of the sale of such bonds; and all contracts, agreements, leases, operating agreements, options, and all other agreements and proceedings; taken, had, made, entered into or executed by the governing bodies of all cities and towns, including home rule cities, in the State of Texas, in connection with the establishment, acquisition, purchase, construction, improvement, operation, maintenance and/or use of public improvements authorized by and described in Chapter 63, page 148, Acts of 1965, 59th Legislature, Regular Session, as amended by Chapter 563, page 1239, Acts of 1967, 60th Legislature, Regular Session (compiled, as amended, as Article 1269j-4.1, Vernon's Annotated Civil Statutes), are in all things hereby fully validated, confirmed, approved and ratified.

Provided, however, nothing contained in this Act shall serve to validate, confirm, approve, or ratify any municipal ordinance, regulation, contract, agreement, or proceeding relating to utilities. Moreover, nothing contained in this Act shall serve to validate any contract or agreement relating to utilities entered into by the city or its agencies.

Sec. 2. All orders, resolutions, ordinances, indentures, and other actions authorizing the issuance of or securing any such revenue bonds, and the sale thereof, and the other agreements and proceedings validated in Section 1 hereof are themselves hereby in all things validated, confirmed, approved and ratified.

Sec. 2A. The provisions of this Act shall not serve to validate any proceedings the validity of which is being questioned on the effective date of this Act in any litigation in any court of competent jurisdiction in this state, if such proceedings are ultimately determined invalid in such litigation under the existing laws of this state.

[Acts 1969, 61st Leg., p. 2335, ch. 790, eff. June 14, 1969.]

Art. 1269j-10. Emergency Medical Technicians or Paramedics; Educational Incentive Pay

A city, town, or other political subdivision that employs emergency medical technicians or paramedics may pay educational incentive pay to employees holding certificates from the Texas Department of Health as emergency medical technicians or as paramedics. The incentive pay shall be in addition to any other form of compensation provided by law.

[Acts 1979, 66th Leg., p. 862, ch. 385, § 1, eff. Aug. 27, 1979.]

Art. 1269j-11. Validation of Notes, Refunding Bonds, Instruments, Acts, and Proceedings; Cities and Towns of 3,500 or Less

Application Date

Sec. 1. This Act applies to notes, refunding bonds, orders, ordinances, resolutions, and other instruments authorized or issued before the effective date of this Act and to governmental acts and proceedings occurring before the effective date of this Act.

Matters Relating to Certain Notes

Sec. 2. (a) If the governing body of a city or town issued a secured or unsecured interest-bearing note for any of the items listed in Subsection (b) of this section, and if the governing body adopted an order, ordinance, resolution, or other instrument authorizing the issuance of the secured or unsecured note to pay or to evidence the indebtedness of the city or town for the cost of the item, the note and the governmental acts and proceedings relating to the note are validated.

(b) Subsection (a) of this section applies to:

- (1) the construction of a public works project or improvement;
- (2) the purchase of land or an interest in land; and
- (3) the purchase of materials, supplies, equipment, labor, supervisory services, or professional or personal services in conjunction with Subdivisions (1) and (2) of this subsection.

Matters Relating to Other Notes

Sec. 3. The secured and unsecured notes issued by the governing body of a city or town for any of the following items are validated:

- (1) the payment of work that was done by the city or town in conjunction with Sections 2(b)(1) and (2) of this Act and that was paid for by the day as the work progressed; or
- (2) the payment for materials or supplies purchased in connection with the work.

Matters Relating to Refunding Bonds

Sec. 4. (a) The governmental acts and proceedings and the orders, ordinances, resolutions, and other instruments of the governing body or an officer of a city or town relating to the issuance of refunding bonds for the purpose of refunding secured or unsecured notes issued by the city or town, and all such notes and refunding bonds, are validated.

(b) The refunding bonds that on the effective date of this Act were in the process of being issued and that were authorized by orders, ordinances, resolutions, or other instruments adopted before the effective date of this Act may be issued regardless of the fact that the governing body of the city or town, in giving the notice of its intention to issue the refunding bonds, may not have complied in all respects with the requirements of law.

Terms of Notes

Sec. 5. The notes validated by this Act are payable in accordance with their terms.

Exceptions

Sec.6. (a) This Act does not apply to a city or town with a population of more than 3,500, according to the most recent federal census.

(b) This Act does not apply to any matter that on the effective date of this Act:

(1) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court of competent jurisdiction; or

(2) has been held invalid by a final judgment of a court of competent jurisdiction.

[Acts 1983, 68th Leg., p. 5705, ch. 1085, §§ 1 to 6, eff. June 19, 1983.]

Art. 1269j-101. Repealed by Acts 1971, 62nd Leg., p. 3319, ch. 1024, Art. 1, § 3, eff. Sept. 1, 1971

Acts 1971, 62nd Leg., p. 3072, ch. 1024, repealing this article, enacts Title 3 of the Texas Education Code.

See, now, Education Code, § 53.01 et seq.

CHAPTER TWENTY-ONE. HOUSING**Art.**

- 1269k. Housing Authorities Law.
- 1269k-1. Bonds or Other Obligations of Housing Authorities as Legal Investments and Security.
- 1269k-2. Validation of Establishment and Acts of Housing Authorities.
- 1269k-3. Validation of Acts, Bonds, Contracts, Etc., of Housing Authorities in Counties of 90,000 to 100,000; National Defense Activities.
- 1269k-4. Projects by Housing Authorities to Make Available Dwellings for Persons in National Defense Activities.
- 1269l. Housing Co-operation Law.
- 1269l-1. Rent Control.

Art.

- 1269l-2. State Department of Health; Planning and Assistance for Political Subdivisions; Acceptance of Federal Grants for Housing.
- 1269l-2.1. Governor's Office; Planning Assistance for Political Subdivisions; Payment; Federal Grants; Transfer of Property, Etc.
- 1269l-3. Urban Renewal Law.
- 1269l-4. Community Development Act of 1975.
- 1269l-5. Housing Rehabilitation Act.
- 1269l-6. Housing Agency Act.
- 1269l-7. Housing Finance Corporations Act.
- 1269l-8. State Ceiling, Allocation, and Local Share of Housing Bonds.

Art. 1269k. Housing Authorities Law**Short Title**

Sec. 1. This Act may be referred to as the "Housing Authorities Law."

Finding and Declaration of Necessity

Sec. 2. It is hereby declared: (a) that there exist in the State insanitary or unsafe dwelling accommodations and that persons of low income are forced to reside in such insanitary or unsafe accommodations; that within the State there is a shortage of safe or sanitary dwelling accommodations available at rents which persons of low income can afford and that such persons are forced to occupy overcrowded and congested dwelling accommodations; that the aforesaid conditions cause an increase in and spread of disease and crime and constitute a menace to the health, safety, morals, and welfare of the residents of the State and impair economic values; that these conditions necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety, fire and accident protection, and other public services and facilities; (b) that these slum areas cannot be cleared, nor can the shortage of safe and sanitary dwellings for persons of low income be relieved, through the operation of private enterprise, and that the construction of housing projects for persons of low income (as herein defined) would therefore not be competitive with private enterprise; (c) that the clearance, replanning, and reconstruction of the areas in which insanitary or unsafe housing conditions exist and the providing of safe and sanitary dwelling accommodations for persons of low income are public uses and purposes for which public money may be spent and private property acquired and are governmental functions of State concern; that it is in the public interest that work on such projects be commenced as soon as possible in order to relieve unemployment which now constitutes an emergency; and the necessity in the public interest for the provisions hereinafter enacted; is hereby declared as a matter of legislative determination.

Definitions

Sec. 3. The following terms, wherever used or referred to in this Act, shall have the following

respective meanings, unless a different meaning clearly appears from the context:

(a) "Authority" or "Housing Authority" shall mean any of the public corporations created by Section 4 of this Act.

(b) "City" shall mean any city.

"The City" shall mean the particular city for which a particular housing authority is created.

(c) "Governing Body" shall mean the Council or Commission of the city.

(d) "Mayor" shall mean the Mayor of the city or the officer thereof charged with the duties customarily imposed on the Mayor or executive head of the city.

(e) "Clerk" shall mean the clerk of the city or the officer charged with the duties customarily imposed on such clerk.

(f) "Area of operation" shall include the city and the area within five (5) miles of the territorial boundaries thereof; provided, however, that the area of operation of a housing authority of any city shall not include any area which lies within the territorial boundaries of some other city as herein defined.

(g) "Federal Government" shall include the United States of America, the United States Housing Authority, or any other agency or instrumentality, corporate or otherwise, of the United States of America.

(h) "Slum" shall mean any area where dwellings predominate which, by reason of dilapidation, overcrowding, faulty arrangement or design, lack of ventilation, light, or sanitary facilities, or any combination of these factors, are detrimental to safety, health, and morals.

(i) "Housing Project" shall mean any work or undertaking:

(1) to demolish, clear, or remove buildings from any slum area; such work or undertaking may embrace the adaption of such area to public purposes, including parks or other recreational or community purposes; or

(2) to provide decent, safe, and sanitary urban or rural dwellings, apartments, or other living accommodations for persons of low income; such work or undertaking may include buildings, land, equipment, facilities, and other real or personal property for necessary, convenient, or desirable appurtenances, streets, sewers, water service, parks, site preparation, gardening, administrative, community, health, recreational, educational, welfare, or other purposes; or

(3) to accomplish a combination of the foregoing. The term "housing project" also may be applied to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, altera-

tion, and repair of the improvements and all other work in connection therewith.

(j) "Persons of low income" shall mean families or persons who lack the amount of income which is necessary (as determined by the authority undertaking the housing project) to enable them, without financial assistance, to live in decent, safe, and sanitary dwellings, without overcrowding.

(k) "Bonds" shall mean any bonds, notes, interim certificates, debentures, or other obligations issued by the authority pursuant to this Act.

(l) "Real Property" shall include all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest, and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage, or otherwise and the indebtedness secured by such liens.

(m) "Obligee of the authority" or "obligee" shall include any bondholder, trustee, or trustees for any bondholder, or lessor demising to the authority property used in connection with a housing project, or any assignee or assignees of such lessor's interest or any part thereof, and the Federal Government when it is a party to any contract with the authority.

Creation of Housing Authorities

Sec. 4. In each city (as herein defined) of the State there is hereby created a public body corporate and politic to be known as the "Housing Authority" of the city; provided, however, that such authority shall not transact any business or exercise its powers hereunder until or unless the governing body of the city, by proper resolution shall declare at any time hereafter that there is need for an authority to function in such city. The governing body may upon its own motion, or shall upon the filing of a petition signed by one hundred (100) qualified voters and residents of the city, make a determination as to whether or not there is need for an authority to function in the city.

The governing body shall adopt a resolution declaring that there is need for a housing authority in the city, if it shall find (a) that insanitary or unsafe inhabited dwelling accommodations exist in such city or (b) that there is a shortage of safe or sanitary dwelling accommodations in such city available to persons of low income at rentals they can afford. In determining whether dwelling accommodations are unsafe or insanitary said governing body may take into consideration the degree of overcrowding, the percentage of land coverage, the light, air, space, and access available to the inhabitants of such dwelling accommodations, the size and arrangement of the rooms, the sanitary facilities, and the extent to which conditions exist in such buildings which endanger life or property by fire or other causes.

In any suit, action, or proceeding involving the validity or enforcement of or relating to any contract of the authority, the authority shall be conclusively deemed to have become established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of a resolution by the governing body declaring the need for the authority. Such resolution or resolutions shall be deemed sufficient if it declares that there is such need for an authority and finds in substantially the foregoing terms (no further detail being necessary) that either or both of the above enumerated conditions exist in the city. A copy of such resolution duly certified by the clerk shall be admissible in evidence in any suit, action, or proceeding.

**Appointment, Qualifications, and Tenure
of Commissioners**

Sec. 5. When the governing body of a city adopts a resolution as aforesaid, it shall promptly notify the Mayor of such adoption. Upon receiving such notice, the Mayor shall appoint five (5) persons as commissioners of the authority created for said city. Two (2) of the commissioners who are first so appointed shall be designated to serve for terms of one year and the remaining commissioners shall be designated to serve for terms of two (2) years, respectively, from the date of their appointment, but thereafter commissioners shall be appointed as aforesaid for a term of office of two (2) years except that all vacancies shall be filled for the unexpired term. No commissioner of an authority may be an officer or employee of the city for which the authority is created. A commissioner shall hold office until his successor has been appointed and has qualified. A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. A commissioner shall receive no compensation for his services, but he shall be entitled to the necessary expense, including traveling expenses, incurred in the discharge of his duties.

The powers of each authority shall be vested in the commissioners thereof in office from time to time. Three (3) commissioners shall constitute a quorum of the authority for the purpose of conducting its business and exercising its powers and for all other purposes. Action may be taken by the authority upon a vote of a majority of the commissioners present, unless in any case the bylaws of the authority shall require a larger number. The Mayor shall designate which of the commissioners appointed shall be the first chairman, but when the office of the chairman of the authority thereafter becomes vacant, the authority shall select a chairman from among its commissioners. An authority shall select from among its own commissioners a vice-chairman, and it may employ a secretary (who shall be executive director), technical experts, and such other officers, agents, and employees, permanent and temporary, as it may require, and shall

determine their qualifications, duties, and compensation. For such legal services as it may require, an authority may call upon the chief law officer of the city or may employ its own counsel and legal staff. An authority may delegate to one or more of its agents or employees such powers or duties as it may deem proper.

Interested Commissioners

Sec. 6. (a) No commissioner of an authority shall own, acquire, or control any interest, direct or indirect, in any housing project or in any property included or planned to be included in any project. Nor shall he have any interest, direct or indirect, in any contract or proposed contract for:

- (1) the sale of land to be used for a housing project;
- (2) the construction of a housing project; or
- (3) the sale of materials or services to be furnished or used in connection with any housing project. Nor shall he have any dealings for pecuniary gain with any housing project.

However, it is not unlawful for a commissioner:

- (1) to manage a housing project or to own, acquire, or control a management company rendering management services to a housing project;
- (2) to continue to own or control any interest in a housing project held by the commissioner prior to his term as commissioner; or
- (3) to own, acquire, or control any interest in or have any dealings with a housing project over which the commissioner's housing authority has no jurisdiction.

(b) If any commissioner of an authority manages, owns, acquires, or controls an interest, direct or indirect, in any property included or planned to be included in any housing project, or if any commissioner has any other dealings for pecuniary gain with any housing project, he shall immediately disclose the same in writing to the authority. The disclosure shall be entered upon the minutes of the authority. Failure to so disclose such interest shall constitute misconduct of office.

(c) A commissioner who knowingly or intentionally violates Subsection (a) or (b) of this section commits an offense. An offense under this subsection is a felony of the third degree.

(d) A person finally convicted under Subsection (c) of this section is ineligible for future employment with the State, its political subdivisions, or a public corporation formed under authority of the State or a political subdivision of the State.

Interested Employees

Sec. 6a. (a) No employee of an authority shall own, acquire, or control any interest, direct or indirect, in any housing project or in any property included or planned to be included in any housing project. Nor shall the employee own, acquire, or

control any interest, direct or indirect, in any contract or proposed contract for:

(1) the sale of land to be used for a housing project;

(2) the construction of a housing project; or

(3) the sale of materials or services to be furnished or used in connection with any housing project. Nor shall the employee have any dealings for pecuniary gain with any housing project, except in the performance of his duties as an employee of the housing authority.

(b) An employee who knowingly or intentionally violates Subsection (a) of this section commits an offense. An offense under this subsection is a felony of the third degree.

(c) A person finally convicted under Subsection (b) of this section is ineligible for future employment with the State, its political subdivisions, or a public corporation formed under authority of the State or a political subdivision of the State.

Removal of Commissioners

Sec. 7. For inefficiency or neglect of duty or misconduct in office, a commissioner of an authority may be removed by the Mayor, but a commissioner shall be removed only after he shall have been given a copy of the charges at least ten (10) days prior to the hearing thereon and had an opportunity to be heard in person or by counsel. In the event of the removal of any commissioner, a record of the proceedings, together with the charges and findings thereon, shall be filed in the office of the clerk.

Powers of Authority

Sec. 8. An authority shall constitute a public body corporate and politic, exercising public and essential governmental functions, and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this Act, including the following powers in addition to others herein granted:

(a) To sue and to be sued; to have a seal and to alter the same at pleasure; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority; and to make and from time to time amend and repeal bylaws, rules, and regulations, not inconsistent with this Act, to carry into effect the powers and purposes of the authority.

(b) Within its area of operation: to prepare, carry out, acquire, lease, and operate housing projects; to provide for the construction, reconstruction, improvement, alteration, or repair of any housing project or any part thereof.

(c) To arrange or contract for the furnishing by any person or agency, public or private, of services, privileges, works, or facilities for, or in connection with, a housing project or the occupants thereof;

and (notwithstanding anything to the contrary contained in this Act or in any other provision of law) to include in any contract let in connection with a project; stipulations requiring that the contractor and any subcontractors comply with the requirements as to minimum wages and maximum hours of labor, and comply with any conditions which the Federal Government may have attached to its financial aid of the project.

(d) To lease or rent any dwellings, houses, accommodations, lands, buildings, structures, or facilities embraced in any housing project and (subject to the limitations contained in this Act) to establish and revise the rents or charges therefor; to own, hold, and improve real or personal property; to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, or otherwise any real or personal property or any interest therein; to acquire by the exercise of the power of eminent domain any real property; to sell, lease, exchange, transfer, assign, pledge, or dispose of any real or personal property or any interest therein to insure or provide for the insurance of any real or personal property or operations of the authority against any risks or hazards; to procure insurance or guarantees from the Federal Government of the payment of any debts or parts thereof (whether or not incurred by said authority) secured by mortgages on any property included in any of its housing projects.

(e) To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control; to purchase its bonds at a price not more than the principal amount thereof and accrued interest, all bonds so purchased to be cancelled.

(f) Within its area of operation: to investigate into living, dwelling, and housing conditions and into the means and methods of improving such conditions; to determine where slum areas exist or where there is a shortage of decent, safe, and sanitary dwelling accommodations for persons of low income; to make studies and recommendations relating to the problem of clearing, replanning, and reconstructing of slum areas, and the problem of providing dwelling accommodations for persons of low income, and to cooperate with the city, the county, the State or any political subdivision thereof in action taken in connection with such problems; and to engage in research, studies, and experimentation on the subject of housing.

(g) Acting through one or more commissioners or other person or persons designated by the authority; to conduct examinations and investigations and to hear testimony and take proof under oath at public or private hearings on any matter material for its information; to administer oaths, issue subpoenas requiring the attendance of witnesses or the production of books and papers and to issue commissions for the examination of witnesses who are outside of the State or unable to attend before the

authority, or excused from attendance; to make available to appropriate agencies (including those charged with the duty of abating or requiring the correction of nuisances or like conditions, or of demolishing unsafe or unsanitary structures within its area of operation) its findings and recommendations with regard to any building or property where conditions exist which are dangerous to the public health, morals, or safety or welfare.

(h) To exercise all or any part or combination of powers herein granted. No provisions of law with respect to the acquisition, operation, or disposition of property by other public bodies shall be applicable to an authority unless the Legislature shall specifically so state.

Operation Not for Profit

Sec. 9. It is hereby declared to be the policy of this State that each housing authority shall manage and operate its housing projects in an efficient manner so as to enable it to fix the rentals for dwelling accommodations at the lowest possible rates consistent with its providing decent, safe, and sanitary dwelling accommodations, and that no housing authority shall construct or operate any such project for profit, or as a source of revenue to the city. To this end an authority shall fix the rentals for dwellings in its projects at no higher rates than it shall find to be necessary in order to produce revenues which (together with all other available moneys, revenues, income, and receipts of the authority from whatever sources derived) will be sufficient (a) to pay, as the same become due, the principal and interest on the bonds of the authority; (b) to meet the cost of, and to provide for, maintaining and operating the projects (including the cost of any insurance) and the administrative expenses of the authority; and (c) to create (during not less than the six (6) years immediately succeeding its issuance of any bonds) a reserve sufficient to meet the largest principal and interest payments which will be due on such bonds in any one year thereafter and to maintain such reserve.

Rentals and Tenant Selection

Sec. 10. In the operation or management of housing projects an authority shall at all times observe the following duties with respect to rentals and tenant selection:

(a) It may rent or lease the dwelling accommodations therein only to persons of low income and at rentals within the financial reach of such persons.

(b) It may rent or lease to a tenant dwelling accommodations consisting of the number of rooms (but no greater number) which it deems necessary to provide safe and sanitary accommodations to the proposed occupants thereof, without overcrowding.

(c) It shall not accept any person as a tenant in any housing project if the person or persons who would occupy the dwelling accommodations have an aggregate annual income, excluding that earned by

children attending school full time, in excess of five (5) times the annual rental of the quarters to be furnished such person or persons except that in the case of families with three (3) or more minor dependents such ratio shall not exceed six to one; in computing the rental for this purpose of selecting tenants, there shall be included in the rental the average annual cost (as determined by the authority) to the occupants, of heat, water, electricity, gas, cooking range, and other necessary services or facilities, whether or not the charge for such services and facilities is in fact included in the rental.

Nothing contained in this or the preceding section shall be construed as limiting the power of an authority to vest in an obligee the right, in the event of a default by the authority, to take possession of a housing project or cause the appointment of a receiver thereof or acquire title thereto through foreclosure proceedings, free from all the restrictions imposed by this or the preceding section.

Co-operation Between Authorities

Sec. 11. Any two (2) or more authorities may join or co-operate with one another in the exercise of any or all of the powers conferred hereby for the purpose of financing, planning, undertaking, constructing or operating a housing project or projects located within the area of operation of any one or more of said authorities.

Eminent Domain

Sec. 12. An authority shall have the right to acquire by the exercise of the power of eminent domain any interest in real property, including a fee simple title thereto, which it may deem necessary for its purposes under this Act after the adoption by it of a resolution declaring that the acquisition of the real property described therein is necessary for such purposes. An authority may exercise the power of eminent domain in the manner provided in Articles 3264 to 3271, both inclusive, Revised Civil Statutes of Texas, 1925, and Acts amendatory thereof or supplementary thereto; or it may exercise the power of eminent domain in the manner provided by any other applicable statutory provisions for the exercise of the power of eminent domain. Property already devoted to a public use may be acquired in like manner, provided that no real property belonging to the city, the county, the State, or any political subdivision thereof may be acquired without its consent.

Planning, Zoning, and Building Laws

Sec. 13. All housing projects of an authority shall be subject to the planning, zoning, sanitary and building laws, ordinances, and regulations applicable to the locality in which the housing project is situated. In the planning and location of any housing project, an authority shall take into consideration the relationship of the project to any larger plan or long-range program for the development of the area in which the housing authority functions.

Notice of Proposed Housing Projects

Sec. 13a. (a) A housing authority may not authorize the construction of a housing project and may not obtain any permit, certificate, or other authorization required by an incorporated city or town or other political subdivision of the State for any part of the construction of a housing project unless the commissioners of the authority hold a public meeting about the proposed project prior to that site being approved for the housing project. The commissioners shall hold the meeting at the closest available facility to the site of the proposed project. At least a majority of the commissioners must attend the meeting. The commissioners shall give any person who owns or leases real property within a one-fourth mile radius of the site of the proposed housing project the opportunity to comment on the proposed project.

(b) In addition to any other notice required by law, the commissioners shall post notice of the date, hour, place, and subject of the meeting at least 30 days before the scheduled day of the meeting on a bulletin board at a place convenient to the public in the county courthouse of the county in which the proposed project is to be located and on a bulletin board at a place convenient to the public in the city hall if the proposed project is to be located within the boundaries of an incorporated city. The commissioners shall have a copy of the notice published in a newspaper or newspapers that individually or collectively provide general circulation to the county in which the proposed project is to be located. The notice must be published one time at least 30 days before the scheduled day of the meeting. The commissioners shall mail a notice containing the same information 30 days before the date of the meeting to any person who owns real property within one-fourth of a mile radius of the site of the proposed project. The commissioners may rely on the most recent county tax roll for the names and addresses of the owners. The commissioners shall also have posted at the proposed project site 30 days before the date of the meeting a sign having dimensions no smaller than four feet by four feet and bearing in eight-inch letters a caption stating "Site of Proposed Housing Project." The sign shall be located at a point on the proposed project site visible from a regularly travelled thoroughfare and shall state the nature of the project, the location of the project, the names and addresses of all governmental entities involved in the development of the proposed project, and the date, time, and place of the public meeting.

(c) An incorporated city or town or other political subdivision of the State may not issue a permit, certificate, or other authorization for any part of the construction or for the occupancy of a housing project under this Act unless the housing authority has complied with the requirements of this section.

(d) For purposes of the public meeting requirements in Subsection (a) of this section and for the purposes of Section 6 of this Act, "housing project"

means, in addition to the definition prescribed in Subsection (i), Section 3, of this Act:

(1) any work or undertaking that is financed in any way by public funds or tax exempt revenue bonds and undertaken for any of the reasons listed in Subsection (i) of Section 3; or

(2) a building over which a housing authority has jurisdiction and which has any part reserved for occupancy by persons receiving income or rental supplements from a governmental entity.

Bonds

Sec. 14. An authority shall have power to issue bonds from time to time in its discretion, for any of its corporate purposes. An authority shall also have power to issue refunding bonds for the purpose of paying or retiring bonds previously issued by it. An authority may issue such types of bonds as it may determine, including bonds on which the principal and interest are payable; (a) exclusively from the income and revenues of the housing project financed with the proceeds of such bonds, or with such proceeds together with a grant from the Federal Government in aid of such project; (b) exclusively from the income and revenues of certain designated housing projects whether or not they were financed in whole or in part with the proceeds of such bonds; or (c) from its revenues generally. Any of such bonds may be additionally secured by a pledge of any revenues or a mortgage of any housing project, projects, or other property of the authority.

Neither the commissioners of an authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of an authority (and such bonds and obligations shall so state on their face) shall not be a debt of the city, the county, the State or any political subdivision thereof and neither the city nor the county, nor the State or any political subdivision thereof shall be liable thereon, nor in any event shall such bonds or obligations be payable out of any funds or properties other than those of said authority. The bond shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction. Bonds of an authority are declared to be issued for an essential public and governmental purpose and to be public instrumentalities and, together with interest thereon and income therefrom, shall be exempt from taxes.

Bonds or Legal Investments

Sec. 14-A. Repealed by Acts 1939, 46th Leg., p. 427, § 2.

Form and Sale of Bonds

Sec. 15. Bonds of an authority shall be authorized by its resolution and may be issued in one or more series and shall bear such date or dates, mature at such time or times, bear interest at such

rate or rates, not exceeding eight (8) per centum per annum, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption (with or without premium) as such resolution, its trust indenture or mortgage may provide.

The bonds may be sold at not less than par at public sale held after notice published once at least five (5) days prior to such sale in a newspaper having a general circulation in the city or the county and in a financial newspaper published in the City of New York, New York, provided, however, that such bonds may be sold at not less than par to the Federal Government at private sale without any public advertisement.

In case any of the commissioners or officers of the authority whose signatures appear on any bonds or coupons shall cease to be such commissioners or officers before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if they had remained in office until such delivery. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to this Act shall be fully negotiable.

In any suit, action, or proceedings involving the validity or enforceability of any bond of an authority or the security therefor, any such bond reciting in substance that it has been issued by the authority to aid in financing a housing project to provide dwelling accommodations for persons of low income shall be conclusively deemed to have been issued for a housing project of such character and said project shall be conclusively deemed to have been planned, located, and constructed in accordance with the purposes and provisions of this Act.

Provisions of Bonds, Trust Indentures, and Mortgages

Sec. 16. In connection with the issuance of bonds or the incurring of obligations under leases and in order to secure the payment of such bonds or obligations, an authority, in addition to its other powers, shall have power:

(a) To pledge all or any part of its gross or net rents, fees, or revenues to which its right then exists or may thereafter come into existence.

(b) To mortgage all or any part of its real or personal property, then owned or thereafter acquired.

(c) To covenant against pledging all or any part of its rents, fees, and revenues, or against mortgaging all or any part of its real or personal property, to which its right or title then exists or may thereafter come into existence or against permitting or suffering any lien on such revenues or property; to covenant with respect to limitations on its right to sell, lease, or otherwise dispose of any housing

project or any part thereof; and to covenant as to what other, or additional debts or obligations may be incurred by it.

(d) To covenant as to the bonds to be issued and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof; to provide for the replacement of lost, destroyed, or mutilated bonds; to covenant against extending the time for the payment of its bonds or interest thereon, and to redeem the bonds, and to covenant for their redemption and to provide the terms and conditions thereof.

(e) To covenant (subject to the limitations contained in this Act) as to the rents and fees to be charged in the operation of a housing project or projects, the amount to be raised each year or other period of time by rents, fees, and other revenues, and as to the use and disposition to be made thereof; to create or to authorize the creation of special funds for moneys held for construction or operating costs, debt service, reserves, or other purposes, and to covenant as to the use and disposition of the moneys held in such funds.

(f) To prescribe procedure, if any, by which the terms of any contract with bond holders may be amended or abrogated, the amount of bonds of holders of which must consent thereto and the manner in which such consent may be given.

(g) To covenant as to the use of any or all of its real or personal property; and to covenant as to the maintenance of its real and personal property, the replacement thereof, the insurance to be carried thereon and the use and disposition of insurance moneys.

(h) To covenant as to the rights, liabilities, powers, and duties arising upon the breach by it of any covenant, condition, or obligation; and to covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds or obligations shall become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived.

(i) To vest in a trustee or trustees or the holder of bonds or any proportion of them the right to enforce the payment of the bonds or any covenants securing or relating to the bonds; to vest in a trustee or trustees the right, in the event of a default by said authority, to take possession and use, operate, and manage any housing project or part thereof, and to collect the rents and revenues arising therefrom and to dispose of such moneys in accordance with the agreement of the authority with said trustee; to provide for the powers and duties of a trustee or trustees and to limit the liabilities thereof; and to provide the terms and conditions upon which the trustee or trustees or the holders of bonds or any proportion of them may enforce any covenant or rights securing or relating to the bonds.

(j) To exercise all or any part or combination of the powers herein granted; to make covenants other than and in addition to the covenants herein expressly authorized, of like or different character; to make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or, in the absolute discretion of said authority, as will tend to make the bonds more marketable notwithstanding that such covenants, acts, or things may not be enumerated herein.

Certificate of Attorney General

Sec. 17. Any authority may submit to the Attorney General of the State any bonds to be issued hereunder after all proceedings for the issuance of such bonds have been taken. Upon the submission of such proceedings to the Attorney General, it shall be the duty of the Attorney General to examine into and pass upon the validity of such bonds and the regularity of all proceedings in connection therewith. If such proceedings conform to the provisions of this Act and are otherwise regular in form and if such bonds when delivered and paid for will constitute binding and legal obligations of such authority enforceable according to the terms thereof, the Attorney General shall certify in substance upon the back of each of said bonds that it is issued in accordance with the Constitution and laws of the State of Texas.

Remedies of an Obligee of Authority

Sec. 18. An obligee of an authority shall have the right in addition to all other rights which may be conferred on such obligee, subject only to any contractual restrictions binding upon such obligee:

(a) By mandamus, suit, action, or proceeding at law or in equity to compel said authority and the commissioners, officers, agents, or employees thereof to perform each and every term, provision, and covenant contained in any contract of said authority with or for the benefit of such obligee, and to require the carrying out of any or all such covenants and agreements of said authority and the fulfillment of all duties imposed upon said authority by this Act.

(b) By suit, action, or proceeding in equity, to enjoin any acts or things which may be unlawful, or the violation of any of the rights of such obligee of said authority.

Additional Remedies Conferrable by Authority

Sec. 19. An authority shall have power by its resolution, trust indenture, mortgage, lease, or other contract to confer upon any obligee holding or representing a specified amount in bonds, or holding a lease, the right (in addition to all rights that may otherwise be conferred) upon the happening of an event of default as defined in such resolution or instrument, by suit, action, or proceeding in any Court of competent jurisdiction:

(a) To cause possession of any housing project or any part thereof to be surrendered to any such obligee.

(b) To obtain the appointment of a receiver of any housing project of said authority or any part thereof and of the rents and profits therefrom. If such receiver be appointed, he may enter and take possession of such housing project or any part thereof and operate and maintain same, and collect and receive all fees, rents, revenues, or other charges thereafter arising therefrom, and shall keep such moneys in a separate account or accounts and apply the same in accordance with the obligations of said authority as the Court shall direct.

(c) To require said authority and the commissioners thereof to account as if it and they were the trustees of an express trust.

Exemption of Property from Execution Sale

Sec. 20. All real property of an authority shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall any judgment against an authority be a charge or lien upon its real property; provided, however, that the provisions of this Section shall not apply to or limit the right of obligees to foreclose or otherwise enforce any mortgage of an authority or the right of obligees to pursue any remedies for the enforcement of any pledge or lien given by an authority on its rents, fees, or revenues.

Aid from Federal Government

Sec. 21. In addition to the powers conferred upon an authority by other provisions of this Act, an authority is empowered to borrow money or accept grants or other financial assistance from the Federal Government for or in aid of any housing project within its area of operation, to take over or lease or manage any housing project or undertaking constructed or owned by the Federal Government, and to these ends, to comply with such conditions and enter into such mortgages, trust indentures, leases, or agreements as may be necessary, convenient or desirable. It is the purpose and intent of this Act to authorize every authority to do any and all things necessary or desirable to secure the financial aid or cooperation of the Federal Government in the undertaking, construction, maintenance, or operation of any housing project by such authority.

Tax Exemption and Payments in Lieu of Taxes

Sec. 22. The property of an authority is declared to be public property used for essential public and governmental purposes and such property and an authority shall be exempt from all taxes and special assessments of the city, the county, the State or any political subdivision thereof; provided, however, that in lieu of such taxes or special assessments, an authority may agree to make payments to the city or the county or any such political subdivision for improvements, services, and facilities furnished by

such city, county, or political subdivision for the benefit of a housing project, but in no event shall such payments exceed the estimated cost to such city, county, or political subdivision of the improvements, services, or facilities to be so furnished.

Reports

Sec. 23. At least once a year, an authority shall file with the clerk a report of its activities for the preceding year, and shall make recommendations with reference to such additional legislation or other action as it deems necessary in order to carry out the purposes of this Act.

Housing Authorities in Counties

Sec. 23a. In each county of the State there is hereby created a public body corporate and politic to be known as the "Housing Authority" of the county; provided, however, that such housing authority shall not transact any business or exercise its powers hereunder until or unless the Commissioners Court of such county, by proper resolution shall declare at any time hereafter that there is need for a housing authority to function in such county, which declaration shall be made by such Commissioners Court for such county in the same manner and subject to the same conditions as the declaration of the governing body of a city required by Section 4 of the Housing Authorities Law for the purpose of authorizing a housing authority created for a city to transact business and exercise its powers (except that the petition referred to in said Section 4 shall be signed by one hundred qualified voters and residents of such county).

The commissioners of a housing authority created for a county may be appointed and removed by the Commissioners Court of the county in the same manner as the commissioners of a housing authority created for a city may be appointed and removed by the Mayor, and except as otherwise provided herein, each housing authority created for a county and the commissioners thereof, within the area of operation of such housing authority as hereinafter defined, shall have the same functions, rights, powers, duties, immunities, privileges, and limitations provided for housing authorities created for cities and the commissioners of such housing authorities, in the same manner as though all the provisions of law applicable to housing authorities created for cities were applicable to housing authorities created for counties; provided, that for such purposes the term "Mayor" or "governing body" as used in the Housing Authorities Law shall be construed as meaning "Commissioners Court", and the term "city" as used therein shall be construed as meaning "county" unless a different meaning clearly appears from the context; and provided further that a housing authority created for a county shall not be subject to the limitations provided in clause (c) of Section 10 of the Housing Authorities Law with respect to housing projects for farmers of low income.

The area of operation of a housing authority created for a county shall include all of the county in which it is created except that portion of the county which lies within the territorial boundaries of any city.

Creation of Regional Housing Authority

Sec. 23b. If the Commissioners Court of each of two (2) or more contiguous counties by resolution declares that there is a need for one housing authority to be created for all of such counties to exercise powers and other functions herein prescribed for a housing authority in such counties, a public body corporate and politic to be known as a regional housing authority shall thereupon exist for all of such counties and exercise its powers and other functions in such counties; and thereupon each county housing authority created for each of such counties shall cease to exist except for the purpose of winding up its affairs and executing a deed to the regional housing authority as hereinafter provided; provided that the Commissioners Court of a county shall not adopt a resolution as aforesaid if there is a county housing authority created for such county which has any obligations outstanding unless first, all obligees of such county housing authority and parties to the contracts, bonds, notes, and other obligations of such county housing authority agree with such county housing authority to the substitution of such regional housing authority in lieu of such county housing authority on all such contracts, bonds, notes, or other obligations; and second, the commissioners of such county housing authority adopt a resolution consenting to the transfer of all the rights, contracts, obligations, and property, real and personal, of such county housing authority to such regional housing authority as hereinafter provided; and provided further that when the above two (2) conditions are complied with and such regional housing authority is created and authorized to exercise its powers and other functions, all rights, contracts, agreements, obligations, and property of such county housing authority shall be in the name of and vest in such regional housing authority, and all obligations of such county housing authority shall be the obligations of such regional housing authority and all rights and remedies of any person against such county housing authority may be asserted, enforced, and prosecuted against such regional housing authority to the same extent as they may have been asserted, enforced, and prosecuted against such county housing authority.

When any real property of a county housing authority vests in a regional housing authority as provided above, the county housing authority shall execute a deed of such property to the regional housing authority which thereupon shall file such deed with the clerk of the county where such real property is, provided that nothing contained in this sentence shall affect the vesting of property in the regional housing authority as provided above.

The Commissioners Court of each of two (2) or more contiguous counties shall by resolution declare that there is a need for one regional housing authority to be created for all of such counties to exercise powers and other functions herein prescribed in such counties, if such Commissioners Court finds (and only if it finds) (a) that insanitary or unsafe inhabited dwelling accommodations exist in such county or there is a shortage of safe or sanitary dwelling accommodations in such county available to persons of low income at rentals they can afford and (b) that a regional housing authority would be a more efficient or economical administrative unit than the housing authority of such county to carry out the purposes of the Housing Authorities Law in such county.

In any suit, action, or proceeding involving the validity or enforcement of or relating to any contract of the regional housing authority, the regional housing authority shall be conclusively deemed to have become created as a public body corporate and politic and to have become established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of a resolution by the Commissioners Court of each of the counties creating the regional housing authority declaring the need for the regional housing authority. Each such resolution shall be deemed sufficient if it declares that there is need for the regional housing authority and finds in substantially the foregoing terms (no further detail being necessary) that the conditions enumerated above in (a) and (b) exist. A copy of such resolution of the Commissioners Court of a county, duly certified by the county clerk of such county, shall be admissible in evidence in any suit, action, or proceeding.

Area of Operation of County or Regional Housing Authorities

Sec. 23c. (a) The area of operation of a regional housing authority shall include all of the counties for which such regional housing authority is created and established except that portion of the counties which lies within the territorial boundaries of any city. Provided that a county or regional housing authority shall not undertake any housing project or projects within the boundaries of any city unless a resolution shall have been adopted by the governing body of such city (and also by any housing authority which shall have been theretofore established and authorized to exercise its powers in such city) declaring that there is a need for the county or regional housing authority to exercise its powers within such city.

(b) The area of operation of a regional housing authority shall be increased from time to time to include one or more additional counties not already within a regional housing authority (except in such portion or portions of such additional county or counties which lie within the territorial boundaries of any city) if the Commissioners Court of each of the counties then included in the area of operation

of such regional housing authority, the commissioners of the regional housing authority and the Commissioners Court of each such additional county or counties each adopt a resolution declaring that there is a need for the inclusion of such additional county or counties in the area of operation of such regional housing authority as provided by Subsection (g) of this section. Those resolutions may not be adopted if there is a county housing authority created for any such additional county which has any obligations outstanding unless:

(1) all obligees of any such county housing authority and parties to the contracts, bonds, notes, and other obligations of any such county housing authority agree with such county housing authority and the regional housing authority to the substitution of such regional housing authority in lieu of such county housing authority on all such contracts, bonds, notes, or other obligations; and

(2) the commissioners of such county housing authority and the commissioners of such regional housing authority adopt resolutions consenting to the transfer of all the rights, contracts, obligations, and property, real and personal, of such county housing authority to such regional housing authority as provided by Subdivision (2) of Subsection (e) of this section.

(c) If one or more of the obligees whose agreement is required by Subdivision (1) of Subsection (b) of this section before adoption of a resolution are unknown, the county housing authority shall cause notice to be published in a newspaper of general national circulation. The notice must set forth:

- (1) the name of the county housing authority;
- (2) the name of the regional housing authority;

(3) a statement that the county and regional housing authorities propose that on all contracts, bonds, notes, and other obligations of the county housing authority, the regional housing authority will be substituted for the county housing authority and that the existence of the county housing authority will be terminated; and

(4) an address where objections to the substitution may be sent.

(d) For the purposes of Subsection (b) of this section, failure to receive an objection to the substitution of the regional housing authority on the obligations of the county housing authority before the 31st day after the day on which notice is published in accordance with Subsection (c) of this section is equivalent to consent to the substitution given by the unknown obligees of the county housing authority.

(e) When all resolutions required by Subsection (b) of this section are adopted in accordance with this section:

(1) the county housing authority created for each county over which the area of operation of the regional housing authority is being extended ceases

to exist except to wind up its affairs and to execute a deed to the regional housing authority in accordance with Subsection (f) of this section;

(2) all rights, contracts, agreements, obligations, and property of such county housing authority shall be in the name of and vest in such regional housing authority;

(3) all obligations of such county housing authority shall be the obligations of such regional housing authority; and

(4) all rights and remedies of any person against such county housing authority may be asserted, enforced, and prosecuted against such regional housing authority to the same extent as they may have been asserted, enforced, and prosecuted against such county housing authority.

(f) When any real property of a county housing authority vests in a regional housing authority as provided by Subdivision (2) of Subsection (e) of this section, the county housing authority shall execute a deed of such property to the regional housing authority which thereupon shall file such deed with the clerk of the county where such real property is located. This subsection does not affect the vesting of property in the regional housing authority as provided by Subdivision (2) of Subsection (e) of this section.

(g) The Commissioners Court of each of the counties in the regional housing authority, the commissioners of the regional housing authority and the Commissioners Court of each such additional county or counties shall by resolution declare that there is a need for the addition of such county or counties to the regional housing authority, if:

(1) the Commissioners Court of each such additional county or counties finds that insanitary or unsafe inhabited dwelling accommodations exist in such county or there is a shortage of safe or sanitary dwelling accommodations in such county available to persons of low income at rentals they can afford; and

(2) the Commissioners Court of each of the counties then included in the area of operation of the regional housing authority, the commissioners of the regional housing authority and the Commissioners Court of each such additional county or counties find that the regional housing authority would be a more efficient or economical administrative unit to carry out the purposes of this Housing Authorities Law if the area of operation of the regional housing authority shall be increased to include such additional county or counties.

(h) In connection with the issuance of bonds or the incurring of other obligations, a regional housing authority may covenant as to limitations on its right to adopt resolutions relating to the increase of its area of operation.

(i) In determining whether dwelling accommodations are unsafe or insanitary under this section or

Section 23b of this Act, the Commissioners Court of a county shall take into consideration the safety and sanitation of dwellings, the light and air space available to the inhabitants of such dwellings, the degree of overcrowding, the size and arrangement of the rooms and the extent to which conditions exist in such dwellings which endanger life or property by fire or other causes.

(j) No governing body of a county shall adopt any resolution authorized by this section or Section 23b of this Act unless a public hearing has first been held. The clerk of such county shall give notice of the time, place, and purpose of the public hearing at least ten days prior to the day on which the hearing is to be held, in a newspaper published in such county, or if there is no newspaper published in such county, then in a newspaper published in the State and having a general circulation in such county. Upon the date fixed for such public hearing an opportunity to be heard shall be granted to all residents of such county and to all other interested persons.

Commissioners of Regional Housing Authority

Sec. 23d. When a regional housing authority has been created as provided above, the Commissioners Court of each county included in such regional housing authority shall thereupon appoint one person as a commissioner of the regional housing authority. When the area of operation of a regional housing authority is increased to include an additional county or counties as provided above, the Commissioners Court of each county shall thereupon appoint one additional person as a commissioner of the regional housing authority. The Commissioners Court of each such county shall thereafter appoint each person to succeed such commissioner of the regional housing authority. A certificate of the appointment of any such commissioner shall be filed with the clerk of the county, and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. If a regional housing authority includes only two counties, the commissioners of such authority appointed by the Commissioners Court of such counties shall appoint one additional commissioner to such authority. The commissioners of such authority appointed by the Commissioners Court of such counties shall likewise appoint each person to succeed such additional commissioner; provided that the term of office of such person begins during the terms of office of the commissioners appointing him; and provided further that no person shall be appointed to succeed such additional commissioner in the event the area of operation of the regional housing authority is increased to include more than two counties. A certificate of the appointment of any such additional commissioner of such regional housing authority shall be filed with the other records of the regional housing authority and shall be conclusive evidence of the due and proper appointment of such additional commissioner. The commissioners of a regional

housing authority shall be appointed for terms of two (2) years except that all vacancies shall be filled for the unexpired terms. Each commissioner shall hold office until his successor has been appointed and has qualified, except as otherwise provided herein.

For inefficiency or neglect of duty or misconduct in office, a commissioner of a regional housing authority may be removed by the Commissioners Court appointing him, or in the case of the commissioner appointed by the commissioners of the regional housing authority by such commissioners; provided that such commissioner shall be removed only after he shall have been given a copy of the charges against him at least ten (10) days prior to the hearing thereon and provided that such commissioner shall have had an opportunity to be heard in person or by counsel. In the event of the removal of a commissioner by the Commissioners Court appointing him, a record of the proceedings, together with the charges and findings thereon, shall be filed in the office of the clerk of the county; and in the case of the removal of the commissioner appointed by the commissioners of the regional housing authority, such record shall be filed with the other records of the regional housing authority.

The commissioners appointed as aforesaid shall constitute the regional housing authority, and the powers of such authority shall be vested in such commissioners in office from time to time.

The commissioners of a regional housing authority shall elect a chairman from among the commissioners and shall have power to select or employ such other officers and employees as the regional housing authority may require. A majority of the commissioners of a regional housing authority shall constitute a quorum of such authority for the purpose of conducting its business and exercising its powers and for all other purposes.

Powers of Regional Housing Authority

Sec. 23e. Except as otherwise provided herein, a regional housing authority and the commissioners thereof shall, within the area of operation of such regional housing authority, have the same functions, rights, powers, duties, privileges, immunities and limitations provided for housing authorities created for cities or counties and the commissioners of such housing authorities in the same manner as though all the provisions of law applicable to housing authorities created for cities or counties were applicable to regional housing authorities; provided, that for such purposes the term "Mayor" or "governing body" as used in the Housing Authorities Law shall be construed as meaning "Commissioners Court" and the term "city" as used therein shall be construed as meaning "county" unless a different meaning clearly appears from the context; and provided further that a regional housing authority shall not be subject to the limitations provided in clause (c) of Section 10 of the Housing Authorities Law with respect to housing projects for farmers of low

income. A regional housing authority shall have power to select any appropriate corporate name.

Rural Housing Projects

Sec. 23f. County housing authorities and regional housing authorities are specifically empowered and authorized to borrow money, accept grants and exercise their other powers to provide housing for farmers of low income. In connection with such projects, any such housing authority may enter into such leases or purchase agreements, accept such conveyances and rent or sell dwellings forming part of such projects to or for farmers of low income, as such housing authority deems necessary in order to assure the achievement of the objectives of this Act. Such leases, agreements or conveyances may include such covenants as the housing authority deems appropriate regarding such dwellings and the tracts of land described in any such instrument, which covenants shall be deemed to run with the land where the housing authority deems it necessary and the parties to such instrument so stipulate. Nothing contained in this Section shall be construed as limiting any other powers of any housing authority.

Housing Applications by Farmers

Sec. 23g. The owner of any farm operated, or worked upon, by farmers of low income in need of safe and sanitary housing may file an application with a county housing authority or a regional housing authority requesting that it provide for a safe and sanitary dwelling or dwellings for occupancy by such farmers of low income. Such application shall be received and examined by housing authorities in connection with the formulation of projects or programs to provide housing for farmers of low income.

Farmers of Low Income Defined

Sec. 23h. "Farmers of low income," as used in this Act, shall mean persons or families who at the time of their admission to occupancy in a dwelling of a housing authority: (1) live under unsafe or insanitary housing conditions; (2) derive their principal income from operating or working upon a farm; and (3) had an aggregate average annual net income for the three years preceding their admission that was less than the amount determined by the housing authority to be necessary, within its area of operation, to enable them, without financial assistance, to obtain decent, safe and sanitary housing, without overcrowding.

Severability

Sec. 24. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act and the application of such provision to persons

or circumstances, other than those as to which it is held invalid, shall not be affected hereby.

Act Controlling

Sec. 25. In so far as the provisions of this Act are inconsistent with the provisions of any other law, the provisions of this Act shall be controlling.

[Acts 1937, 45th Leg., p. 1144, ch. 462. Amended by Acts 1937, 45th Leg., 2nd C.S., p. 1924, ch. 41, § 1; Acts 1941, 47th Leg., p. 926, ch. 563, §§ 1, 2; Acts 1969, 61st Leg., p. 1686, ch. 544, § 1, eff. June 10, 1969; Acts 1971, 62nd Leg., p. 1555, ch. 416, § 1, eff. Aug. 30, 1971; Acts 1971, 62nd Leg., p. 2948, ch. 976, § 1, eff. Aug. 30, 1971; Acts 1981, 67th Leg., p. 630, ch. 251, § 1, eff. Sept. 1, 1981; Acts 1981, 67th Leg., p. 2167, ch. 507, § 1, eff. June 12, 1981; Acts 1983, 68th Leg., p. 1833, ch. 347, §§ 1 to 3, eff. Aug. 29, 1983; Acts 1983, 68th Leg., p. 2429, ch. 430, § 1, eff. Sept. 1, 1983.]

Section 2 of Acts 1981, 67th Leg., p. 630, ch. 251, provides:

"Section 13a, as added by this Act to Chapter 462, Acts of the 45th Legislature, Regular Session, 1937, as amended (Article 1269k, Vernon's Texas Civil Statutes), does not affect the construction or occupation of a housing project that was authorized by a housing authority before the effective date of this Act."

Section 2 of Acts 1983, 68th Leg., p. 2429, ch. 430, provides:

"The construction of a housing project that was authorized before September 1, 1983, and a permit, certificate, or other authorization obtained before September 1, 1983, are covered by Subsections (a) and (c), Section 13a, Housing Authorities Law (Article 1269k, Vernon's Texas Civil Statutes), as those subsections existed when the construction began or the permit, certificate, or authorization was obtained. The former law is continued in effect for this purpose."

Section 4 of Acts 1983, 68th Leg., p. 1835, ch. 347, provides:

"The amendment to the Housing Authorities Law (Article 1269k, Vernon's Texas Civil Statutes) by this Act does not affect any ground for removal of a commissioner of a housing authority or any criminal offense committed under that Act before the effective date of this Act. A proceeding to enforce such a ground for removal or criminal penalty may be continued or may be initiated on or after the effective date of this Act as if this Act were not in force. The previous law is continued in effect for that purpose. For the purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date."

Art. 1269k-1. Bonds or Other Obligations of Housing Authorities as Legal Investments and Security

Authorization; Purpose

Sec. 1. Notwithstanding any restrictions on investments contained in any laws of this State, the State and all public officers, municipal corporations, political subdivisions, and public bodies, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business and all executors, administrators, guardians, trustees and other fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds or other obligations issued by a housing authority pursuant to the Housing Authorities Law (Chapter 462, Regular Session of the 45th Legislature, as amended by

House Bill No. 102, 2nd Called Session of the 45th Legislature, and amendments thereto)¹ or issued by any public housing authority or agency in the United States, when such bonds or other obligations are secured by a pledge of annual contributions to be paid by the United States Government or any agency thereof, or secured or guaranteed by a pledge of the full faith and credit of the United States Government or any agency thereof, and such bonds and other obligations shall be authorized security for all public deposits; it being the purpose of this Act to authorize all persons, firms, corporations, associations, political subdivisions, bodies and officers, public or private, to use any funds owned or controlled by them, including, but not limited to, sinking, insurance, investment, retirement, compensation, pension and trust funds, and funds held on deposit, for the purchase of any such bonds or other obligations; provided, however, that nothing contained in this Act shall be construed as relieving any person, firm, or corporation from any duty of exercising reasonable care in selecting securities.

Sec. 2. [Repeals art. 1269k, § 14-A].

Severability

Sec. 3. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provisions of this Act, or the application thereof to any person or circumstances, are held invalid the remainder of the Act and the application of such provisions to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Act Controlling

Sec. 4. In so far as the provisions of this Act are inconsistent with the provisions of any other law, the provisions of this Act shall be controlling.

[Acts 1939, 46th Leg., p. 427, §§ 1, 3, 4. Amended by Acts 1971, 62nd Leg., p. 2367, ch. 729, § 1, eff. June 8, 1971.]

¹ Article 1269k.

Art. 1269k-2. Validation of Establishment and Acts of Housing Authorities

Establishment and Organization

Sec. 1. The establishment and organization of housing authorities pursuant to the provisions of the Housing Authorities Law (House Bill Number 821, Chapter 462, page 1144, Regular Session of the Forty-fifth Legislature, as amended by House Bill Number 102, Chapter 41, page 1924, Second Called Session of the Forty-fifth Legislature, as amended by House Bill Number 834, Chapter 1, page 427, Regular Session of the Forty-sixth Legislature, and any amendments thereto),¹ together with all proceedings, acts, and things heretofore undertaken, performed or done with reference thereto, are hereby validated, ratified, confirmed, approved, and declared legal in all respects, notwithstanding any

defect or irregularity therein or any want of statutory authority.

Contracts and Undertakings

Sec. 2. All contracts, agreements, obligations, and undertakings of housing authorities heretofore entered into relating to financing or aiding in the development, construction, maintenance, or operation of any housing project or projects or to obtaining aid therefor from the United States Housing Authority, including (without limiting the generality of the foregoing) loan and annual contributions, contracts, and leases with the United States Housing Authority, agreements with municipalities or other public bodies (including agreements which are pledged or authorized to be pledged for the protection of the holders of any notes or bonds issued by housing authorities or which are otherwise made a part of the contract with such holders of notes or bonds) relating to cooperation and contributions in aid of housing projects, payments (if any) in lieu of taxes, furnishing of municipal services and facilities, and the elimination of unsafe and unsanitary dwellings, and contracts for the construction of housing projects, together with all proceedings, acts, and things heretofore undertaken, performed or done with reference thereto, are hereby validated, ratified, confirmed, approved, and declared legal in all respects, notwithstanding any defect or irregularity therein or any want of statutory authority.

Notes and Bonds

Sec. 3. All proceedings, acts, and things heretofore undertaken, performed or done in or for the authorization, issuance, sale, execution, and delivery of notes and bonds by housing authorities for the purpose of financing or aiding in the development or construction of a housing project or projects, and all notes and bonds heretofore issued by housing authorities are hereby validated, ratified, confirmed, approved, and declared legal in all respects, notwithstanding any defect or irregularity therein or any want of statutory authority.

[Acts 1941, 47th Leg., p. 900, ch. 544.]

¹ Article 1269k.

Art. 1269k-3. Validation of Acts, Bonds, Contracts, Etc., of Housing Authorities in Counties of 90,000 to 100,000; National Defense Activities

Sec. 1. The acts of any housing authority created by and organized pursuant to the "Housing Authorities Law" of the State of Texas, and which is located in any county in Texas having a population of not less than ninety thousand (90,000) and not more than one hundred thousand (100,000), according to the last preceding Federal Census, in undertaking the development and administration of housing projects to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities, whom the housing authority determines would not otherwise be able to secure

safe and sanitary dwellings within the vicinity thereof, are hereby validated, ratified, approved, and confirmed in all respects.

Sec. 2. All bonds, notes, contracts, agreements, and obligations of housing authorities created by and organized pursuant to the "Housing Authorities Law" of the State of Texas, and which are located in any county in Texas having a population of not less than ninety thousand (90,000) and not more than one hundred thousand (100,000), according to the last preceding Federal Census, heretofore issued or entered into relating to financing or undertaking (including cooperating with or acting as agent of the Federal Government in) the development or administration of any housing project to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities, are hereby validated, ratified, approved, confirmed, and declared enforceable in all respects.

[Acts 1941, 47th Leg., p. 1301, ch. 576.]

Art. 1269k-4. Projects by Housing Authorities to Make Available Dwellings for Persons in National Defense Activities

Declaration of Necessity

Sec. 1. It is hereby found and declared that the national defense program involves large increases in the military forces and personnel in this State, a great increase in the number of workers in already established manufacturing centers, and the bringing of a large number of workers and their families to new centers of defense industries in the State; that there is an acute shortage of safe and sanitary dwellings available to such persons and their families in this State, which impedes the national defense program; that it is imperative that action be taken immediately to assure the availability of safe and sanitary dwellings for such persons, to enable the rapid expansion of national defense activities in this State and to avoid a large labor turnover in defense industries which would seriously hamper their production; that the provisions hereinafter enacted are necessary to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities, which otherwise would not be provided at this time; and that such provisions are for the public use and purpose of facilitating the national defense program in this State. It is further declared to be the purpose of this Act to authorize housing authorities to do any and all things necessary or desirable to secure the financial aid of the Federal Government, or to cooperate with or act as agent of the Federal Government, in the expeditious development and the administration of projects to assure the availability, when needed, of safe and sanitary dwellings for persons engaged in national defense activities.

Time Limit for Initiation of Development; Rights and Powers of Authority; Definitions

Sec. 2. Any housing authority may undertake the development and administration of projects to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities, whom the housing authority determines would not otherwise be able to secure safe and sanitary dwellings within the vicinity thereof; but no housing authority shall initiate the development of any such project pursuant to this Act after December 31, 1943.

In the ownership, development or administration of such projects, a housing authority shall have all the rights, powers, privileges and immunities that such authority has under any provision of law relating to the ownership, development or administration of slum clearance and housing projects for persons of low income, in the same manner as though all the provisions of law applicable to slum clearance and housing projects for persons of low income were applicable to projects developed or administered to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities as provided in this Act; and housing projects developed or administered hereunder shall constitute "housing projects" under the Housing Authorities Law, as that term is used therein; provided, that during the period (herein called the "National Defense Period") that a housing authority finds (which finding shall be conclusive in any suit, action or proceeding) that within its area of operation (as defined in the Housing Authorities Law), or any part thereof, there is an acute shortage of safe and sanitary dwellings, which impedes the national defense program in this State, and that the necessary safe and sanitary dwellings would not otherwise be provided when needed for persons engaged in national defense activities, any project developed or administered by such housing authority (or by any housing authority cooperating with it) in such area pursuant to this Act, with the financial aid of the Federal Government (or as agent for the Federal Government as hereinafter provided), shall not be subject to the limitations provided in Section 10 and the second sentence of Section 9 of the Housing Authorities Law;¹ and provided further, that, during the National Defense Period, a housing authority may make payments in such amounts as it finds necessary or desirable for any services, facilities, works, privileges or improvements furnished for or in connection with any such projects. After the National Defense Period, any such projects owned and administered by a housing authority shall be administered for the purposes and in accordance with the provisions of the Housing Authorities Law.

¹ Article 1269k.

Cooperation with Federal Government; Sale of Project to Federal Government

Sec. 3. A housing authority may exercise any or all of its powers for the purpose of cooperating

with, or acting as agent for, the Federal Government, in the development or administration of projects by the Federal Government, to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities, and may undertake the development or administration of any such project for the Federal Government. In order to assure the availability of safe and sanitary housing for persons engaged in national defense activities, a housing authority may sell (in whole or in part) to the Federal Government, any housing project developed for persons of low income but not yet occupied by such persons; such sale shall be at such price and upon such terms as the housing authority shall prescribe, and shall include provision for the satisfaction of all debts and liabilities of the authority relating to such project.

Cooperation with Federal Government by other State Public Bodies

Sec. 4. Any state public body, as defined in the Housing Cooperation Law (House Bill No. 820, Regular Session of the 45th Legislature, page 1141, as amended by House Bill No. 103, Second Called Session of the 45th Legislature, page 1940,¹ and any additional amendments thereto) shall have the same rights and powers to cooperate with housing authorities, or with the Federal Government, with respect to the development or administration of projects, to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities, that such state public body has pursuant to such Law for the purpose of assisting the development or administration of slum clearance or housing projects for persons of low income.

¹ Article 1269L.

Bonds as Security for Public Deposits and as Legal Investments

Sec. 5. Bonds or other obligations issued by a housing authority for a project developed or administered pursuant to this Act, shall be security for public deposits and legal investments to the same extent and for the same persons, institutions, associations, corporations, bodies and officers, as bonds or other obligations issued pursuant to the Housing Authorities Law¹ for the development of a slum clearance or housing project for persons of low income.

¹ Article 1269k.

Validation of Bonds, Notes, Contracts, and Obligations

Sec. 6. All bonds, notes, contracts, agreements and obligations of housing authorities heretofore issued or entered into relating to financing or undertaking (including cooperating with or acting as agent of the Federal Government) in the development or administration of any project to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities, are hereby validated and declared legal in all respects, notwithstanding any defects or irregularities therein, or any want of statutory authority.

Act as Independent Authorization

Sec. 7. This Act shall constitute an independent authorization for a housing authority to undertake the development or administration of projects to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities, as provided in this Act, and for a housing authority to cooperate with, or act as agent for, the Federal Government in the development or administration of similar projects by the Federal Government. In acting under this authorization, a housing authority shall not be subject to any limitations, restrictions or requirements of other laws (except those relating to land acquisition) prescribing the procedure or action to be taken in the development or administration of any public works, including slum clearance and housing projects for persons of low income, or undertakings or projects of municipal or public corporations or political subdivisions, or agencies of the State. A housing authority may do any and all things necessary or desirable to cooperate with, or act as Agent for, the Federal Government, or to secure financial aid, in the expeditious development or in the administration of projects to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities, and to effectuate the purposes of this Act.

Definitions

Sec. 8. (a) "Persons engaged in national defense activities," as used in this Act, shall include: enlisted men in the military and naval services of the United States and employees of the War and Navy Departments assigned to duty at military or naval reservations, posts or bases; and workers engaged, or to be engaged, in industries connected with, and essential to, the national defense program; and shall include the families of the aforesaid persons who are living with them.

(b) "Persons of low income," as used in this Act, shall mean persons or families who lack the amount of income which is necessary (as determined by the housing authority undertaking the housing project) to enable them, without financial assistance, to live in decent, safe and sanitary dwellings, without overcrowding.

(c) "Development" as used in this Act, shall mean any and all undertakings necessary for the planning, land acquisition, demolition, financing, construction or equipment in connection with a project (including the negotiations or award of contracts therefor), and shall include the acquisition of any project (in whole or in part) from the Federal Government.

(d) "Administration," as used in this Act, shall mean any and all undertakings necessary for management, operation or maintenance, in connection with any project, and shall include the leasing of any project (in whole or in part) from the Federal Government.

(e) "Federal Government," as used in this Act, shall mean the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.

(f) The development of a project shall be deemed to be "initiated", within the meaning of this Act, if a housing authority has issued any bonds, notes or other obligations with respect to financing the development of such project of the authority, or has contracted with the Federal Government, with respect to the exercise of powers hereunder, in the development of such project of the Federal Government for which an allocation of funds has been made prior to December 31, 1943.

(g) "Housing Authority", as used in this Act, shall mean any housing authority established or hereafter established pursuant to the Housing Authorities Law (House Bill No. 821, Regular Session of the 45th Legislature, page 1144, as amended by House Bill No. 102, Second Called Session of the 45th Legislature, page 1924, as amended by Section 2 of House Bill No. 834, Regular Session of the 46th Legislature, page 427, and any additional amendments thereto).¹

¹ Article 1269k.

Powers Additional and Supplemental

Sec. 9. The powers conferred by this Act shall be in addition, and supplemental, to the powers conferred by any other law, and nothing contained herein shall be construed as limiting any other powers of a housing authority.

Partial Invalidity

Sec. 10. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this Act, or the application thereof to any persons or circumstances, is held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

[Acts 1941, 47th Leg., p. 799, ch. 497.]

Art. 1269L. Housing Co-operation Law**Short Title**

Sec. 1. This Act may be referred to as the "Housing Co-operation Law."

Finding and Declaration of Necessity

Sec. 2. It has been found and declared in the Housing Authorities Law that there exist in the State unsafe and insanitary housing conditions and a shortage of safe and sanitary dwelling accommodations for persons of low income; that these conditions necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety, fire and accident protection, and other public services and facilities; and that the public interest requires the reme-

dying of these conditions. It is hereby found and declared that the assistance herein provided for the remedying of the conditions set forth in the Housing Authorities Law constitutes a public use and purpose and an essential governmental function for which public moneys may be spent and other aid given; that it is a proper public purpose for any State Public Body to aid any housing authority operating within its boundaries or jurisdiction or any housing project located therein, as the State Public Body derives immediate benefits and advantages from such an authority or project; and that the provisions hereinafter enacted are necessary in the public interest.

Definitions

Sec. 3. The following terms, whenever used or referred to in this Act shall have the following respective meanings, unless a different meaning clearly appears from the context:

(a) "Housing authority" shall mean any housing authority created pursuant to the Housing Authorities Law of this State.

(b) "Housing project" shall mean any work or undertaking of a housing authority pursuant to the Housing Authorities Law or any similar work or undertaking of the Federal Government.

(c) "State Public Body" shall mean any city, town, county, municipal corporation, commission, district, authority, other subdivision or public body of the State.

(d) "Governing Body" shall mean the council, Commissioners Court, board, or other body having charge of the fiscal affairs of the State Public Body.

(e) "Federal Government" shall mean the United States of America, the United States Housing Authority, or any other agency or instrumentality, corporate or otherwise, of the United States of America.

Cooperation in Undertaking Housing Projects

Sec. 4. For the purpose of aiding and cooperating in the planning, undertaking, construction or operation of housing projects located within the area in which it is authorized to act, any State Public Body may upon such terms, as it may determine:

(a) Dedicate, sell, convey or lease any of its property to a housing authority or the Federal Government;

(b) Cause parks, playgrounds, recreational, community, educational, water, sewer or drainage facilities, or any other works, which it is otherwise empowered to undertake, to be furnished adjacent to or in connection with housing projects;

(c) Furnish, dedicate, close, pave, install, grade, regrade, plan or replan streets, roads, roadways, alleys, sidewalks or other places which it is otherwise empowered to undertake;

(d) Plan or replan, zone or re-zone any part of such State Public Body; make exceptions from building regulations or ordinances; any city or town also may change its map;

(e) Enter into agreements, (which may extend over any period, notwithstanding any provision or rule of law to the contrary) with a housing authority or the Federal Government respecting action to be taken by such State Public Body pursuant to any of the powers granted by this Act; and

(f) Do any and all things, necessary or convenient to aid and co-operate in the planning, undertaking, construction, or operation of such housing projects.

(g) Purchase or legally invest in any of the bonds of a housing authority and exercise all of the rights of any holder of such bonds.

(h) With respect to any housing project which a housing authority has acquired or taken over from the Federal Government and which the housing authority by resolution has found and declared to have been constructed in a manner that will promote the public interest and afford necessary safety, sanitation, and other protection, no State Public Body shall require any changes to be made in the housing project or the manner of its construction or take any other action relating to such construction.

(i) In connection with any public improvements made by a State Public Body in exercising the powers herein granted, such State Public Body may incur the entire expense thereof. Any law or Statute to the contrary notwithstanding, any sale, conveyance, lease, or agreement provided for in this Section may be made by a State Public Body without appraisal, public notice, advertisement, or public bidding.

Further Cooperation in Undertaking Housing Projects

Sec. 4-a. For the purpose of aiding and cooperating in the planning, undertaking, construction or operation of housing projects located within the area in which it is authorized to act, any State Public Body may upon such terms as it may determine: (a) enter into agreements with respect to the exercise by such State Public Body of its powers relating to the repair, elimination or closing of unsafe, insanitary or unfit dwellings; and (b) cause services to be furnished to the housing authority of the character which it is otherwise empowered to furnish.

Contracts for Payments for Services

Sec. 5. In connection with any housing project located wholly or partly within the area in which it is authorized to act, any State Public Body may contract with a housing authority or the Federal Government with respect to the sum or sums (if any) which the housing authority or the Federal Government may agree to pay during any year or period of years, to the State Public Body for the improvements, services and facilities to be furnished by it for the benefit of said housing project,

but in no event shall the amount of such payments exceed the estimated cost to the State Public Body of the improvements, services or facilities to be so furnished; provided, however, that the absence of a contract for such payments shall in no way relieve any State Public Body from the duty to furnish, for the benefit of said housing project, customary improvements and such services and facilities as such State Public Body usually furnished without a service fee.

Loans to Housing Authority

Sec. 6. When any housing authority which is created for any city, becomes authorized to transact business and exercise its powers therein, the governing body of the city shall immediately make an estimate of the amount of money necessary for the administrative expenses and overhead of such housing authority during the first year thereafter, and shall appropriate such amount to the authority out of any moneys in such city treasury not appropriated to some other purposes. The moneys so appropriated shall be paid to the authority as a loan. Any city located in whole or in part within the area of operation of a housing authority shall have the power from time to time to lend money to the authority or to agree to take such action. The housing authority, when it has money available therefor, shall make reimbursements for all such loans made to it.

Procedure for Exercising Powers

Sec. 7. The exercise by a State Public Body of the powers herein granted may be authorized by resolution of the governing body of such State Public Body adopted by a majority of the members of its governing body present at a meeting of said governing body, which resolutions may be adopted at the meeting at which such resolution is introduced. Such a resolution or resolutions shall take effect immediately and need not be laid over or published or posted.

Notice of Proposed Action; Petitions and Election

Sec. 7-a. None of the actions named in this Act shall ever be consummated until the governing body of such state public body shall have given notice of its intention to enter into a cooperation agreement with a housing authority, such notice to be given by publishing a copy thereof in its officially designated newspaper, if it has one, at least twice; which notice shall state that at the expiration of sixty (60) days the governing body will consider the question of whether or not it will enter into a cooperation agreement. If, during such sixty-day period, there is presented to the governing body a petition that an election be held on the question of whether or not such governing body shall enter into such cooperation agreement, signed by two thousand (2,000) or five per cent (5%), in number, of all the qualified voters of such state public body, and such petition is found to have the requisite number of legally quali-

fied voters, then it shall be the duty of the governing body to order an election to be held for such purpose at such time as it may designate in the election call; provided, however, that no such election shall be held unless two (2) weeks notice is given as is presently required by law to be given in connection with elections on the question of issuing tax supported bonds. All qualified voters residing in such state public body shall be entitled to vote at such election, and if a majority of those shall be entitled to vote at such election, and if a majority of those voting at such election shall vote in favor of such cooperation agreement, the governing body shall execute such cooperation agreement.

Provided, however, the governing body of said state public body may on its own motion call an election to be held on the question of whether such governing body shall enter into such cooperation agreement. All qualified voters residing in such state public body shall be entitled to vote at such election, and if a majority of those voting at such election shall vote in favor of such cooperation agreement, the governing body of such state public body shall then be authorized to execute such cooperation agreement.

In the event such governing body of a state public body fails or refuses to give notice of its intention to enter into a cooperation agreement with a "Housing Authority" or fails or refuses on its own motion to submit said proposition to the qualified voters of such state public body, as hereinabove provided, then upon the filing of a petition demanding same signed by two thousand (2,000) or five per cent (5%) in number of the qualified voters of said state public body, the governing body of said state public body shall order an election for the purpose of submitting a proposition for the approval of such "Housing Project". All qualified voters residing in such state public body shall be entitled to vote at such election, and if a majority of those voting at such election shall vote in favor of such cooperation agreement, the governing body shall then be authorized to execute such cooperation agreement; provided, however, that the provisions of this section shall not affect any actions taken or to be taken by a state public body with respect to a "Housing Project" for which a cooperation agreement as that term is defined by this Article has been executed prior to the effective date of this Act. The law pertaining to elections for the issuance of city and county bonds as contained in Chapters 1 and 2, Title 22, Revised Civil Statutes, 1925, insofar as applicable to and not inconsistent with the provisions of this section, shall govern the elections herein provided for.

Supplemental Nature of Act

Sec. 8. The powers conferred by this Act shall be in addition and supplemental to the powers conferred by any other law.

Severability

Sec. 9. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this Act, or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

[Acts 1937, 45th Leg., p. 1141, ch. 461. Amended by Acts 1937, 45th Leg., 2nd C.S., p. 1940, ch. 42, § 1; Acts 1951, 52nd Leg., p. 117, ch. 73.]

Art. 1269L-1. Rent Control

Sec. 1. Rent control as established by the Act of the Eighty-first Congress of the United States, extending rent control for a period of fifteen (15) months from and after March 31, 1949, as further described in Housing and Rent Act of 1949, H.R. 1731,¹ is hereby abolished in the State of Texas and is declared to be no longer needed in the State of Texas, and all Federal rent controls are hereby declared no longer needed in the State of Texas.

Sec. 1a. It is further provided however that the governing body of any city or town may, by ordinance duly passed, finding that a housing emergency exists, establish rent control in such city or town for the duration of such housing emergency provided that the ordinance so passed is approved by the Governor of the State of Texas.

Sec. 2. If any part, Section, subsection, paragraph, sentence, clause, phrase, or word contained in this Act shall be held by the courts to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Act, and the Legislature hereby declares that it would have enacted, and does here now enact, such remaining portions despite any such invalidity.

[Acts 1949, 51st Leg., p. 879, ch. 472.]

¹ 50 U.S.C.A. Appendix, § 1884 et seq.

Art. 1269L-2. State Department of Health; Planning and Assistance for Political Subdivisions; Acceptance of Federal Grants for Housing

The Texas State Department of Health is hereby authorized, upon the request of the governing body of any political subdivision or the authorized agency of any group of political subdivisions: (a) to arrange planning assistance (including surveys, community renewal plans, technical services, and other planning work) and to arrange for the making of a study or report upon any planning problem of any such political subdivision or political subdivisions submitted to the State Department of Health, provided, however, that the employees of the State Department of Health shall not themselves make such surveys, studies, or reports; (b) to agree with such governing body or the agency of such governing bodies as to the amount, if any, to be paid to the State Department of Health for such service; and

(c) to apply for and accept grants from the Federal Government or other sources in connection with any such assistance, study, or report, and to contract with respect thereto. The regular functions of the Texas State Department of Health may be utilized in this program, provided that any additional employees shall be paid from sources other than General Revenue Funds of the State.

[Acts 1957, 55th Leg., p. 235, ch. 112, § 1. Amended by Acts 1961, 57th Leg., p. 162, ch. 83, § 1.]

Art. 1269L-2.1. Governor's Office; Planning Assistance for Political Subdivisions; Payment; Federal Grants; Transfer of Property, Etc.

Sec. 1. The governor or his designated representative is hereby authorized, upon request to¹ the governing body of any political subdivision or the authorized agency of any group of political subdivisions:

(a) to arrange planning assistance (including surveys, community renewal plans, technical services, and other planning work) and to arrange for the making of a study or report upon any planning problem of any such political subdivision or political subdivisions submitted to the governor or his representative;

(b) to agree with such governing body or the agency of such governing bodies as to the amount, if any, to be paid to the governor's office for such service; and

(c) to apply for and accept grants from the federal government or other sources in connection with any such assistance, study or report, and to contract with respect thereto. The regular functions of the office of the governor or other state agencies may be utilized in this program.

Sec. 2. All property, records, and personnel used by the State Department of Health in administering such programs for planning assistance as are authorized in this Act are transferred to the governor's office.

Sec. 3. The provisions of this Act shall take effect and be in full force on and after September 1, 1969.

Sec. 4. All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

[Acts 1969, 61st Leg., p. 1449, ch. 429, eff. Sept. 1, 1969.]

¹ Possibly should read "of".

Art. 1269L-3. Urban Renewal Law**Short Title**

Sec. 1. This Act shall be known and may be cited as the "Urban Renewal Law."

Findings and Declarations of Necessity

Sec. 2. It is hereby found and declared that there exist in cities of the State slum and blighted

areas (as herein defined) which constitute a serious and growing menace, injurious and inimical to the public health, safety, morals and welfare of the residents of the State; that the existence of such areas contributes substantially and increasingly to the spread of disease and crime, necessitating excessive and disproportionate expenditures of public funds for the preservation of the public health and safety, for crime prevention, correction, prosecution, and punishment and for the treatment of juvenile delinquency and for the maintenance of adequate police, fire and accident protection and other public services and facilities, and that the existence of such areas constitutes an economic and social liability, substantially impairs or arrests the sound growth of such cities and retards the provision of housing accommodations; that the prevention and elimination of slum and blighted areas is a matter of State policy and State concern in order that the State and its cities shall not continue to be endangered by areas which are focal centers of disease, constitute pernicious environments for the young, and while contributing little to the tax income of the State and its cities, consume an excessive proportion of its revenues because of the extra services required for police, fire and other forms of protection; that by such prevention and elimination property values, freed from the depressing influence of blight, will be stabilized, and tax burdens will be distributed more equitably, and the financial and capital resources of the State, required for the prosperity of, and provision of necessary governmental services to, its people, will be strengthened; that this menace can best be remedied by conjunctive action of private enterprise, of the cities through the regulatory process and the exercise of other powers provided hereunder, and of other public bodies, acting pursuant to approved urban renewal plans; that the carrying out of plans for a program of voluntary or compulsory repair and rehabilitation of buildings and improvements in such areas, the public acquisition of real property and demolition or removal of buildings and improvements where necessary to eliminate slum conditions or conditions of blight or to prevent the development, spread or recurrence of such conditions in such areas, the disposition of any property acquired in such areas incidental to the foregoing, and any assistance which may be given by any public body in connection therewith, are public uses and purposes for which public money may be expended and the power of eminent domain exercised; and that the necessity in the public interest for the provisions herein enacted is hereby declared as a matter of legislative determination.

It is further found and declared that slum and blighted areas, if permitted to continue without the governmental aids herein provided, will produce the conditions and evils hereinabove enumerated; that a slum area or a badly deteriorated area may require clearance therefrom of the buildings and improvements thereon, as provided in this Act, since the prevailing condition of decay may make impractica-

ble the reclamation of the area by rehabilitation; that a less deteriorated area, a deteriorating area, or an area blighted for other reasons may, through the means provided in this Act, be susceptible of rehabilitation in such manner that the conditions and evils hereinabove enumerated may be remedied or prevented; and that it is the intent of this Act that to the greatest extent feasible, and compatible with sound and enduring urban renewal objectives—to wit, eliminating slums and urban blight, preventing the spread or recurrence thereof, and remedying the physical causes thereof in terms of blighted properties—private enterprise shall, in the administration of this Act, be encouraged to carry out such objectives to the extent of its capacity to do so with the assistance of the aids herein provided.

Not Available for Public Housing; Exception; Election

Sec. 3. (a) No real property acquired under the provisions of this Act shall be sold, leased, granted, conveyed or otherwise made available for any public housing, except as provided in subsection (b) of this Section.

(b) Real property acquired under the provisions of this Act may be sold, leased, granted, conveyed or otherwise made available for public housing if an election is held at which a majority of the qualified electors voting approve that use of the property. The election shall be called and held in the same way that an election is called and held under Section 5 of this Act, except that any qualified voter of the city may vote at the election. At the election, the ballots shall be printed to permit voting for or against the proposition: "Permitting the use of land acquired by urban renewal for public housing."

(c) If the qualified voters of a city have approved the use of land acquired under this Act for public housing, an election may be called for the purpose of prohibiting the use of land of that type for public housing. The election shall be called and held in the same manner as an election held under subsection (b) of this Section, except the ballots shall be printed to permit voting for or against the proposition: "Prohibiting the use of land acquired by urban renewal for public housing." If a majority of the qualified electors voting favor prohibiting the use of land acquired by urban renewal for public housing, the prohibition contained in subsection (a) of this Section applies. An election which results in prohibiting the use of land acquired by urban renewal for public housing does not affect land which has been sold, leased, granted, conveyed or otherwise made available for public housing at the time of the election.

(d) When an election is held under this Section, no other election may be held under this Section in the same city for a period of one year.

Definitions

Sec. 4. The following terms wherever used or referred to in this Act, shall have the following meanings, unless a different meaning is clearly indicated by the context.

(a) "Agency" or "Urban Renewal Agency" shall mean a public agency created by Section 16 of this Act.

(b) "City" shall mean any incorporated city, town or village in the State of Texas.

(c) "Public body" shall mean the State of Texas or any political subdivision thereof, or any department, agency or instrumentality of any such public body.

(d) "City Council" shall mean the city council or other legislative body charged with governing the city.

(e) "Mayor" shall mean the mayor or other chief executive officer of a city.

(f) "Clerk" shall mean the clerk or other official of the city who is the custodian of the official records of such city.

(g) "Federal Government" shall include the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.

(h) "Slum Area" shall mean an area within a city in which there is a predominance of either residential or nonresidential buildings or improvements which are in a state of dilapidation, deterioration or obsolescence due to their age, or for other reasons; or an area in which inadequate provisions have been made for open spaces and which is thus conducive to high population densities and overcrowding of population; or an area of open land which, because of its location and/or situation within the city limits of a city, is necessary for sound community growth, by re-platting and planning and development, for predominantly residential uses; or an area in which conditions exist, due to any of the hereinabove named causes, or any combination thereof, which endanger life or property by fire or by other causes, or which is conducive to the ill-health of the inhabitants of the area or to the transmission of disease, and to the incidence of abnormally high rates of infant mortality, or which is conducive to abnormally high rates of crime and juvenile delinquency, or which is not conducive to an orderly development by reason of inadequate and/or improper platting with adequate lots for residential development of lots, streets and public utilities, and is thus an area which is detrimental to the public health, safety, morals or welfare of the city.

(i) "Blighted Area" shall mean an area (other than a slum area) which, by reason of the presence therein of slum or deteriorated or deteriorating residential or nonresidential buildings, structures, or improvements, or by reason of the predominance therein of defective or inadequate streets or defec-

tive or inadequate street layout or accessibility, or by reason of the existence therein of insanitary, unhealthful or other hazardous conditions which endanger the public health, safety, morals or welfare of the inhabitants thereof and of the city, or by reason of the predominance therein of the deterioration of site or other improvements, or by reason of the existence therein of conditions which endanger life, or property by fire or from other causes, or by reason of the existence therein of any combination of the hereinabove stated causes, factors, or conditions, results in a condition in that area which substantially retards or arrests the provisions of a sound and healthful housing environment, or which thereby results in and constitutes an economic or social liability to the city, and is thus a menace, in its present condition and use, to the public health, safety, morals or public welfare of the city, provided, that any disaster area referred to in Section 7(h) of this Act shall constitute a blighted area.

(j) "Urban Renewal Project" may include undertakings of a city (as herein defined) in an urban renewal area for the elimination and for the prevention of the development or spread of slums and blight, and may involve slum clearance and redevelopment (as herein defined) in an urban renewal area, or rehabilitation or conservation (as herein defined) in an urban renewal area, and may include open land which, because of its location and/or situation, is necessary for sound community growth which is to be developed, by re-platting and planning, for predominantly residential uses, or any combination or part thereof in accordance with the urban renewal plan therefor.

(k) "Urban Renewal Activities" shall, wherever used in this Act, include "slum clearance and redevelopment" or "rehabilitation or conservation" which shall be limited to clearance or rehabilitation measures or any combination thereof which might be required to prevent further deterioration of an area which is tending to become either a blighted or a slum area and shall specifically include: (1) acquisition of (i) a slum area or a blighted area or portion thereof or (ii) land which is predominately open and which because of obsolete platting, diversity of ownership, deterioration of structures or of site improvements or otherwise, substantially impairs or arrests the sound growth of the community; (2) demolition and removal of buildings and improvements; (3) installation, construction, or reconstruction of streets, utilities, parks, playgrounds and other improvements necessary for carrying out in the urban renewal area the urban renewal objectives of this Act in accordance with the urban renewal plan; (4) disposition of any property acquired in the urban renewal area including sale, initial leasing or retention by the city at its fair value for uses in accordance with the urban renewal plan; (5) carrying out plans for a program of voluntary repair and rehabilitation of buildings or other improvements in accordance with the urban renewal plan; and (6) acquisition of any real property in the

urban renewal area where necessary to remove or prevent the spread of blight or deterioration or to provide land for needed public facilities.

(l) "Urban Renewal Area" shall mean a slum area or a blighted area or a combination thereof, which the city council designates as appropriate for an urban renewal project.

(m) "Urban Renewal Plan" shall mean a plan for an urban renewal project, which plan (1) shall conform to the general plan of the city as a whole, except as provided in Section 7(h) of this Act and (2) shall be sufficiently complete to indicate zoning and planning changes, if any; building requirements; land uses; maximum densities; such land acquisition, redevelopment, rehabilitation, and demolition and removal of structures as may be proposed for the urban renewal area; and the plan's relationship to local objectives respecting public transportation, traffic conditions, public utilities, recreational and community facilities, and other improvements.

(n) "Real Property" shall include all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest, right and use, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise.

(o) "Bonds" shall mean any bonds (including refunding bonds), notes, interim certificates, certificates of indebtedness, debentures or other obligations.

(p) "Obligee" shall include any bondholder, agents or trustees for any bondholders, or lessor demising to the city property used in connection with an urban renewal project, or any assignee or assignees of such lessor's interest or any part thereof, and the Federal Government when it is a party to any contract with the city.

(q) "Person" shall mean any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and shall include any trustee, receiver, assignee, or other person acting in a similar representative capacity.

(r) "Area of Operation" shall mean the area within the corporate limits of a city.

(s) "Board" or "Commission" shall mean a board, commission, department, division, office, body or other unit of the city through which the city elects, pursuant to Section 15 hereof, to perform powers, functions or duties under this Act.

(t) "Conservation" shall mean the preserving, protecting and keeping of an area which is susceptible to blight from succumbing to blight.

(u) "Deteriorated" shall mean the impairment as to quality, character, value or safety due to use, wear and tear or other physical causes.

(v) "Planning Commission" shall mean a planning commission established pursuant to law or charter.

(w) "Rehabilitate" shall mean to restore to a former state of solvency, efficiency or the like. "Rehabilitation" shall mean the restoration of buildings or structures in order to prevent deterioration of an area which is tending to become either a blighted or slum area.

(x) When this Act is applied to a county, "mayor" means county judge, "city council" means the commissioners court, and the "city" means county, unless the context clearly requires otherwise.

(y) "Comptroller" means the Comptroller of Public Accounts of the State of Texas.

(z) "Captured Market Value" means any amount by which the current market value of property within the boundaries of an urban renewal project area exceeds its market value at the time such urban renewal project was designated in accordance with the requirements of this Act.

(aa) "Taxable Property" means all real taxable property, but shall not include personal property or intangible property.

(bb) "Tax Assessor-Collector" means the tax assessor-collector of the municipality.

(cc) "Taxing Entity" means any governmental unit, including the State and its political subdivisions, but not including municipalities, authorized by law to levy taxes on property located within an urban renewal project area.

(dd) "Tax Increment" means that amount of property taxes levied and collected each year on property within an urban renewal project area in excess of the amount levied and collected on such property during the year prior to the date of adoption of the urban renewal project plan. A tax increment is calculated by multiplying the total in property taxes levied and collected by the municipality and all other taxing entities on the taxable property within an urban renewal project area in any year by a fraction having a numerator equal to that year's market value of all taxable property in such area minus the tax incremental base and a denominator equal to that year's market value of all taxable property in such area.

(ee) "Tax Incremental Base" means the aggregate market value of all taxable property within an urban renewal project area on the date of approval of the urban renewal project plan in accordance with the requirements of this Act.

(ff) "Tax Increment Fund" means a fund into which all tax increments produced from the captured market value of property located within an urban renewal project area are paid, and from which moneys are disbursed to pay costs with respect to such project or to satisfy claims of holders of tax increment bonds issued with respect to such project.

Finding of Necessity; Powers of Counties

Sec. 5. (a) No city shall exercise any of the powers conferred upon cities by this Act until after the City Council shall have adopted a resolution, after giving notice and ordering an election on the question of whether the City Council shall adopt such resolution, finding that: (1) one or more slum or blighted areas exist in such city; and (2) the rehabilitation, conservation, or slum clearance and redevelopment, or a combination thereof, of such area or areas is necessary in the interest of public health, safety, morals or welfare of the residents of such city. Such notice shall be published at least twice in the newspaper officially designated by the City Council and shall state that on a date certain, which date shall be stated in the notice and shall be not less than sixty (60) days after the publication of the first of such notices, the City Council will consider the question of whether or not it will order an election to determine if it should adopt such a resolution. On the date specified in the notice to consider such question the City Council may, on its own motion, call an election to determine whether it shall adopt such a resolution and shall, in any event, call such election if there has been presented to it during such period a petition that such election be held, signed by at least five per cent (5%) of the legally qualified voters residing in such city and owning taxable property within the boundaries thereof, duly rendered for taxation. If it be determined to call such an election, at least thirty (30) day's notice thereof shall be given. Notwithstanding any other provisions of this Act, no powers granted by this Act shall be exercised by any city until an election shall have been held as herein provided with a majority of the votes cast at such election being cast in favor of the exercise of such powers by such city. Only qualified voters residing in said city, owning taxable property within the boundaries thereof, who have duly rendered the same for taxation, shall be entitled to vote at such election. If a majority of those voting at such election shall vote in favor of the adoption of such resolution, the City Council shall then be authorized to adopt it. If a majority of those voting at such election shall vote against the adoption of such resolution, the City Council shall not adopt it and such resolution shall not again be proposed within the period of one (1) year.

(b) Any county that has a population of more than 700,000, according to the last preceding federal census, may exercise all powers provided for cities under this Act. Those powers may be exercised only with respect to areas of the county not inside the corporate limits of a city or town. The county may not exercise any power under this Act unless the commissioners court adopts a resolution as provided in Subsection (a) of this section, the adoption of which has been first approved at an election. The election shall be held throughout the county in the same way an election is held in a city under Subsection (a) of this section. The adoption of a

resolution is not approved unless a majority of the voters voting on the question in the entire county as well as in each incorporated city and town in the county approves adoption. In cities only partly in the county, only voters residing in the county may vote.

Alternate Method of Approval

Sec. 5a. Provisions in Section 5 to the contrary notwithstanding, any city which has not approved the exercise of urban renewal powers pursuant to Section 5 prior to the enactment of this Section may, in lieu of complying with Section 5, approve the exercise of urban renewal powers for a specific urban renewal project in the following manner:

(a) An election to approve an urban renewal project shall be called and held in the same manner that elections are called and held under Section 5 of this Act. Only qualified voters residing in the city, who own taxable property within the boundaries thereof duly rendered for taxation, may vote at the election.

(b) The resolution calling the election and the notice of the election shall contain the following information:

(1) a complete legal description of the area included in the proposed project;

(2) a statement of the nature of the proposed project; and

(3) the total amount of local funds to be spent on the proposed project.

(c) The ballot proposition at the election need not contain a complete legal description of the area included in the project, but shall contain a general description of the area which is sufficient to give notice to the voters of where the proposed project is to be carried out. The proposition shall also contain a statement of the nature of the proposed project and the total amount of local funds to be spent on the project.

(d) If the ballot proposition is approved, the city may not exceed in any respect the limitations imposed on the project in the resolution calling the election with respect to the area, nature, or amount of local funds to be spent on the project. If the city desires to expand the project beyond any of those limitations, the proposed expansion must be approved at an election in the same manner as an original project.

(e) Voter approval is not required for preliminary planning of an urban renewal project.

(f) This Section shall not require any further elections, resolutions or actions of any city presently exercising the powers conferred by this Act. All elections, findings, actions, determinations, decisions, rules, regulations and conveyances of any city or agency exercising the powers conferred by this Act are hereby ratified, validated and confirmed; except such elections, findings, actions, determina-

tions, decisions, rules, regulations or conveyances which are the subject of litigation pending at the time of enactment of this amendment.

Approval of Tax Increment Financing

Sec. 5b. A city may not use the tax increment method of financing prescribed by Sections 22a, 22b, 22c, and 22d of this Act unless a majority of the qualified voters of the city voting on the question, who own taxable property within the city that is duly rendered for taxation, approve that method of financing in an election held by the city. At an election held under this section, the ballots shall provide for voting for or against the proposition: "Use of tax increment financing for urban renewal purposes." An election under this section may be held in conjunction with an election held under Section 5 or 5a of this Act. This referendum shall not be necessary if the constitutional amendment on tax increment financing is approved by the voters.

Workable Program

Sec. 6. A city, in furtherance of the urban renewal objectives of this Act, may formulate a workable program for utilizing appropriate private and public resources (including those specified in Section 8 hereof) to encourage needed urban rehabilitation, to provide for the redevelopment of slum and blighted areas, or to undertake such of the aforesaid activities or other feasible municipal activities as may be suitably employed to achieve the objective of such a workable program. Such workable program should include specifically, without limitation, provision for the prevention of the spread of blight into areas of the city which are free from blight, through diligent enforcement of housing and occupancy controls and standards; the rehabilitation or conservation of slum and blighted areas, in so far as it shall be practicable to convert them into areas free from blight, by replanning, removing congestion, providing parks, playgrounds and other public improvements, encouraging voluntary rehabilitation, and compelling the repair and rehabilitation of deteriorated or deteriorating structures; and the clearance and redevelopment of slum areas.

Preparation and Approval of Urban Renewal Plan

Sec. 7. (a) A city shall not prepare an urban renewal plan for an urban renewal area unless the City Council has, by resolution, determined such an area to be a slum area or a blighted area or a combination thereof, and designated such area as appropriate for an urban renewal project. The City Council shall not approve an urban renewal plan until a general plan for the city has been prepared. A city shall not acquire real property for an urban renewal project unless the City Council has approved the urban renewal plan in accordance with subsection (d) hereof.

(b) Any person or agency, public or private, may submit an urban renewal plan to the city. Prior to its approval of such an urban renewal plan, the City

Council shall submit such proposed plan to the urban renewal agency and the planning commission of the city, if any, for review and recommendations as to its conformity with the general plan for the development of the city as a whole. The agency and planning commission shall submit their written recommendations with respect to the proposed urban renewal plan to the City Council within thirty (30) days after receipt of the plan for review. Upon receipt of such recommendations or, if no recommendations are received within said thirty (30) days, then without such recommendations, the City Council may proceed with the hearing on the proposed urban renewal plan prescribed by subsection (c) hereof.

(c) The City Council shall hold a public hearing on the proposed urban renewal plan before it may approve the urban renewal plan, after notice of hearing has been given by publication three (3) times in a newspaper having a general circulation in the city, the first of which notices shall be published at least thirty (30) days prior to the hearing. Such notice shall describe the time, date, place and purpose of the hearing, shall generally identify the urban renewal area and shall outline the general scope of the urban renewal project under consideration.

(d) Following such hearing, the City Council may approve an urban renewal plan if it finds that (1) a feasible method exists for the location of families or individuals who will be displaced from the urban renewal area in decent, safe and sanitary dwelling accommodations within their means and without undue hardship to such families or individuals; (2) the urban renewal plan conforms to the general plan of the city as a whole; and (3) the urban renewal plan will afford maximum opportunity, consistent with the sound needs of the city as a whole, for the rehabilitation or redevelopment of the urban renewal area by private enterprise.

(e) An urban renewal plan may be modified at any time; provided, that if modified after the lease or sale by the city of real property in the urban renewal project area, such modification shall be subject to such rights at law or in equity as a lessee or purchaser, or his successor or successors in interest, may be entitled to assert. If any proposed modification of the urban renewal plan adopted for an area should affect the street layout, land use, public utilities, zoning, if any, open space and density, then such modification shall not be made until it has been submitted to the planning commission and a report rendered to the City Council as outlined in subsection (b) hereof.

(f) Upon the approval of an urban renewal plan by the city, the provisions of said plan with respect to the future use and building requirements applicable to the property covered by said plan shall be controlling with respect thereto.

(g) In any urban renewal area or project, if there exists a building or buildings in good state of repair

and so located that the building or buildings can be incorporated into the renewal project pattern or plan adopted for that area, such building or buildings shall not be acquired without the consent of the owner or owners; provided further that if any owner of property in such area agrees to use such property in a manner not inconsistent with the purposes of the urban renewal plan and the improvements on such property do not constitute a fire or health hazard, then such property shall not be subject to the powers of eminent domain. Any property owner shall have the right to contest before the City Council such powers of eminent domain as respects his individual ownership and shall have the right of appeal to the District Court with a trial de novo.

(h) Notwithstanding any other provisions of this Act, where the local governing body certifies that an area is in need of redevelopment or rehabilitation as a result of a flood, fire, hurricane, earthquake, storm, or other catastrophe respecting which the Governor of the State has certified the need for disaster assistance under Public Law 875, Eighty-first Congress, or other Federal law, the local governing body may approve an urban renewal plan and an urban renewal project with respect to such area without regard to the provisions of subsection (d) of this Section and the provisions of this Act requiring a general plan for the municipality and a public hearing on the urban renewal project.

(i) Upon approval of an urban renewal plan by the city and approval of the tax increment method of financing as required under Section 5b of this Act, a fund, to be known as the "Tax-increment Fund" shall be established by the adoption of a resolution by the City Council.

Encouragement of Private Enterprise

Sec. 8. A city, to the greatest extent it determines to be feasible in carrying out the provisions of this Act, shall afford maximum opportunity, consistent with the sound needs of the city as a whole, to the rehabilitation or redevelopment of the urban renewal area by private enterprise. A city shall give consideration to this objective in exercising its powers under this Act, including the formulation of a workable program, the approval of urban renewal plans (consistent with the general plan of the municipality), the exercise of its zoning powers, and enforcement of other laws, codes and regulations relating to the use of land and the use and occupancy of buildings and improvements, the disposition of any property acquired, and the provision of necessary public improvements.

Powers

Sec. 9. A city shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this Act, including the following powers in addition to others herein granted:

(a) To conduct preliminary surveys to determine if the undertakings and carrying out of urban renewal projects is feasible.

(b) To undertake and carry out urban renewal projects within its area of operation.

(c) To make and execute contracts and other instruments necessary or convenient to the exercise of its powers under this Act.

(d) To provide or arrange or contract for the furnishing or repair by any person or agency, public or private, of services, privileges, works, streets, roads, public utilities or other facilities for or in connection with an urban renewal project; to install, construct and reconstruct streets, utilities, parks, playgrounds, and other public improvements necessary for carrying out urban renewal projects.

(e) To acquire by purchase, lease, option, gift, grant, or bequest, devise, eminent domain or otherwise, any real property (or personal property for its administrative purposes) together with any improvements thereon, necessary or incidental to an urban renewal project; to hold, improve, clear or prepare for redevelopment any such property; to mortgage, pledge, hypothecate or otherwise encumber or dispose of any real property; to insure or provide for the insurance of any real or personal property or operations of the city against any risks or hazards, including the power to pay premiums on any such insurance; and to enter into any contracts necessary to effectuate the purpose of this Act.

(f) To invest any urban renewal project funds held in reserves or sinking funds or any such funds not required for immediate disbursements, in property or securities in which banks may legally invest funds subject to their control; to redeem such bonds as have been issued pursuant to Section 15 of this Act at the redemption price established therein or to purchase such bonds at less than redemption price, all such bonds so redeemed or purchased to be cancelled.

(g) To borrow money and to apply for and accept advances, loans, grants, contributions and any other form of financial assistance from the Federal Government, the State, County or other public body or from any sources, public or private, for the purposes of this Act, and to give such security as may be required and to enter into and carry out contracts in connection therewith. A city may include in any contract for financial assistance with the Federal Government for an urban renewal project such provisions and conditions imposed pursuant to Federal Law as the city may deem reasonable and appropriate and which are not inconsistent with the purposes of this Act.

(h) Within its area of operation, to make or have made all plans necessary to the carrying out of the purposes of this Act and to contract with any person, public or private, in making and carrying out such plans and to adopt or approve, modify and amend such plans. The city is authorized to devel-

op, test and report methods and techniques and carry out demonstrations and other activities, for the prevention and the elimination of slums and urban blight, and to apply for, accept and utilize grants of funds from the Federal Government for such purposes.

(i) To prepare plans and provide reasonable assistance for the relocation of persons (including families, business concerns, and others) displaced from an urban renewal project area to the extent essential for acquiring possession of and clearing such area or parts thereof to permit the carrying out of the urban renewal project.

(j) To appropriate such funds and make such expenditures as may be necessary to carry out the purposes of this Act, and to levy taxes and assessments for such purposes; to close, vacate, plan or replan streets, roads, sidewalks, ways or other places; to plan or replan, zone or rezone any part of the city and to make exceptions from building regulations; and to enter into agreements with an urban renewal agency vested with urban renewal powers under Section 15 of this Act (which agreements may extend over any period, notwithstanding any provision or rule or law to the contrary), restricting action to be taken by such city pursuant to any of the powers granted by this Act; provided, however, that no taxes or assessments shall be levied under authority or for the purposes of this Act unless and until such levy shall first have been submitted to a vote of the property-owning taxpayers of said city, and said proposition shall have received a majority of the votes cast as being "for" such levy.

(k) Within its area of operation to organize, coordinate and direct the administration of the provisions of this Act as they apply to such city in order that the objective of remedying slum and blighted areas and preventing the causes thereof within such city may be most effectively promoted and achieved, and to establish such new office or offices of the city or to reorganize existing offices in order to carry out such purpose most effectively.

(l) To issue tax increment bonds.

(m) To exercise all or any part or combination of powers herein granted.

Eminent Domain

Sec. 10. A city shall have the right to acquire by condemnation any interest in any real property, including a fee simple title thereto, which it may deem necessary for or in connection with an urban renewal project under this Act; provided, however, that if any such urban renewal project shall include a "slum clearance and redevelopment section," as that term is hereinafter defined, which section a city shall propose to clear for redevelopment and re-use other than for a public use, a city may not acquire by condemnation any such "slum clearance and redevelopment section" or portion thereof, unless it shall appear, and the City Council shall have found and determined, by resolution duly adopted, that the

rehabilitation of such section without clearance would be impractical, infeasible and ineffective, based upon its finding that at least fifty per cent (50%) of the structures in such section are dilapidated beyond the point of feasible rehabilitation, or are otherwise unfit for rehabilitation, and that there exist other blighting characteristics, such as overcrowding of structures on the land, mixed uses of structures, narrow, crooked, inconvenient, congested, unsafe or otherwise deficient streets, or deficiencies in public utilities or recreational and community facilities. A city may exercise the power of eminent domain in the manner provided in Articles 3264 to 3271, both inclusive, Revised Civil Statutes of Texas, 1925, and acts amendatory thereof or supplementary thereto. Property already devoted to a public use may be acquired in like manner; provided, that no real property belonging to the State, or any political subdivision thereof, may be acquired without its consent. The term "slum clearance and redevelopment section," as that term is used in this Section, shall be construed as meaning, and shall mean, any substantial contiguous part or portion of an urban renewal area which a city shall propose to acquire and clear of all buildings, structures and other improvements thereon for redevelopment and reuse in accordance with the urban renewal plan.

Relocation of Transmission Lines, Etc.

Sec. 10a. In the event any city or urban renewal agency or other public body, in exercising any of the powers conferred by this Act, makes necessary the relocation, raising, re-routing or changing the grade of or altering the construction of any railroad, electric transmission line, telephone or telegraph property or facility, or pipeline, all such necessary relocation, raising, re-routing, changing of grade or alteration of construction, shall be accomplished at the expense of the city, urban renewal agency or other public body making the same necessary.

Disposal of Property in Urban Renewal Area

Sec. 11. (a) A city may sell, lease, or otherwise transfer real property or any interest therein acquired by it, and may enter into contracts with respect thereto, in an urban renewal area for residential, recreational, commercial, industrial or other uses or for public use, or may retain such property or interest for public use, in accordance with the urban renewal plan, subject to such covenants, conditions, and restrictions, including covenants running with the land, as it may deem to be in the public interest or necessary to carry out the purposes of this Act, all of which shall be written into the instrument transferring or conveying titles; provided, that such sale, lease, other transfer, or retention or any agreement relating thereto may be made only after approval of the urban renewal plan by the City Council. The purchasers or lessees and their successors and assigns shall be obligated to devote such real property only to the uses specified in the urban renewal plan, and may be obligated to

comply with conditions enumerated in the deed of conveyance, including the obligation to begin within a reasonable time any improvements on such real property required by the urban renewal plan. Such real property or interest shall be sold, leased, otherwise transferred, or retained at not less than the fair value for uses in accordance with the urban renewal plan. In determining the fair value of real property for uses in accordance with the urban renewal plan, a city shall take into account and give consideration to the uses provided in such plan; the restrictions upon, and the covenants, conditions, and obligations assumed by the purchaser or lessee or by the city retaining the property; the objectives of such plan for the prevention of the recurrence of slums or blighted areas; and such other matters as the city shall specify as being appropriate. The city or renewal agency in an instrument of conveyance to a private purchaser or lessee may provide that such purchaser or lessee may sell any or all of the unimproved property without profit to the seller. The purchaser, after improving a parcel or parcels of land in accordance with the plan of development adopted for the area, may sell the same before he completes the development of the area or tract of land he purchased; provided, however, that such sale of parcel or parcels of improved land will not relieve him from the obligation of completing the development of the area of land that he had purchased. The purchaser likewise may sell a parcel or parcels of land that he has purchased for redevelopment to another person who will be obligated to improve the parcel or parcels purchased by him in accordance with the plan of development for that project; provided, however, that such resale of any unimproved parcel of land will be without profit to the seller and provided that any subsequent purchaser will be obligated to improve the property as provided by the urban renewal plan and the conditions set forth in the deed of conveyance. Real property acquired by a city which, in accordance with the provisions of the urban renewal plan, is to be sold to private developers shall be sold as rapidly as feasible in the public interest consistent with the carrying out of the provisions of this urban renewal plan. Any instrument executed by a city or urban renewal agency and purporting to convey any right, title or interest in any property under this Act shall be presumed to be executed in compliance with the provisions of this Act in so far as title or other interest of any bona fide lessees or transferees or purchasers, or such property is concerned.

(b) All sales of real property in an urban renewal area to private persons shall be sold upon competitive sealed bids after advertising in the official publication or newspaper of general circulation, said advertisement to be published once at least fifteen (15) days before such sale, inviting bids for purchase of real estate in the urban renewal area in whole or parcels as the city may determine. Prior to the advertising for bids for the sale of any real estate the city shall adopt as part of the specifications in the general plan of improvement the condi-

tions that will be binding upon the purchaser, his heirs, assigns or successors in title as the case may be. The city or renewal agency shall have the right to accept the highest and best responsible bid and the purchase price must be paid in cash. If the city or agency shall be of the opinion that the bids are not satisfactory in adequacy of price, or bid, they may reject all and readvertise; provided, however, that the agency will not make a sale of any property unless the price and conditions are approved by the governing body of the city. It is the declared policy of this Act that any real estate acquired in connection with an urban renewal and rehabilitation project shall be sold by the city or urban renewal agency within a reasonable length of time for purposes applicable to each project, save and except that land the city will retain for the use of the general public for municipal purposes. Land to be resold shall be resold within a reasonable time, taking into account the general economic condition at that time.

(c) Any real estate except real property not fit for human habitation or real property declared substandard by any governmental agency, acquired in an urban renewal area may be temporarily leased by the city, provided that any such temporary lease shall provide for the right of cancellation so that the city may sell or dispose of the property for the purposes intended by this Act.

(d) Any real property acquired under the terms of this Act which is not, within a reasonable length of time, devoted to a purpose or purposes applicable to the urban renewal project for which it was acquired, may, after notice, be repurchased by the former owner as a matter of right, at the price for which it was acquired from him, less any actual damages sustained by him by virtue of such taking of his land, unless the land be devoted to such purpose or purposes within sixty (60) days after such former owner shall have given the record owner and the city notice in writing of his intention to exercise his right of repurchase; provided, that after such repurchase by such former owner, any building or buildings placed or allowed to remain on such property shall be made to conform to the pattern and intent of the urban renewal project if and when it be carried out.

(e) Any purchaser, lessee, or subsequent purchaser or lessee referred to above as private developers of any portion of the lands acquired under this Act is expressly authorized to give said lands as security for loans for the purpose of financing the development of the property. Such purchasers and lessees are expressly authorized to execute and deliver to any lenders, notes, deeds of trust with powers of sale, mortgages and any other instruments which may be required in connection with obtaining and securing the repayment of such loans, it being the intention of this section that purchasers, and lessees of such lands have all the rights, titles and incidents of ownership therein which are enjoyed by purchasers and lessees of lands generally, and that as such

purchasers and lessees they be entitled to mortgage and encumber said lands either for purchase price or for improvements in accordance with the objectives of this Act as any other purchaser or lessee of land in Texas might be entitled to do, and that any subsequent owner or lessee of said land who might acquire title by virtue of a foreclosure of any lien given to secure such indebtedness or by conveyance or assignment in satisfaction of debt shall become the owner or lessee of said land subject only to the restrictive covenants with respect to the use and improvement of said land which might be set forth in the original conveyance from the municipality, and subject in no manner to any condition precedent or condition subsequent which might result in reverter or forfeiture of title and without restraint as to the amount for which said property may thereafter be resold or leased.

(f) Notwithstanding another provision of this Act or another law relating to competitive bid requirements, the city or urban renewal agency may sell, for uses in accordance with the urban renewal plan, urban renewal land to a public or private nonprofit corporation or a public or private nonprofit foundation. The sale must be at a price, as determined by the city or urban renewal agency, that is not less than the fair market value of the land.

Property Exempt from Taxes and from Levy and Sale by Virtue of an Execution

Sec. 12. (a) All property of a city, including funds, owned or held by it for the purposes of this Act shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall judgment against a city be a charge or lien upon such property; provided, however, that the provisions of this Section shall not apply to or limit the right of obligees to pursue any remedies for the enforcement of any pledge or lien given pursuant to this Act by a city on its rents, fees, grants or revenues from urban renewal projects.

(b) Where real estate property in the project area is acquired and is owned as a part of the project by the city or the urban renewal agency and such project is not subject to ad valorem taxes by reason of its ownership due to the provisions of Section 12(a) hereof there may be, as a part of gross project cost, reasonable payments in lieu of taxes.

Co-operation of Public Bodies

Sec. 13. (a) For the purpose of aiding in the planning, undertaking or carrying out of an urban renewal project located within the area in which it is authorized to act, any public body may, if it determines that such project will benefit and be of advantage to the public body or its residents, upon such terms, with or without consideration, as it may determine: (1) dedicate, sell, convey or lease any of its interest in any project or grant easements, licenses, or other rights or privileges therein to a city; (2) incur the entire expense of any public

improvements made by such public body in exercising the powers granted in this Section; (3) do any and all things necessary to aid or co-operate in the planning or carrying out of an urban renewal plan; (4) lend, grant or contribute funds to a city; (5) enter into agreements which may extend over any period notwithstanding any provision or rule of law to the contrary with a city or other public body respecting action to be taken by such public body pursuant to any of the powers granted by this Act, including the furnishing of funds or other assistance in connection with an urban renewal project; and (6) cause public buildings and public facilities, including parks, playgrounds, recreational, community, educational, water, sewer, or drainage facilities, or any other works which it is otherwise empowered to undertake to be furnished; furnish, dedicate, pave, install, grade, regrade, plan or replan streets, roads, sidewalks, ways or other places; plan or replan, zone or rezone any part of the public body or make exceptions from building regulations; and cause administrative and other services to be furnished to the city. If at any time title to or possession of any urban renewal project is held by the Federal Government, the provisions of the agreement referred to shall inure to the benefit of and may be enforced by the Federal Government. As used in this subsection, the term "city" shall also include an urban renewal agency vested with all of the urban renewal project powers pursuant to the provisions of Section 15.

(b) Any sale, conveyance, lease or agreement provided for in this Section may be made by and between public bodies without appraisal, public notice, advertisement or public bidding.

(c) For the purpose of aiding in the planning, undertaking or carrying out of an urban renewal project of an urban renewal agency hereunder, a city (in addition to its other powers and upon such terms, with or without consideration, as it may determine) may do and perform any or all of the actions or things which, by the provisions of subsection (a) of this Section, a public body is authorized to do or perform, including the furnishing of financial and other assistance.

(d) For the purpose of this Section or for the purpose of aiding in the planning, undertaking or carrying out of an urban renewal project of a city, such city may in addition to any authority to issue bonds pursuant to Section 15 hereof, issue and sell its general obligation bonds. Any bonds issued by a city pursuant to this Section shall be issued in the manner and within the limitations prescribed by the laws of this State for the issuance and authorization of bonds by such city for public purposes generally.

Title of Purchaser

Sec. 14. Any instrument executed by a city or by an urban renewal agency and purporting to convey any right, title or interest in any property under this Act shall be conclusively presumed to have been executed in compliance with the provi-

sions of this Act in so far as title or other interest of any bona fide purchasers, lessees or transferees of such property is concerned.

**Exercise of Powers in Carrying Out Urban
Renewal Project**

Sec. 15. (a) A city itself may exercise its urban renewal project powers (as herein defined) or may, if the City Council by resolution determines such action to be in the public interest, elect to have such powers exercised by an urban renewal agency created by Section 16 hereof. In the event the City Council makes such determination, the urban renewal agency shall be vested with all of the urban renewal project powers in the same manner as though all such powers were conferred on such agency instead of the city. If the City Council does not elect to make such determination, the city in its discretion may exercise its urban renewal project powers through a board or commission or through such officers of the city as the City Council may by resolution determine.

(b) As used in this Section, the term "urban renewal project powers" shall include the rights, powers, functions and duties of a city under this Act, except the following: the power to determine an area to be a slum or blighted area or combination thereof and to designate such area as appropriate for an urban renewal project; the power to approve and amend urban renewal plans and to hold any public hearings required with respect thereto; the power to establish a general plan for the locality as a whole; the power to establish a workable program under Section 6; the power to make the determinations and findings provided for in Section 5, Section 7(d) and Section 8; the power to issue general obligation bonds; and the power to appropriate funds, to levy taxes and assessments, and to exercise other powers provided for in Section 9(j).

(c) In the event the city elects to create an urban renewal agency under the terms of this Act, no renewal or rehabilitation project shall be undertaken by the agency unless the area proposed to be a renewal or rehabilitation area and the plan of improvement of the project area is approved by the governing body of such city.

(d) An urban renewal agency created by Section 16 hereof, shall, in addition to all other powers which may be vested in it, have power to issue bonds from time to time in its discretion to finance the undertaking of any urban renewal project under this Act, including, without limiting the generality thereof, the payment of principal and interest upon any advances for surveys and plans, and shall also have power to issue refunding bonds for the payment or retirement of such bonds previously issued by it. Such bonds shall be made payable, as to both principal and interest, solely from the income, proceeds, revenues, and funds of the urban renewal agency derived from or held in connection with its undertaking and carrying out of urban renewal projects under this Act; provided, however, that

payment of such bonds, both as to principal and interest, may be further secured by a pledge of any loan, grant or contribution from the Federal Government or other source, in aid of any urban renewal projects of the urban renewal agency under this Act, and by a mortgage of any such urban renewal projects, or any part thereof, title to which is in the urban renewal agency. Bonds issued under this Section of this Act shall not constitute an indebtedness of the State of Texas or any county or political subdivision of such state other than the issuing urban renewal agency, and shall not be subject to the provisions of any other law relating to the authorization, issuance or sale of bonds. Bonds issued under this Section of this Act are declared to be issued for an essential public and governmental purpose and, together with interest thereon and income therefrom, shall be exempt from all taxes. Bonds issued under this Section shall be authorized by resolution or ordinance of the governing body of the urban renewal agency and may be issued in one or more series and shall bear such date or dates, be payable upon demand or mature at such time or times, bear interest at such rates or rate, not exceeding six per centum (6%) per annum, be in such denomination or denominations, be in such form either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption (with or without premium), be secured in such manner, and have such other characteristics, as may be provided by such resolution or trust indenture or mortgage issued pursuant thereto. Such bonds may be sold at not less than par at public sales held after notice published prior to such sale in a newspaper having a general circulation in the area of operation and in such other medium of publication as the urban renewal agency may determine or may be exchanged for other bonds on the basis of par; provided, that such bonds may be sold to the Federal Government at private sale at not less than par, and, in the event less than all of the authorized principal amount of such bonds is sold to the Federal Government, the balance may be sold at private sale at not less than par at an interest cost to the urban renewal agency of not to exceed the interest cost to the urban renewal agency of the portion of the bonds sold to the Federal Government. In case any of the officials of the urban renewal agency whose signatures appear on any bonds or coupons issued under this Act shall cease to be such officials before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if such officials had remained in office until such delivery. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to this Act shall be fully negotiable. In any suit, action or proceeding involving the validity or enforceability of any bond issued under this Act or the security therefor, any such bond reciting in substance that it

has been issued by the urban renewal agency in connection with an urban renewal project, as herein defined, shall be conclusively deemed to have been issued for such purposes and such project shall be conclusively deemed to have been planned, located and carried out in accordance with the provisions of this Act.

(e) All banks, trust companies, bankers, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking or investment business; all insurance companies, insurance associations, and other persons carrying on an insurance business; and all executors, administrators, curators, trustees, and other fiduciaries, may legally invest any sinking funds, moneys, or other funds belonging to them or within their control in any bonds or other obligations issued by an urban renewal agency pursuant to this Act; provided that such bonds and other obligations shall be secured by an agreement between the issuer and the Federal Government in which the issuer agrees to borrow from the Federal Government and the Federal Government agrees to lend to the issuer, prior to the maturity of such bonds or other obligations, moneys in an amount which (together with any other moneys irrevocably committed to the payment of interest on such bonds or other obligations) will suffice to pay the principal of such bonds or other obligations with interest to maturity thereon, which moneys under the terms of said agreement are required to be used for the purpose of paying the principal of and the interest on such bonds or other obligations at their maturity. Such bonds and other obligations shall be authorized security for all public deposits. It is the purpose of this Section to authorize any persons, political subdivisions and officers, public or private, to use any funds owned or controlled by them for the purchase of any such bonds or other obligations. Nothing contained in this Section with regard to legal investments shall be construed as relieving any person of any duty of exercising reasonable care in selecting securities.

Urban Renewal Agency

Sec. 16. (a) There is hereby created in each city a public body corporate and politic to be known as the "urban renewal agency" of the city; provided, that such agency shall not transact any business or exercise its powers hereunder until or unless the City Council has made the findings prescribed in Section 5 and has elected to have the urban renewal project powers exercised by an urban renewal agency as provided in Section 15, and has submitted such proposition to a vote of the people of said city, and received a favorable vote thereon, as provided in Section 5 of this Act.

(b) If an urban renewal agency is created by the city under this Act to exercise the powers of this Act, the mayor, by and with the advice and consent of the City Council, shall appoint a board of commissioners of the urban renewal agency which shall

consist of not less than five (5) members nor more than nine (9) members who shall serve for two (2) years. The commissioners shall designate one of their number to serve as Chairman and one as Vice-chairman, for terms of one (1) year, respectively. A commissioner must be a resident citizen of the city and a real property owner. The actual number of commissioners of the urban renewal agency shall be determined by the City Council at the time of appointment and the number may not be increased or decreased more than once every two (2) years. At the time of their original appointment, a bare majority of the commissioners shall be designated to serve for one (1) year and the remaining for two (2) years, respectively. In the event of a vacancy caused by death, removal from the city or any valid cause, such vacancy shall be filled in the same manner as the original appointment but only for the unexpired term. A commissioner shall hold office until his successor has been appointed and has qualified.

(c) A commissioner shall receive no compensation for his services but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his duties. A certificate of the appointment or re-appointment of each commissioner shall be filed with the clerk of the city and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. A majority of the commissioners shall constitute a quorum; provided, however, that if the agency is composed of five (5), seven (7) and nine (9) members, respectively, any action to be valid must be adopted or rejected by a vote of a majority of the total commissioners of the agency. An urban renewal agency may employ an executive director, technical experts and such other agents and employees, permanent and temporary, as it may require, and determine their qualifications, duties and compensation. For such legal service as it may require, an agency may employ or retain its own counsel and legal staff. An agency authorized to conduct business and exercise powers under this Act shall file with the city on or before March 31st of each year a report of its activities for the preceding calendar year, or quarterly if requested by the City Council. Said report shall include a complete financial statement by the agency setting forth its assets, liabilities, income and operating expense as of the end of such calendar year. At the time of filing the report, the agency shall publish a notice in a newspaper of general circulation in the city that such report has been filed with the city and that the report is available for inspection during business hours in the office of the city secretary and in the office of the agency.

(d) For inefficiency or neglect of duty or misconduct in office, a commissioner may be removed by the City Council only after a hearing and after he shall have been given a copy of the charges at least ten (10) days prior to such hearing and have had an opportunity to be heard in person or by counsel.

Judicial Proceedings

Sec. 17. In all suits brought to review, modify, suspend, or satisfy rules, orders, decisions, or other acts of the City Council, or other agency, the trial shall be de novo, as that term is used and understood in an appeal from a Justice of the Peace Court to the County Court. In such de novo trials, no presumption of validity or reasonableness or presumption of any character shall be indulged in favor of any such order, rule or regulation, nor shall evidence as to the validity or reasonableness thereof be heard, and the determination in respect thereto shall be made upon facts found therein, as in other civil cases, and the procedure for such trials and the determination of the orders and judgments to be entered therein shall be governed solely by the rules of law, evidence and procedure prescribed for the courts of this State by its Constitution, statutes and rules of procedure applicable to the trial of civil actions. It is the intent of the Legislature that such trial shall be strictly de novo and that the decision in each such case shall be made independently of any action taken by the Board, upon preponderance of the evidence adduced at such trial and entirely free of the so-called "substantial evidence" rule enunciated by the courts in respect to orders of other administrative or quasi-judicial agencies.

Interested Public Officials, Commissioners or Employees

Sec. 18. No public official or employee of a city (or board or commission thereof) and no commissioner or employee of an urban renewal agency which has been vested by a city with urban renewal project powers under Section 15 hereof, shall voluntarily acquire any interest, direct or indirect, in any urban renewal project or in any property included or planned to be included in any urban renewal project of such city or in any contract or proposed contract in connection with such urban renewal project. Where such acquisition is not voluntary, the interest acquired shall be immediately disclosed in writing to the City Council and such disclosure shall be entered upon the minutes of the City Council. Such official or employee shall then, within three (3) months after such involuntary acquisition, either resign his position, or divest himself of his interest in such urban renewal project. If any such official, commissioner or employee shall own or control or shall have owned or controlled within the preceding two (2) years, any interest, direct or indirect, in any property which he knows is included or planned to be included in any urban renewal project, he shall immediately disclose this fact in writing to the City Council, and such disclosure shall be entered upon the minutes of the City Council, and any such official, commissioner or employee shall not participate in any action by the City (or board or commission thereof), or urban renewal agency affecting such property. Any disclosure required to be made by this Section to the City Council shall concurrently be made to any urban renewal agency which has been vested with urban renewal project powers by

the city pursuant to the provisions of Section 15. No commissioner or other officer of any urban renewal agency, board or commission exercising powers pursuant to this Act shall hold any other public office under the city other than his commissionership or office with respect to such urban renewal agency, board or commission. Any violation of the provisions of this Section shall constitute misconduct in office.

Separability of Provisions

Sec. 19. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act and the application of such provisions to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Inconsistent Provisions

Sec. 20. In so far as the provisions of this Act are inconsistent with the provisions of any other law, the provisions of this Act shall be controlling but shall not repeal any charter provision of any home rule city which provides for the same purposes set forth in this Act and shall be considered cumulative of the powers of the cities.

Additional Conferred Powers

Sec. 21. The powers conferred by this Act shall be in addition and supplemental to the powers conferred upon cities by any provision of the Constitution of Texas, the general laws of the State of Texas, or by the charters of home rule cities of the State of Texas.

Right to Repurchase

Sec. 22. Provided, however, the original owner from which property was acquired hereunder by condemnation or through the threat of condemnation, shall have the first right to repurchase at the price at which same shall be offered.

Computation of Tax Increments

Sec. 22a. (a) For purposes of this Act, the market value of property located within an urban renewal project area shall be determined by the tax assessor-collector, and only the tax assessor-collector, during the time such project exists. Provided, however, that such determination shall require the concurrence of the comptroller; and provided, further, that any property owner aggrieved by a determination of the tax assessor-collector shall have the same right of appeal provided by law to owners of property not affected by this Act.

(b) At the time an urban renewal project is designated by the governing body, the tax assessor-collector shall, with the concurrence of the comptroller, certify to the governing body the market value of property within the boundaries of such district. Property taxable at the time the urban renewal

project is designated shall be included at its most recently determined market value; property exempt from taxation at the time the redevelopment district was designated shall be included at zero.

(c) The tax assessor-collector shall, within one year of the time an urban renewal project is designated, and annually thereafter, certify to the governing body the amount of the captured market value of property within the boundaries of the district and the amount of tax increments produced from such captured market value.

(d) For any years in which taxes are to be paid into the tax increment fund required under Subsection (i), Section 7 of this Act, any captured market value with respect to an urban renewal project shall not be considered by any taxing entity in computing any debt limitation or for any other purpose except in determining the amount to be paid into the tax increment fund.

Allocation of Tax Collections and Tax Increments

Sec. 22b. (a) For purposes of this Act, the tax assessor-collector shall have the sole authority and the duty to collect the taxes levied by the city and all other taxing entities on property located within an urban renewal project and for allocating taxing and tax increments in the manner required by this Act.

(b) Commencing with the first payment of taxes levied by the city or other taxing entities subsequent to the time an urban renewal project is designated, receipts from such taxes shall be allocated and paid over as follows:

(1) There shall first be allocated and paid over in such amounts as belong to each respectively, to the city and to each other taxing entity, all of the property taxes collected which are produced from the tax incremental base.

(2) There shall next be deposited into the tax increment fund established for such project all tax increments produced from the captured market value of property located within the project.

Tax Increment Bonds

Sec. 22c. (a) A city shall, in addition to any other powers vested in it, have the power to issue tax increment bonds, the proceeds of which may be used to pay redevelopment costs with respect to the urban renewal project on behalf of which the bonds were issued or to satisfy claims of holders of such bonds. Upon approval of two-thirds of the resident property taxpayers who are qualified electors of the city, such city shall also have the power to issue refunding bonds for the payment or retirement of tax increment bonds previously issued by it. Such tax increment bonds shall be made payable, as to both principal and interest, solely from tax increments allocated to and paid into the tax increment fund established by the city in accordance with this Act, or from any private sources, or contributions or other financial assistance from the State or United

States Government, or by any combination of these methods.

(b) Tax increment bonds issued under this Act, together with interest thereon and income therefrom, shall be exempt from all taxes. The period of maturity of tax increment bonds is limited to a maximum of 20 years from the date of issuance. Bonds issued under this Act shall be authorized by resolution or ordinance of the governing body and may be issued in one or more series, and shall bear such date or dates, be payable upon demand or mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations, be in such form either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption (with or without premium), be secured in such manner, and have such other characteristics, as may be provided by such resolution or trust indenture or mortgage issued pursuant thereto. Such bonds may be sold at not less than par at public sales held after notice published prior to such sale in a newspaper having a general circulation in the city and in such other medium of publication as the governing body may determine or may be exchanged for other bonds on the basis of par. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to this Act shall be fully negotiable. In any suit, action or proceeding involving the validity or enforceability of any bond issued under this Act or the security therefor, any such bond reciting in substance that it has been issued by the city in connection with an urban renewal project, as herein defined, shall be conclusively deemed to have been issued for such purposes and the urban renewal project shall be conclusively deemed to have been planned, located and carried out in accordance with the provisions of this Act.

(c) All banks, trust companies, bankers, savings banks and institutions, buildings and loan associations, savings and loan associations, investment companies and other persons carrying on a banking or investment business; all insurance companies, insurance associations, and other persons carrying on an insurance business; and all executors, administrators, curators, trustees, and other fiduciaries, may legally invest any sinking funds, moneys, or other funds belonging to them or within their control in any tax increment bonds issued by a city pursuant to this Act. Such bonds shall be authorized security for all public deposits. Any persons, political subdivisions and officers, public or private, are authorized to use any funds owned or controlled by them for the purchase of any such bonds. Nothing in this Act with regard to legal investments shall be construed as relieving any person of any duty of exercising reasonable care in selecting securities.

(d) Tax increment bonds shall be payable only out of the tax increment fund created pursuant to Subsection (i), Section 7 of this Act. The City Council may irrevocably pledge all or a part of such fund to the payment of such bonds or notes. Such fund or the designated part thereof may thereafter be used only for the payment of such bonds and interest thereon until the same have been fully paid; and a holder of such bonds or of any coupons appertaining thereto shall have a lien against such fund for payment of such bonds or notes and interest thereon and may either at law or in equity protect and enforce such lien.

(e) To increase the security and marketability of tax increment bonds, the city may create a lien for the benefit of the bondholders upon any public improvements or public works financed thereby or the revenues therefrom, or make such covenants and do any and all such acts as may be necessary or convenient or desirable in order to additionally secure such bonds or tend to make the bonds more marketable according to the best judgment of the City Council.

(f) Moneys shall be disbursed from the tax increment fund only to satisfy the claims of holders of tax increment bonds issued in aid of the urban renewal project with respect to which the fund was established, or to pay project costs. "Project costs" means any expenditure made or estimated to be made or monetary obligations incurred or estimated to be incurred by the city which are listed in an urban renewal project, plus any costs incidental thereto, diminished by any income or revenues other than tax increments, received or reasonably expected to be received by the city in connection with the implementation of such plan. Such project costs include, but are not limited to:

(1) capital costs, including, but not limited to, the actual costs of the construction of public works or improvements, new buildings, structures, and fixtures; the demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures and fixtures; the acquisition of equipment; and the clearing and grading of land;

(2) financing costs, including, but not limited to, all interest paid to holders of tax increment bonds issued to pay for project costs and any premium paid over the principal amount thereof because of the redemption of such obligations prior to maturity;

(3) professional service costs, including, but not limited to, costs incurred for architectural, planning, engineering or legal services;

(4) imputed administrative costs, including, but not limited to, reasonable charges for the time spent by employees of the city in connection with the implementation of an urban renewal plan; or

(5) organizational costs, including, but not limited to, the cost of conducting studies and the cost of informing the public with respect to the creation of

urban renewal projects and the implementation of project plans.

(g) Subject to any agreement with the holders of tax increment bonds, moneys in a tax increment fund may be temporarily invested in the same manner as other municipal funds.

(h) After all project costs and all tax increment bonds issued with respect to an urban renewal project have been paid or the payment thereof provided for, and subject to any agreement with bondholders, if there remain in such fund any moneys, they shall be paid over to the city and other taxing entities levying taxes on property within such project in such amounts as belong to each respectively.

(i) Tax increment bonds issued under this Act shall not be general obligations of the city, nor in any event shall they give rise to a charge against its general credit or taxing powers, or be payable other than as provided by this Act; and any tax increment bonds issued under this Act shall so state on their face.

(j) Tax increment bonds issued under this Act shall not be included in any computation of the debt of the issuing city.

(k) Tax increment bonds may not be issued in an amount exceeding the aggregate costs of implementing the urban renewal plan for the project in aid of which they were issued, and such bonds shall mature over a period not exceeding twenty (20) years from the date thereof.

Annual Report

Sec. 22d. (a) On or before July 1 each year, the City Council shall submit to the chief executive officer of every taxing entity a report on the status of such district. The report shall include the following information:

(1) the amount and source of revenue in the tax increment fund established in accordance with the requirements of this Act;

(2) the amount and purpose of expenditures from the fund;

(3) the amount of principal and interest due on any outstanding bonded indebtedness;

(4) the tax incremental base and the current captured market value retained by the project; and

(5) the captured market value shared by the city and other taxing entities, the total in tax increments received, and any additional information necessary to demonstrate compliance with the tax increment financing plan adopted by the City Council.

(b) On or before July 1 of each year, the City Council shall cause to be published in a newspaper of general circulation in the city a statement showing:

(1) the tax increment received and expended during the previous year;

(2) the original market value and captured market value of all property located within the urban renewal project;

(3) the amount in outstanding indebtedness incurred in aid of the urban renewal project; and

(4) any additional information the City Council deems necessary.

[Acts 1957, 55th Leg., p. 704, ch. 298. Amended by Acts 1967, 60th Leg., p. 1971, ch. 732, §§ 1, 2, eff. June 18, 1967; Acts 1973, 63rd Leg., p. 148, ch. 79, § 1, eff. May 11, 1973; Acts 1973, 63rd Leg., p. 150, ch. 80, § 1, eff. May 11, 1973; Acts 1975, 64th Leg., p. 107, ch. 47, §§ 1, 2, eff. April 15, 1975; Acts 1977, 65th Leg., p. 2126, ch. 850, §§ 1 to 5, eff. Aug. 29, 1977; Acts 1983, 68th Leg., p. 5386, ch. 992, § 1, eff. June 19, 1983.]

Section 6 of the 1977 amendatory act provided:

"Except to the extent otherwise specifically provided in this Act, if any provision of this Act or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

Art. 1269L-4. Community Development Act of 1975

Short Title

Sec. 1. This Act may be cited as the "Texas Community Development Act of 1975."

Public Purposes

Sec. 2. It is hereby found and declared that the activities specified in this Act contribute to the development of viable urban communities by providing decent housing and a suitable living environment, and by expanding economic opportunities for persons of low and moderate income in that the activities are directed toward the following specific objectives:

(a) the elimination of slums and blight and the prevention of blighting influences and the deterioration of property and neighborhood and community facilities of importance to the welfare of the community;

(b) the elimination of conditions that are detrimental to the public health, safety, and welfare;

(c) the expansion and improvement of the quantity and quality of community services that are essential for the development of viable urban communities;

(d) a more rational use of land and other natural resources, the better arrangement of residential, commercial, industrial, recreational, and other needed activity centers, and the restoration and preservation of properties of special value for historic, architectural, or aesthetic reasons;

(e) the reduction of the isolation of income groups in communities and geographical areas and the promotion of an increase in the diversity and vitality of neighborhoods through the spatial deconcentration of housing opportunities for persons of low and

moderate income and the revitalization of deteriorating or deteriorated neighborhoods to attract persons of higher income; and

(f) the alleviation of physical and economic distress through the stimulation of private investment and community revitalization in slum or blighted areas.

Definitions

Sec. 3. In this Act:

(a) "Community Development Program" means a planned and publicized program of work or activities designed to:

(1) improve the living and economic conditions of primarily low and moderate income persons;

(2) benefit low or moderate income neighborhoods;

(3) aid in the prevention or elimination of slums or blight; or

(4) aid or assist any federally assisted new community or meet other community development needs having a particular urgency, including any of the activities or functions specified for a community development program under this Act including federally assisted new communities.

(b) "Governing body" means the governing body of any municipality in this state.

(c) "Municipality" means any city, town, or village incorporated under the laws of this state.

(d) "Texas Urban Renewal Law" means Chapter 298, Acts of the 55th Legislature, Regular Session, 1957, as amended (Article 1269L-3, Vernon's Texas Civil Statutes).

Powers of Municipalities; Limitations

Sec. 4. (a) Any municipality is hereby authorized to implement a community development program upon adoption by the governing body of an ordinance or resolution enacting the same.

(b) A community development program implemented by any municipality may include the following activities:

(1) the acquisition of real property, including air rights, water rights, and other interests therein which is blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth; appropriate for rehabilitation or conservation activities; appropriate for the preservation or restoration of historic sites, the beautification of urban land, the conservation of open spaces, natural resources, and scenic areas, the provision of recreational opportunities or the guidance of urban development; to be used for the provision of public works, facilities, and improvements eligible for assistance under this Act, or to be used for other public purposes;

(2) the acquisition, construction, reconstruction, or installation of public works, facilities, and sites or other improvements, including neighborhood facilities, senior centers, historic properties, utilities, streets, street lights, water and sewer facilities, foundations and platforms for air rights sites, pedestrian malls and walkways and parks, playgrounds, and recreation facilities, flood and drainage facilities, and parking facilities, solid waste disposal facilities, and fire protection services and facilities which are located in or which serve designated community development areas;

(3) code enforcement in deteriorated or deteriorating areas in which such enforcement, together with public improvements and services to be provided, may be expected to arrest the decline of the area;

(4) clearance, demolition, removal, and rehabilitation of buildings and improvements, including assistance and financing public or private acquisition for rehabilitation and the rehabilitation of privately owned properties when incidental to other activities;

(5) special projects directed to the removal of material and architectural barriers which restrict the mobility and accessibility of elderly and handicapped persons;

(6) payments to housing owners for losses of rental income incurred in holding for temporary periods housing units to be utilized for the relocation of individuals and families displaced by program activities under this Act;

(7) disposition, through sale, lease, donation or otherwise, of any real property acquired pursuant to this Act or its retention for public purposes;

(8) provision of public services not otherwise available in areas where other activities authorized under this Act are being carried out, if such services are determined to be necessary or appropriate to support such other activities, and/or if such services are directed toward improving the community's public services and facilities, including those concerned with the employment, economic development, crime prevention, child care, health, drug abuse, education, welfare, or recreation needs of persons residing in such areas, and coordinating public and private development programs;

(9) payment of the nonfederal share required in connection with a federal grant-in-aid program undertaken as part of a local community development program;

(10) payment of the cost of completing a project funded under Title I of the federal Housing Act of 1949¹ or federally assisted new communities assisted in the form of loan guarantees under Title X of the National Housing Act² and a portion of the federally assisted area has received grants under Section 107(A)(1) of the Housing and Community Development Act of 1974, as amended;³

(11) relocation payments and assistance for individuals, families, businesses, organizations, and

farm operations displaced by activities assisted under this Act;

(12) activities necessary to develop a comprehensive community development plan, and to develop a policy-planning-management capacity, so that recipients of assistance under this Act may more rationally and effectively determine their needs, set long-term goals and objectives, devise programs and activities to meet these goals and objectives, evaluate the progress of such programs in accomplishing these goals and objectives, and carry out management, coordination, and monitoring of activities necessary for effective planning implementation;

(13) payment of reasonable administrative costs and carrying charges related to the planning and execution of community development and housing activities, including the provisions of information and resources to residents of areas in which community development and housing activities are to be concentrated with respect to the planning and execution of such activities;

(14) activities that are carried out by public or private entities if the activities are necessary or appropriate to meet the needs and objectives of the community development plan, including:

(A) acquisition of real property;

(B) acquisition, construction, reconstruction, rehabilitation, or installation of public facilities, site improvements, utilities, commercial or industrial buildings or structures, or other commercial or industrial real property improvements; and

(C) planning; and

(15) grants to neighborhood-based nonprofit organizations, local development corporations, or entities organized to carry out neighborhood revitalization or community economic development projects or federally assisted new communities.

(c) Any municipality may provide for and implement programs to provide financing for the acquisition, construction, improvement, or rehabilitation of privately owned buildings and improvements through the use of loans and grants from federal money remitted to a municipality at interest rates and on the terms and conditions as the municipality shall determine; except that municipalities are prohibited from providing municipal property or municipal funds for private purposes the programs or financing shall be in keeping with an approved community development plan that has been determined by the municipality to be a public purpose. Any program established for financing the acquisition, construction, improvement, or rehabilitation of buildings and improvements from federal funds may prescribe procedures under which the owner(s) of such building(s) or improvement(s) shall agree to partially or fully reimburse the municipality for the

cost of such acquisition, construction, improvement, or rehabilitation.

¹ 42 U.S.C.A. § 1450 et seq.

² 42 U.S.C.A. § 1749aa et seq.

³ 42 U.S.C.A. § 5307(a)(1).

Required Procedures

Sec. 5. Prior to the exercise of powers established under Section 4 of this Act, the governing body of any municipality shall:

(a) identify areas of the municipality in which predominantly low and moderate income persons dwell, or that are blighted or slum areas or federally assisted new communities, and set out within the community development program areas of the municipality where community development activities, building rehabilitation, or the acquisition of privately owned buildings or land are proposed to be undertaken; and

(b) adopt, by resolution or ordinance, a plan under which citizens may publicly comment on the proposed community development program; and

(c) conduct public hearings on the proposed community development program at least 15 days prior to its final adoption by the governing body; and

(d) adopt the provisions of the community development program by resolution or ordinance.

Limitations on Powers

Sec. 6. For the purpose of implementing any of the activities enumerated in Section 4 of this Act, compliance with Section 5 shall be sufficient; provided, however, that this Act does not grant a municipality implementing any of the activities enumerated in Section 4 the power of condemnation for the purpose of rehabilitating or removing buildings or for the purpose of acquiring real property of any kind for the purpose of resale. Nothing in this Act shall be construed to grant municipalities the authority to implement an urban renewal project under the terms and provisions of the Texas Urban Renewal Law without an enabling referendum passed by the voters or to exercise powers of eminent domain as granted by the Texas Urban Renewal Law. In order to exercise such powers, the municipality must have adopted the provisions of the Texas Urban Renewal Law in the manner prescribed by such Act and the power will be exercised by the designated urban renewal agency in that municipality.

Continuation of Urban Renewal

Sec. 7. This Act shall not be construed to alter or change the status, operations, contracts, or obligations of any existing urban renewal agency adopted pursuant to the Texas Urban Renewal Law, nor should any provisions of this Act be construed as to prevent the governing body of any municipality from adopting the provisions of and authority granted under the Texas Urban Renewal Law.

Scope

Sec. 8. The powers of municipalities described in this Act are granted in addition to all other powers of municipalities, and are intended to be cumulative thereof.

Validation of Previous Proceedings

Sec. 9. All ordinances or resolutions heretofore passed and adopted by the governing body of any such municipality implementing a community development program as defined and authorized by this Act are hereby validated as of the date of such ordinance or resolution, and are declared fully enforceable to the same extent as if such ordinance or resolution had been passed in accordance with laws duly enacted by the legislature of this state specifically providing for the passage and adoption of such ordinances or resolutions. All governmental proceedings and acts heretofore performed by the governing bodies of such municipalities and all officers thereof in implementing a community development program as authorized by this Act are hereby ratified as of the date of such proceedings and acts.

Applicability to "New Towns"

Sec. 10. Nothing in this Act shall be construed to authorize the use of the powers or federal funds referred to herein to establish any "new town" or "new town in town" pursuant to Title IV of the Housing and Urban Development Act of 1968 (42 U.S.C.A. 3901 et seq.), Title VII of the Housing and Urban Development Act of 1970 (42 U.S.C.A. 4501 et seq.), or Section 107(a) of the Housing and Urban Development Act of 1974 (42 U.S.C.A. 5307).

Severability

Sec. 11. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

[Acts 1975, 64th Leg., p. 2058, ch. 677, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 3193, ch. 837, §§ 1 to 4, eff. Aug. 31, 1981.]

Art. 1269L-5. Housing Rehabilitation Act

Short Title

Sec. 1. This Act may be cited as the Texas Housing Rehabilitation Act.

Legislative Findings

Sec. 2. The legislature finds that:

(1) a substantial amount of housing in the State of Texas is deteriorating and does not conform to accepted minimum standards applicable to structures for human habitation;

(2) deteriorating housing contributes to the decline of residential areas in urban and rural commu-

nities throughout this state, and such housing causes reductions in the taxable values of cities, counties, and other units of local government;

(3) declining residential areas require large-scale public investment to mitigate the effect of slums, health and safety problems, and retard the development of socially and economically disruptive conditions within affected communities;

(4) many owners of deteriorating housing cannot afford to make needed repairs and improvements without expending more than a reasonable portion of their incomes for housing, and some homeowners are financially unable to afford to spend any amount whatsoever to upgrade the quality of their dwellings;

(5) existing programs sponsored by public and private agencies to facilitate the rehabilitation of housing owned by persons of low and moderate income are inadequate to meet current and future needs, and a cooperative state-local government housing rehabilitation program therefore is clearly warranted; and

(6) unless the problem of deteriorating housing and other problems associated with the decline of residential areas are affirmatively addressed by the legislature, the health, safety, and welfare of the residents of such areas, as well as the citizens of the State of Texas generally, will be detrimentally affected.

Policy; Purpose

Sec. 3. It is the policy of the state and the purpose of this Act to provide a means by which the further deterioration of housing and the decline of residential areas in urban and rural communities throughout the State of Texas can be arrested and prevented. The legislature therefore declares that all of the purposes of this Act are public purposes and uses for which public money may be borrowed, expended, and loaned.

Definitions

Sec. 4. In this Act:

(1) "Borrower" means a household whose loan application is approved by a local government.

(2) "Department" means the Texas Department of Community Affairs.

(3) "Direct housing rehabilitation cost" means the amount contracted for between borrowers and contractors in a contract approved by a local government.

(4) "Fund" means the Texas Housing Rehabilitation Loan Fund.

(5) "Household" means a person or persons owning housing in an area designated under this Act.

(6) "Housing" means a structure which is situated on a permanent foundation and which consists of from one to four family units used exclusively for residential purposes.

(7) "Local agency" means a nonprofit organization whose principal purpose is to improve housing conditions or a local housing authority, urban renewal agency, or other public entity.

(8) "Local government" means a county, city, town, or village.

(9) "Rehabilitation" means the repair, renovation, or other improvement of housing with the object of making such housing decent, safe, sanitary, and more habitable.

Housing Rehabilitation Loan Fund

Sec. 5. (a) Funds for the implementation and administration of this Act shall be provided by the General Appropriations Act. A special account in the state treasury, to be known as the Texas Housing Rehabilitation Loan Fund is hereby created. Funds appropriated by the legislature for housing rehabilitation loans, together with any funds received from other sources for the purpose of making loans under this Act, must be placed in the fund. All repayments received from borrowers for loans made from the fund, income from the transfer of interests in property acquired in connection with rehabilitation loans made from the fund, and interest earned on deposits and investments of the fund shall be credited to the fund. It is the intent of this Act that the housing rehabilitation loan fund operate as a revolving fund whereby all appropriations and payments made thereto may be applied and reapplied to the purposes of this Act.

(b) The state treasurer shall invest and disburse money from the fund upon the written authorization of the executive director of the department. The department shall administer the fund as a revolving loan fund for carrying out the purposes of this Act and may designate separate accounts in the fund and the purposes for which the accounts are to be used.

(c) Money in the fund may be used only for:

(1) financing loans made pursuant to this Act, including the administrative charge provided for in Subsection (c) of Section 12 of this Act; and

(2) paying expenses incurred by the department in connection with the acquisition or disposal of real property under this Act.

Area Rehabilitation Plan

Sec. 6. (a) In order to qualify households within its boundaries for rehabilitation loans under this Act, a local government must designate a specific area, or areas, in conformity with standards established by the department, and must prepare an area rehabilitation plan for each designated area in the form prescribed by the department.

(b) An area rehabilitation plan must provide relevant information concerning the area and must include the following elements:

(1) a description of the physical, social, and economic characteristics of the area(s);

(2) a description of housing conditions in the area(s);

(3) an assessment of the need for housing rehabilitation loans in the area(s), such assessment to be expressed in terms of numbers and characteristics of households and average and total loan amounts;

(4) a description of methods by which the local government will determine whether the rehabilitation of housing in the area(s) is economically feasible;

(5) a description of methods by which rehabilitation work will be supervised and methods by which compliance with departmental regulations governing materials, fixtures, and rehabilitation contracts will be ensured;

(6) a description of methods and procedures that will be used to enforce local housing, building, fire, and related codes, or if such codes have not been enacted, a description of methods and procedures for enforcing the standards promulgated by the department;

(7) an assessment of the need for additional public improvements and public services in the area(s), together with a description of the specific means by which these improvements and services will be provided; and

(8) a description of methods by which private investment to improve conditions in the area(s) will be encouraged.

(c) An area rehabilitation plan must be approved by resolution or order of the governing body of the local government and submitted to the department for review. The department shall determine whether the designated area meets the standards established by the department and whether the plan contains all the prescribed elements. If so, the department must accept the plan. Upon acceptance of the plan, households in the designated area are qualified to apply for housing rehabilitation loans. If an area does not meet the department's standards or a plan does not contain all the prescribed elements, the department shall return the plan to the local government with a list of deficiencies. No loans may be made within a designated area unless the deficiencies are corrected and the plan is resubmitted and accepted by the department.

Authority of the Department

Sec. 7. The department has all the powers necessary or appropriate to carry out the purposes of this Act. The department may:

(1) acquire interests in property necessary to and in connection with the making of rehabilitation loans under this Act as set forth in Section 8 of this Act;

(2) make contracts and agreements with the federal government, other agencies of the state, any

other public agency, or any other person, association, corporation, local government, or other entity in exercising its powers and performing its duties under this Act;

(3) make regulations governing the disposition or further encumbrance by the borrower of property subject to a lien in connection with a rehabilitation loan;

(4) expend funds appropriated by the legislature to employ staff and for travel, supplies, materials, and equipment or to contract for services necessary to carry out its powers and duties under this Act;

(5) provide technical assistance to local governments; and

(6) seek and accept funding from any public or private source.

Interests in Property; Disposition

Sec. 8. (a) The department may not construct residential housing, nor may the department acquire residential housing except in connection with the enforcement of a lien under this Act, and then only by a foreclosure of a mortgage, a sale under a deed of trust, or by a voluntary conveyance from a borrower in full or partial settlement of a rehabilitation loan.

(b) If the department acquires residential housing in the enforcement of a lien, it must, within six months of such acquisition, offer the housing for public sale or auction. Notice of the public sale or auction must be provided by the department by publication once each week for three consecutive weeks prior to the day of the sale or auction in a newspaper of general circulation in the county in which the housing is located. The notice must contain a description of the property and must specify procedures for submitting competitive bids and the time and location of the public sale or auction. The department may reject any or all bids.

(c) If a sale cannot be effected by public sale or auction, the department may enter negotiations with any party for the expeditious sale of the housing. First priority must be given to selling the housing to a purchaser that will be required to pay ad valorem taxes on the property. If it is not practicable to sell it to such a purchaser, the department shall attempt to sell it to a purchaser that is exempt from ad valorem taxes but will make payments in lieu of taxes on the property. If neither type of purchaser is available, the department may sell it to any purchaser.

Regulations and Standards

Sec. 9. (a) The department shall adopt regulations for making and servicing housing rehabilitation loans, and for the foreclosure of defaulted loans. The regulations must require that each loan be evidenced by a promissory note payable to the state and secured by a valid lien on real property in this state.

(b) The department shall establish:

(1) standards by which households within the boundaries of a local government may qualify for loans;

(2) standards and procedures for the administration of this Act by local governments and local agencies;

(3) standards for the selection of contractors and for contracts between borrowers and contractors performing rehabilitation work under this Act; and

(4) standards for materials and fixtures used in performing rehabilitation work under this Act.

(c) The department shall set minimum and maximum interest rates for loans made under this Act.

(d) The department shall adopt minimum housing, building, fire, and related code standards for application in designated areas for which a rehabilitation plan has been accepted and no such local government standards are in effect.

Administration by Department

Sec. 10. (a) The department shall audit the local administration of rehabilitation loans under this Act to determine if good faith efforts are being made to comply with the applicable area rehabilitation plan and the regulations, standards, and guidelines adopted by the department.

(b) If in any fiscal year anticipated rehabilitation loans exceed estimated available funds, the department shall allocate the estimated available funds for that fiscal year among the local governments that have filed area rehabilitation plans, taking into account the probable amount of rehabilitation loans to be made by each local government.

(c) Upon receipt of notification of approval of a loan application by a local government, the director shall authorize the state treasurer to disburse the approved amount from the fund to the local government unless:

(1) the department has found that the local government is currently not making good faith efforts to substantially comply with the applicable area rehabilitation plan or the regulations, standards, and guidelines adopted by the department; or

(2) the remaining portion of the fund allocated to the local government under Subsection (b) of this section is insufficient to allow payment of the approved amount.

Loan Eligibility

Sec. 11. (a) The department shall establish eligibility guidelines for local governments to use in determining whether households qualify for housing rehabilitation loans under this Act. In establishing these guidelines, the department shall take into account:

(1) household gross income;

(2) household income available for housing needs;

(3) household size;

(4) the value and condition of the housing to be rehabilitated; and

(5) the ability of households to compete successfully in the private housing market and to pay the amounts at which private enterprise is providing sanitary, decent, and safe housing.

(b) The department shall not approve any loan unless it finds that the benefit to an area designated pursuant to the requirements of Section 6 of this Act will exceed the financial commitment of the department and that the approval of the particular loan will be of benefit to the state and its taxpayers.

General Powers and Duties of Local Governments

Sec. 12. (a) A local government may approve or disapprove loan applications from households according to the eligibility guidelines and regulations of the department. Upon approval of a loan application, the local government shall notify the department of the amount of the approved loan.

(b) A local government shall fix the interest rate for each loan within the minimum and maximum rates established by the department and shall fix the term of each loan and any other necessary conditions pertaining to the repayment of the loan pursuant to this Act and the regulations of the department.

(c) A local government may impose an administrative charge of not more than three percent of the direct housing rehabilitation cost and may deduct the charge from the amount loaned to borrowers.

(d) A local government may contract with any public or private entity for servicing rehabilitation loans.

(e) The governing body of a local government may designate a local agency or agencies to carry out any of the powers and duties of the local government under this Act. Any power or duty that a governing body delegates to a local agency may be withdrawn by the governing body at any time.

(f) A local government engaged in housing rehabilitation under this Act shall carry on a program of general education designed to inform residents in designated areas of methods for maintaining their housing and of the availability of housing rehabilitation loans.

Loan Conditions

Sec. 13. (a) Rehabilitation loans must be used primarily to make housing comply with state, county, or municipal building, housing maintenance, fire, health, or similar codes and standards applicable to housing.

(b) No loan made under this Act may exceed an amount which, when added to all other existing indebtedness secured by the property, would exceed

the market value of the rehabilitated property as determined by the local government. No loan may exceed the total of the approved direct housing rehabilitation cost together with the administrative charge provided for in Subsection (c) of Section 12 of this Act.

(c) The term of a loan made under this Act may not exceed 20 years. It must be repaid by installments and must be secured as required by this Act and the regulations of the department. The local government may allow deferment of payments or adjust the interest rate or term of the note if the borrower is unable to make the required payments.

(d) A borrower must agree that if he voluntarily destroys, moves, or relinquishes ownership of the rehabilitated housing within one year after completion of the rehabilitation, the loan is immediately due and payable, together with an interest surcharge sufficient to make the total interest paid equivalent to an amount determined by prevailing interest rates for rehabilitation loans from private sources at the time of the sale. If the local government finds that the borrower must sell due to financial hardship or similar circumstances, the interest surcharge may be waived by the local government with the consent of the department.

(e) The department may take title by foreclosure to any project where such acquisition is necessary to protect any loan previously made therefor by the department and to pay all costs arising out of such foreclosure.

Rehabilitation Contracts

Sec. 14. (a) A borrower and contractor may not enter into a contract for rehabilitation work to be financed under this Act unless the proposed contract has first been approved by the local government in accordance with standards established by the department. The local government shall supervise all work performed under the contract. The contractor is not entitled to payment until the work has been approved by the local government, and the borrower is not liable to the contractor for any work not approved by the local government.

(b) Any contract involving the expenditure of more than \$3,000 for housing rehabilitation construction or other work financed by means of loan funds applied by the department may be made only after advertising in the manner provided by Chapter 163, General Laws, Acts of the 42nd Legislature, Regular Session, 1931, as amended (Article 2368a, Vernon's Texas Civil Statutes). The provisions of Article 5160, Revised Civil Statutes of Texas, 1925, as amended, relating to performance and payment bonds, shall apply to construction contracts.

Pledge of State Credit Prohibited

Sec. 15. The department shall have no power at any time to borrow money, incur pecuniary obligations, or in any manner to pledge the credit or

taxing power of the State of Texas or any of its political subdivisions.

Transfer of Encumbered Property

Sec. 16. Upon sale or gift of the encumbered property, or upon the death of the borrower, the local government may, subject to approval of the department, declare all or part of any deferred payments due and payable, declare the balance of the loan due and payable, or allow the buyer, donee, or other successor in title of the borrower to assume the loan if the buyer, donor, or successor qualifies under the provisions of Section 11 of this Act.

[Acts 1977, 65th Leg., p. 2020, ch. 808, eff. Aug. 29, 1977.]

Art. 1269L-6. Housing Agency Act

Short Title

Sec. 1. This Act shall be known and may be cited as the Texas Housing Agency Act.

Definitions

Sec. 2. In this Act the following words, as used in this Act, shall have the meanings set forth below, unless the context clearly requires otherwise:

(a) "Act" means the Texas Housing Agency Act.

(b) "Agency" means the Texas Housing Agency created by the Act.

(c) "Board" means the board of directors of the agency.

(d) "Bond" means any type of interest-bearing obligation, including, without limitation, any bond, note, bond anticipation note, or other evidence of indebtedness, whether general or special, whether negotiable or nonnegotiable in form, whether in bearer or registered form, whether in temporary or permanent form, whether with or without interest coupons, and regardless of the source of payment.

(e) "Director" means a member of the board.

(f) "Federal government" means the United States of America or any department, division, agency, or instrumentality, corporate or otherwise, of the United States of America.

(g) "Federally insured mortgage" means a mortgage loan for residential housing which is insured or guaranteed by the federal government or for which there is a commitment to insure or guarantee the mortgage by the federal government.

(h) "Federal mortgage" means a mortgage loan for residential housing made by the federal government or for which there is a commitment by the federal government to make the mortgage loan.

(i) "Housing development costs" means the total of all costs incurred in financing, creating, or purchasing any housing development, including but not limited to a single-family dwelling, which is approved by the agency as reasonable and necessary. The costs may include but are not limited to:

(1) the value of land and any buildings on the land owned by the sponsor or the cost of land acquisition and any buildings on the land, including payments for options, deposits, or contracts to purchase properties on the proposed housing sites;

(2) cost of site preparation, demolition, and development;

(3) any expenses relating to the issuance of bonds;

(4) fees paid or payable in connection with the planning, execution, and financing of the housing development, such as those to the architects, engineers, attorneys, accountants, and the agency;

(5) cost of necessary studies, surveys, plans, permits, insurance, interest, financing, tax and assessment costs, and other operating and carrying costs during construction;

(6) cost of construction, rehabilitation, reconstruction, fixtures, furnishings, equipment, machinery, and apparatus related to the real property;

(7) cost of land improvements, including without limitation, landscaping and off-site improvements, whether or not the costs have been paid in cash or in a form other than cash;

(8) necessary expenses in connection with initial occupancy of the housing development;

(9) a reasonable profit and risk fee in addition to job overhead to the general contractor and, if applicable, a limited profit housing sponsor;

(10) an allowance established by the agency for working capital and contingency reserves and reserves for any anticipated operating deficits during the first two years of occupancy; and

(11) the cost of the other items, including tenant relocation, if tenant relocation costs are not otherwise being provided for, as the agency shall determine to be reasonable and necessary for the development of the housing development, less any and all net rents and other net revenues received from the operation of the real and personal property on the development site during construction.

(j) "Housing development" or "housing project" means any real or personal property, project, building, structure, facilities, work, or undertaking, whether existing, new construction, remodeling, improvement, or rehabilitation, which meets or is designed to meet minimum property standards prescribed by the agency and which is financed pursuant to the provisions of this Act for the primary purpose of providing sanitary, decent, and safe dwelling accommodations for persons and families of low income and families of moderate income in need of housing. The term may include buildings, structures, land, equipment, facilities, or other real or personal properties which are necessary, convenient, or desirable appurtenances, such as but not limited to streets, water, sewers, utilities, parks, site preparation, landscaping, stores, offices, and other nonhousing facilities, such as administrative,

community, and recreational facilities the agency determines to be necessary, convenient, or desirable appurtenances. "Housing development" and "housing project" include both single-family dwellings and multifamily dwellings in rural and in urban areas.

(k) "Housing sponsor" means individuals, including persons and families of low income or families of moderate income, joint ventures, partnerships, limited partnerships, trusts, firms, corporations, and cooperatives, approved by the agency as qualified either to own, construct, acquire, rehabilitate, operate, manage, or maintain a housing development, subject to the regulatory powers of the agency and other terms and conditions set forth in this Act. In economically depressed or blighted areas or in federally assisted new communities located within a home-rule city, "housing sponsor" may include a person or persons or family or families whose income exceeds the amount constituting moderate income if at least 90 percent of the total mortgage amount available under a mortgage revenue bond issue is designated for persons and families of low income or families of moderate income.

(l) "Land development" means the process of acquiring land for residential housing construction and making, installing, or constructing nonresidential improvements, including, without limitation, waterlines and water supply installations, sewer lines and sewage disposal installations, steam, gas, and electric lines and installations, roads, streets, curbs, gutters, and sidewalks, whether on or off the site, which the agency deems necessary or desirable for housing developments to be financed by the agency.

(m) "Mortgage" means a mortgage, mortgage deed, deed of trust, or other instrument which constitutes a lien:

(1) on real property; or

(2) on a leasehold under a lease having a remaining term which at the time the mortgage is acquired does not expire until after the maturity date of the interest-bearing obligation secured by the mortgage.

(n) "Mortgage lender" means any bank or trust company, savings bank, mortgage company, mortgage banker, credit union, national banking association, savings and loan association, building and loan association, life insurance company, or other financial institution authorized to transact business in the state that is approved as a mortgage lender by the agency.

(o) "Mortgage loan" means an interest-bearing obligation secured by a deed of trust, a mortgage, bond, note, or other instrument which is a lien on real property in the state.

(p) "Municipality" means any city, town, or village in this state.

(q) "Persons and families of low income" means persons and families determined by the board to

require assistance as is made available by this Act because of insufficient personal or family income taking into consideration, without limitation, such factors as:

- (1) the amount of the total income of such persons and families available for housing needs;
- (2) the size of the family;
- (3) the cost and condition of housing facilities available;
- (4) the ability of the persons and families to compete successfully in the private housing market and to pay the amounts required by private enterprise for sanitary, decent, and safe housing; and
- (5) standards established for various federal programs determining eligibility based on income.

(r) "Family of moderate income" means a family:

- (1) that is determined by the board to require assistance, taking into account the factors listed in Subdivision (q) of this section; and
- (2) that does not qualify as a family of low income.

(s) "Public agency" means any board, authority, agency, department, commission, political subdivision, municipal corporation, district, public corporation, body politic, or instrumentality of the state including, without limitation, any county, home-rule charter city, general-law city, town, or village, any housing authority, any state-supported educational institution of higher learning, any school, junior college, hospital, water, sewerage, waste disposal, pollution, road, navigation, levee, drainage, conservation, reclamation, or other district or authority, and any other type of political or governmental entity of the state.

(t) "Real property" means all land, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest, and right, legal or equitable, therein, including leasehold interests, terms for years, and liens by way of judgment, mortgage, or otherwise.

(u) "Reserve fund" means the Texas Housing Agency Reserve Fund which may be created pursuant to this Act and which may be established by the agency with the State Treasurer of the State of Texas out of proceeds from the sale of the agency's bonds or other resources, as additional security for the agency's bonds.

(v) "Residential housing" means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including the acquisition, construction, reconstruction, remodeling, improvement, or rehabilitation of land, buildings, and improvements thereto, for residential housing, and such other nonhousing facilities as may be incidental or appurtenant thereto.

(w) "State" means the State of Texas.

(x) "Economically depressed or blighted area" means: (i) an area that has been determined by the agency to be a qualified census tract or an area of chronic economic distress pursuant to the requirements of Section 103A, Internal Revenue Code of 1954 (26 U.S.C. Section 103A), or (ii) an area established within a city that has a substantial number of substandard, slum, deteriorated, or deteriorating structures, that suffers from a high relative rate of unemployment, or (iii) that has been designed and included in a tax increment district created under Chapter 695, Acts of the 66th Legislature, Regular Session, 1979 (Article 1066d, Vernon's Texas Civil Statutes). To establish an economically depressed or blighted area, pursuant to the provisions of (ii) or (iii) of this subsection, the governing body of the city must hold a public hearing and find that the area substantially impairs or arrests the sound growth of the city, or that it constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use. The governing body of a city holding such a hearing must give notice as provided by Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), except that notice must be published not less than 10 days before the day of the hearing.

(y) "Federally assisted new communities" shall mean those federally assisted areas which have received or will receive assistance in the form of loan guarantees under Title X of the National Housing Act¹ and a portion of the federally assisted area has received grants under Section 107(a)(1) of the Housing and Community Development Act of 1974, as amended.²

¹ 12 U.S.C.A. § 1749aa et seq.

² 42 U.S.C.A. § 5307(a)(1).

Creation of the Agency

Sec. 3. (a) There is hereby created and established a public and official governmental agency of the state, to be known as the Texas Housing Agency, and the state shall act by and through the agency in carrying out all powers and duties conferred by this Act. The exercise by the agency of all powers and duties conferred by this Act shall constitute and be deemed and held to be an essential public and official governmental function and purpose of the state, acting by and through the agency, in promoting the general welfare and prosperity of the state and all of its citizens.

(b) The agency is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes). Unless continued in existence as provided by that Act, the agency is abolished and this Act expires effective September 1, 1991.

Primary Purpose of the Agency: Declaration of Policy

Sec. 4. It is hereby declared:

(a) that there exists within both rural and urban areas of this state a shortage of sanitary and safe

residential housing at prices or rentals which persons and families of low income and families of moderate income can afford; that this shortage has contributed to and will contribute to the creation and persistence of substandard living conditions and is inimical to the health, welfare, and prosperity of the residents and communities of this state;

(b) that it is imperative that the supply of residential housing for such persons and families and for persons and families displaced by public actions or natural disaster be increased;

(c) that private enterprise and investment are unable, without financial assistance, to provide in sufficient quantities the needed construction or rehabilitation of sanitary and safe residential housing at prices or rentals which persons and families of low income and families of moderate income can afford and to provide sufficient long-term mortgage financing for residential housing for occupancy by such persons and families;

(d) that private enterprise and investment be encouraged to develop land and to build and to rehabilitate residential housing for such persons and families, and that private financing be supplemented by financing as provided in this Act in order to help prevent the creation and recurrence of substandard living conditions and to assist in their permanent elimination throughout this state. It is further declared that in order to provide a fully adequate supply of sanitary and safe dwelling accommodations at rents, prices, or other costs which such persons or families can afford, the legislature finds that it is necessary to create and establish a housing finance agency for the purpose of encouraging the investment of private capital and stimulating the acquisition, construction, and rehabilitation of residential housing to meet the needs of such persons and families through the use of public financing, to provide construction and mortgage loans, and to make provision for the purchase of mortgage loans and otherwise. It is hereby further declared to be necessary and in the public interest that such housing finance agency provide for predevelopment costs, temporary financing, incidental land development expenses, and residential housing acquisition, construction, or rehabilitation by housing sponsors for sale or rental to persons and families of low income and families of moderate income; and further, to provide mortgage financing, including, without limitation, long-term federally insured mortgages to eligible housing sponsors; and further, to increase the acquisition, construction, and rehabilitation of low income housing through the purchase from mortgage lenders authorized to transact business within the state of first mortgage loans for residential housing for persons and families of low income and families of moderate income in this state; and further, to assist in making financing available for the purchase, installation, or repair of energy conservation devices or renewable energy systems by persons and families of low income and families of moderate income; and further, to pro-

vide technical, consultative, and project assistance services to private sponsors, to assist in coordinating federal, state, regional, and local public and private efforts and resources, to guarantee to the extent provided herein the repayment of certain loans secured by residential mortgages, and to preserve the quality of life in this state. It is hereby further declared that all of the foregoing are public purposes and uses for which public money may be borrowed, expended, advanced, loaned, granted, or appropriated, and that such activities serve a public purpose in improving or otherwise benefitting the people of this state; that the necessity of enacting the provisions of this Act is in the public interest and is hereby so declared as a matter of express legislative determination.

Appointment and Removal of Directors

Sec. 5. (a) The board of directors of the agency which is and constitutes a "board" of the state, within the meaning of Article XVI, Section 30a, of the Texas Constitution and which shall have such powers and duties as are prescribed in this Act shall consist of nine members, entitled directors. Each director occupies one of the nine places on the board designated as Places 1 through 9.

(b) The nine regular directors shall be appointed by the governor with the advice and consent of the senate.

(c) Except for the initial appointees, directors hold office for staggered terms of six years, with the terms of three directors expiring on January 31 of each odd-numbered year. Each director shall hold office until a successor is appointed and has qualified.

(d) The directors initially appointed to occupy Places 1, 4, and 7 shall serve terms expiring on January 31, 1981. The directors initially appointed to occupy Places 2, 5, and 8 shall serve terms expiring on January 31, 1983. The directors initially appointed to occupy Places 3, 6, and 9 shall serve terms expiring on January 31, 1985.

(e) Each director is eligible for reappointment.

(f) Any vacancy on the board is filled by appointment by the governor with the advice and consent of the senate. A vacancy, except for expiration of term, is filled for the unexpired term only. If a vacancy occurs while the senate is not in session, the governor may make the appointment subject to confirmation by the senate when convened.

(g) To be eligible for appointment as a director, a person must be a qualified voter of the state and not hold any other public office. The governor shall make appointments so that the places on the board are occupied by persons having the following experience:

(1) Place 1—a person with experience in housing development administration;

(2) Place 2—a person with experience in commercial banking;

(3) Place 3—a person with experience in real estate operations;

(4) Place 4—a person with experience in home building;

(5) Place 5—a person with experience in apartment construction or ownership;

(6) Place 6—a person with experience in mortgage banking;

(7) Place 7—a person with experience in savings and loan operations;

(8) Place 8—a person with experience in municipal or county government;

(9) Place 9—a person with experience in housing problems of persons and families of low income and families of moderate income.

General Provisions Relating to the Board

Sec. 6. (a) The directors do not receive any compensation but each director is entitled to reimbursement for actual expenses incurred in performing duties of office to the extent authorized by the board.

(b) The board shall employ an executive administrator of the agency. The administrator may attend all meetings and participate in all proceedings of the board, but may not vote.

(c) The executive director of the Texas Department of Community Affairs, shall, as part of his or her regular duties of office, serve, ex officio, as the chairman of the board, who shall preside at meetings of the board and perform such other duties as are prescribed by the board and this Act, except that he or she shall not have a vote.

(d) The board shall elect one of the directors as vice-chairman to perform the duties of the chairman when the chairman is not present or is incapable of performing duties. The board shall elect a secretary to be the official custodian of the minutes, books, records, and seal of the board and to perform other duties as prescribed by the board. The board shall elect a treasurer to perform duties prescribed by the board. The offices of secretary and treasurer may be held by one person, and the holder of each of these offices need not be a director. The board may appoint one or more persons who are not directors to be assistant secretaries who may perform any duty of the secretary.

(e) A majority of the regular members of the board of directors constitutes a quorum. The board shall act and proceed by and through resolutions adopted by the board. The affirmative vote of at least five directors is necessary to adopt a resolution.

(f) The vice-chairman, secretary, and treasurer of the board shall be elected at the first meeting of the board after all directors shall have been appointed, taken the oath required by Article XVI, Section 1, of the Texas Constitution, and otherwise qualified for

office. Thereafter, officers of the board shall be elected at the first meeting of the board on or following January 31 of each odd-numbered year, or at any time necessary to fill a vacancy.

(g) The board shall hold regular meetings at times specified by resolution of the board and may hold special meetings when called by the chairman, the administrator, or three of the directors.

(h) Prior to the issuance of bonds, each director shall execute a surety bond in the penal sum of \$25,000, conditioned on the faithful performance of the duties of director, executed by a surety company authorized to transact business in this state, approved by the attorney general, and filed with the secretary of state. The surety bonds shall be kept in force at all times thereafter and the costs shall be paid by the agency.

(i) A director, chairman of the board, or administrator is not liable personally for any bonds issued or contracts executed by the agency.

Powers of the Administrator and the Board

Sec. 7. (a) The administrator of the agency shall exercise and perform all powers, duties, and functions prescribed by this Act except those prescribed in Subsection (b) of this section or otherwise required to be exercised by the board. The administrator, with the advice and consent of the board, shall appoint a deputy administrator of the agency. The administrator may employ any other employees necessary for the discharge of the duties of the agency, in such number and for such time as may be necessary for the performance of such duties and functions and to remove same, subject to the annual budget and the provisions of any resolution authorizing the issuance of the agency's bonds.

(b) The board shall have the following specific duties and powers, in addition to any other specific duties and powers assigned to the board in this Act:

(1) in its discretion, authorize all bonds of the agency;

(2) make rules, not inconsistent with this Act, governing the administration of the agency and its programs;

(3) adopt procedures for approving loans, purchases of loans, and commitments to purchase loans under this Act;

(4) adopt underwriting standards for loans made or purchased by the agency;

(5) adopt minimum property standards for housing developments financed under this Act;

(6) establish interest rates and amortization schedules for loans made or purchased by the agency;

(7) establish a schedule of fees and penalties authorized by this Act, including but not limited to application, processing, loan commitment, origination, servicing, and administrative fees;

(8) establish eligibility criteria for persons and families of low income and families of moderate income to participate in and benefit from the agency's programs;

(9) compile a list of approved mortgage lenders;

(10) approve an annual report of the agency; and

(11) approve an annual budget pursuant to Section 18 of this Act.

General Powers of the Agency

Sec. 8. (a) The agency is hereby granted, has, and may exercise all powers necessary or appropriate to carry out, achieve, or effectuate the purposes of this Act, including, without limitation, the following powers:

(1) to sue and be sued, and plead and be impleaded, in its own name; and it is specifically enacted that the agency is and constitutes a separate governmental agency and a body politic and corporate of this state, acting for and on behalf of this state;

(2) to adopt an official seal and alter same when deemed advisable;

(3) to adopt and enforce bylaws and rules for the conduct of its affairs not inconsistent with bylaws and this Act;

(4) to acquire, hold, invest, deposit, use and dispose of its revenues, income, receipts, funds, and money from every source and to select its depository or depositories, subject only to the provisions of this Act and any covenants with respect to the agency's bonds;

(5) to acquire, own, rent, lease, accept, hold, or dispose of any real, personal, or mixed property, or any interest therein, in performing its duties and exercising its powers under this Act, by purchase, exchange, gift, assignment, transfer, foreclosure, sale, lease, or otherwise, including rights or easements and to hold, manage, operate, or improve real, personal, or mixed property, except that:

(A) the agency may not construct or acquire any housing development unless acquired through foreclosure of mortgages or sales under deeds of trust;

(B) the agency shall make a diligent effort to sell a housing development so acquired to a purchaser who will be required to pay ad valorem taxes on the housing development or, if such a purchaser cannot be found, to any other purchaser; and

(C) in any event the agency shall sell a housing development so acquired within three years after the date of acquisition unless the board adopts a resolution stating that a purchaser for the housing development cannot be found after diligent search by the agency, in which case the agency shall continue to try to find a purchaser and shall sell the housing development when a purchaser is found;

(6) to sell, assign, lease, encumber, mortgage, or otherwise dispose of any real, personal, or mixed property, or any interest therein, or any deed of

trust or mortgage lien interest owned by it or under its control, custody, or in its possession, and release or relinquish any right, title, claim, lien, interest, easement, or demand however acquired, including any equity or right of redemption in property foreclosed by it, and to do any of the foregoing by public or private sale, with or without public bidding, notwithstanding the provisions of any other law; and to lease or rent any dwellings, houses, accommodations, lands, buildings, structures, or facilities from private parties to effectuate the purposes of this Act;

(7) to request and accept any appropriations, grants, allocations, subsidies, rent supplements, guaranties, aid, contributions, services, labor, materials, gifts, or donations from the federal government, the state, any public agency, or any other sources;

(8) to maintain an office or offices throughout the state and appoint and determine the duties, tenure, qualifications, and compensation of its officers, employees, agents, professional advisors, and counselors, including, without limitation, financial consultants, accountants, attorneys, architects, engineers, real estate consultants, appraisers, housing construction and financing experts, as are determined necessary or advisable; it is the intention of this Act that the programs of the agency be coordinated with the programs of the Texas Department of Community Affairs with respect to their design and implementation in order to avoid duplication of governmental housing programs;

(9) to make, enter into, and enforce contracts and agreements with the federal government, the state, any public agency, or any person, firm, corporation, or other entity in performing its duties and exercising its powers under this Act; to make and enter into all contracts, agreements, and other arrangements with mortgage lenders; to designate mortgage lenders to act for and in behalf of the agency, with respect to originating, servicing, and processing mortgage loans of the agency, under the terms and conditions agreed on between the parties; and to provide, contract, or arrange for consolidated processing of any aspect of a housing development in order to avoid duplication;

(10) to issue its bonds, to provide for and secure the payment of the bonds, and to provide for the rights of the holders of the bonds, in the manner and to the extent permitted by this Act and the Texas Constitution; and to purchase, hold, cancel, or resell or otherwise dispose of any of its bonds, subject to any restrictions in any resolution authorizing the issuance of its bonds;

(11) to fix, charge, and collect fees and charges in connection with loans made or other services provided by the agency pursuant to this Act;

(12) to do anything authorized by this Act, through its directors, officers, or employees, or by contracts with the federal government, the state,

any public agency, or any person, firm, corporation, or other entity;

(13) to invest its money in any bonds, obligations, or other securities or place such money in demand or time deposits, whether or not evidenced by certificates of deposit unless otherwise provided by this Act or a resolution authorizing the issuance of its bonds;

(14) to do all things necessary, convenient, or desirable to carry out the powers expressly granted or necessarily implied by this Act;

(15) to conduct hearings and to take testimony and proof, under oath or affirmation, at public hearings, on any matter necessary to carry out the purposes of this Act;

(16) to procure and pay premiums on insurance of any type whatsoever, in amounts and from insurers as the board deems necessary or advisable;

(17) to encourage individual or cooperative home ownership among persons and families of low income and families of moderate income in this state; and

(18) to investigate housing conditions and the means for improving those conditions and determine where slum or blighted areas exist.

(19) The Texas Housing Agency may target the proceeds from housing bonds issued by it to any geographic area or areas of the state. The Texas Housing Agency is also authorized to make loans to mortgage lenders or to public agencies, the proceeds of which will be used to make loans for multifamily housing developments which will be substantially occupied by persons and families of low income or families of moderate income.

Powers Relative to Making Mortgage Loans and Construction Loans to Housing Sponsors

Sec. 9. In addition to all other powers, the agency shall have the following specific powers:

(a) The agency may make, undertake commitments to make, and participate in the making of mortgage loans, including, without limitation, federally insured mortgage loans, and/or make temporary loans and advances in anticipation of permanent mortgage loans to housing sponsors to finance the purchase, construction, remodeling, improvement, or rehabilitation of housing developments for residential housing designed and planned for persons and families of low income and/or families of moderate income, upon the terms and conditions set forth in this Act.

(b) The agency may make and publish rules respecting making mortgage loans pursuant to this Act, the regulations of borrowers, the construction of ancillary commercial facilities, and resale and disposition of any real property, or any interest therein, financed by the agency.

(c) The agency may enter into agreements and contracts with housing sponsors and mortgage lend-

ers under the provisions of this Act with respect to making or participating in making mortgage loans for residential housing for persons and families of low income and/or families of moderate income.

(d) The agency may institute any action or proceeding against any housing sponsor receiving a loan under the provisions hereof, or owning any housing development hereunder in any court of competent jurisdiction in order to enforce the provisions of this Act, the terms and provisions of any agreement or contract between the agency and such recipients of loans under the provisions hereof, including, without limitation, provisions as to rental or carrying charges and income limits as applied to tenants or occupants, or to foreclose its mortgage, or to protect the public interest, persons and families of low income or families of moderate income, stockholders, or creditors of the sponsor. In connection with any such action or proceeding the agency may apply for the appointment of a trustee or receiver to take over, manage, operate, and maintain the affairs of a housing sponsor. The agency through such agent as it shall designate is hereby authorized to accept appointment as trustee or receiver of any such sponsor when so appointed by a court of competent jurisdiction.

Loan Terms and Conditions

Sec. 10. Loans made by the agency under the preceding section shall be subject to the following terms and conditions:

(a) The agency shall not process an application for a loan for a housing development unless the applicant is a housing sponsor and the application is submitted and recommended by a mortgage lender.

(b) The ratio of loan to total housing development cost and the amortization period of loans made under this Act which are insured or guaranteed by the federal government are governed by the federal government mortgage insurance commitment or federal guarantee for each housing development, except the amortization period may not exceed 40 years.

(c) A mortgage loan not insured by the federal government may not exceed 95 percent of the total housing development cost as determined by the agency. The amortization period of the loan shall be determined in accordance with regulations formulated and published by the agency, except the amortization period may not exceed 40 years.

(d) A mortgage loan made under this Act may be prepaid to maturity after the period of years and under the terms and conditions decided upon by the board.

(e) The agency may set the interest rates at which it makes loans and commitments therefor. The interest rates shall be established by the board in its sole discretion so as to produce at least the amounts required, together with other available funds, to pay for the agency's costs of operation

and to meet its covenants with and responsibilities to the holders of its bonds. In addition to such interest charges the agency shall make and collect such fees and charges, including but not limited to reimbursement of the agency's financing costs, service charges, insurance premiums, and mortgage insurance premiums, as the agency determines to be reasonable.

(f) In considering an application for a loan, the agency shall give first priority to applications for well-planned and well-designed housing developments. The agency shall also give consideration to:

(1) the comparative need for housing for persons and families of low income and families of moderate income in the area to be served by the proposed housing development;

(2) the ability of the applicant to carry out, operate, manage, and maintain the proposed housing development;

(3) the existence of zoning, protective covenants, or regulations that adequately protect the proposed housing development against detrimental future uses that could cause undue depreciation in the value of the housing development; and

(4) the availability in urban areas of adequate parks, recreational areas, utilities, schools, transportation, and parking.

(g) Each mortgage loan shall be evidenced by a mortgage or deed of trust note or bond and by a mortgage or deed of trust that constitutes a lien on the housing development and on all the real property constituting the site of or relating to the housing development, and that contains provisions and is in a form required by the agency. The note or bond and mortgage or deed of trust may contain exculpatory provisions relieving the borrower or its principal from personal liability if agreed upon by the agency.

(h) Each mortgage loan is subject to an agreement between the agency and the housing sponsor that subjects the sponsor and its principals or stockholders to limitations established by the agency as to rentals and other charges, builders' and developers' profits and fees, and the disposition of its property and on all of the real property constituting the site of or relating to the housing development.

(i) As a condition of each loan, the agency may at any time during the construction, rehabilitation, or operation of a housing development:

(1) enter upon and inspect the housing development, including all parts thereof, for the purpose of investigating the physical and financial condition thereof, and its construction, rehabilitation, operation, management, and maintenance and to examine all books and records with respect to capitalization, income, and other matters relating thereto and to make such charges as may be required to cover the cost of such inspections and examinations;

(2) order alterations, changes, or repairs necessary to protect the security of the agency's investment in a housing development or the health, safety, and welfare of the occupants; and

(3) order any managing agent, housing development manager, or owner of a housing development to do whatever is necessary to comply with the provisions of applicable laws, ordinances, or rules of the agency or the terms of any agreement concerning the housing development or to refrain from doing any acts in violation thereof and in this regard the agency shall be a proper party to file a complaint and to prosecute thereon for any violations of laws or ordinances as set forth herein.

(j) A housing sponsor may not make distributions in any one year with respect to a housing development financed by the agency in excess of that which shall be prescribed by rules of the agency of the housing sponsor's equity in the development. The principals or stockholders of a housing sponsor may not at any time earn, accept, or receive a return greater than that which shall be prescribed by rules of the agency per annum of their investment in a housing development financed by the agency. A housing sponsor's equity in a housing development consists of the difference between the mortgage loan and the total housing development cost. The agency shall establish the sponsor's equity at the time of the making of the final mortgage advance and, for the purposes of this subsection, that figure remains constant during the life of the agency's mortgage or deed of trust on the development, except for additional equity investment made by the sponsor with the agency's approval or at its order.

Purchase and Sale of Mortgage Loans

Sec. 11. (a) The agency may purchase and take assignments from mortgage lenders or the federal government of notes and mortgages evidencing loans for the construction, remodeling, improvement, or rehabilitation, purchase, leasing, or refinancing of housing developments for persons and families of low income and families of moderate income.

(b) The agency may sell, at public or private sale, with or without public bidding, a mortgage or other obligation held by the agency.

Terms of the Purchase and Sale of Mortgage Loans

Sec. 12. (a) No mortgage loan purchased from a mortgage lender is eligible for purchase by the agency unless the mortgage lender certifies that:

(1) the mortgage loans transferred to the agency are for housing developments for persons or families of low income or for families of moderate income; or

(2) the proceeds of the sale or the equivalent have been or will be invested in mortgage loans that benefit persons and families of low income and families of moderate income or invested in short-

term obligations pending the making of such mortgage loans.

(b) When the agency purchases a mortgage loan from a mortgage lender, it shall pay a purchase price equal to the outstanding principal balance, except that discount from the principal balance or the payment of a premium may be employed to effect a fair rate of return consistent with the obligations of the agency and the purposes of this Act. In addition to payment of the outstanding principal balance, the agency shall pay the accrued interest due to the date on which the mortgage loan is delivered against payment.

(c) Mortgage loans purchased or sold under this section may include mortgage loans that are insured, guaranteed, or assisted by the federal government, or for which there is commitment by the federal government to insure, guarantee, or assist the mortgage loan.

(d) The agency shall adopt rules governing the purchase and sale of mortgage loans and the application of the proceeds thereof, including rules governing:

(1) procedures for submitting requests or inviting proposals for the purchase and sale of mortgage loans;

(2) restrictions as to the number of family units, location, or other qualifications of residences to be financed by residential mortgage loans, and income limits of persons and families of low income or families of moderate income occupying the residence;

(3) restrictions as to the interest rates on mortgage loans or the return realized by mortgage lenders;

(4) requirements for commitments by mortgage lenders with respect to mortgage loans;

(5) schedules of fees and charges necessary for expenses and reserves of the agency;

(6) resale of the housing development; and

(7) any other matters related to the powers of the agency to purchase and sell mortgage loans.

(e) The agency shall review each mortgage loan purchased by the agency to determine if the loan meets the conditions of this Act, the rules of the agency, and any commitment made with the mortgage lender to purchase mortgage loans. The agency may require the substitution of another mortgage loan when it determines that a loan does not comply with this Act, its rules, or a commitment made with the mortgage lender. Subsections (b), (c), (d), (e), and (g) of Section 10 of this Act apply to the purchase of mortgage loans.

(f) The agency may not purchase an obligation that is more than two years old.

Supervising Housing Sponsors

Sec. 13. The agency shall have the power to supervise housing sponsors of housing developments that are rented or leased to tenants, including limited profit housing sponsors, and their real and personal property, in the following respects:

(a) The agency may prescribe uniform systems of accounts and records for housing sponsors and may require housing sponsors to make reports and certifications of their expenditures and to answer specific questions on forms and at such times as may be necessary for the purposes of this Act.

(b) The agency, through its agents or employees, may enter upon and inspect the land, buildings, and equipment of a housing sponsor, including all parts thereof, and may examine all records showing the capital structure, income, expenditures, and other payments of a housing sponsor.

(c) The agency may supervise the operation and maintenance of a housing development and may order repairs as necessary to protect the public interest or the health, welfare, or safety of the housing development occupants.

(d) The agency shall approve and may alter from time to time a schedule of rents and charges for a housing development.

(e) The agency shall determine standards for and shall control tenant and management selection by a housing sponsor.

(f) The agency may require a housing sponsor to pay the agency fees and charges for the costs of regulating the housing sponsor, including, without limitation, the costs of examination, inspection, supervision, and auditing the housing sponsor.

(g) The agency may order a housing sponsor to do or to refrain from doing what is necessary to comply with the provision of law, the rules of the agency, and the terms of a contract or agreement to which the housing sponsor is a party.

(h) The agency shall regulate the retirement of any capital investment or the redemption of stock of a limited profit housing sponsor if the retirement or redemption, when added to any dividend or other distribution, exceeds in any one fiscal year the permitted percentage, as shall be prescribed by rules of the agency, of the original face amount of the limited profit housing sponsor's investment or equity in any housing development.

(i) The agency shall make rules specifying the categories of cost allowable in the construction, reconstruction, remodelling, improvement, or rehabilitation of a housing development. The agency shall require a housing sponsor to certify the actual housing development costs on completion of the housing development, subject to audit and determination by the agency, except that the agency may accept, in lieu of certification of housing development costs, other assurances of the housing development costs, in any form or manner whatsoever,

that will enable the agency to determine with reasonable accuracy the amount of the housing development costs.

(j) This section does not apply to any housing development for which persons or families of low income or families of moderate income receive a mortgage loan hereunder and which initially is intended for occupancy by such persons or families.

Admission to Housing Developments

Sec. 14. (a) Admission to housing developments that are rented or leased to tenants financed under this Act is limited to persons or families of low income and families of moderate income.

(b) The agency shall periodically examine the income of any person or family who are tenants residing in a housing development. The agency or, with the approval of the agency, the housing sponsor of a housing development may terminate the tenancy or interest of any person or family whose gross income exceeds the income level prescribed for admission by more than 25 percent for a period of six months or more. No tenancy or interest of any person or family in any housing development may be terminated except on reasonable notice and opportunity to obtain suitable alternate housing in accordance with rules of the agency. A person or family whose gross income would not otherwise permit continued occupancy of a dwelling unit may, with the approval of the agency, continue to occupy a dwelling unit on payment of a surcharge to the housing sponsor in accordance with a schedule of surcharges fixed by the agency.

(c) If a person or family who resides in a cooperative housing development must move from the housing development because of excessive income, the person or family must be discharged from liability of any note, bond, or other evidence of indebtedness and reimbursed, in accordance with the rules of the agency, for all sums paid to the housing sponsor on account of the purchase of stock or debentures as a condition of occupancy or on account of the acquisition of title for that purpose.

(d) This section does not apply to any housing development for which persons or families of low income or families of moderate income receive a mortgage loan hereunder and which initially is intended for occupancy by such persons or families.

Procedure Prior to Financing of Housing Developments Undertaken by Housing Sponsors

Sec. 15. Notwithstanding any other provision of this Act, the agency is not empowered to finance any housing development undertaken by a housing sponsor unless, prior to the financing of any housing development hereunder, the agency finds that:

(1) the housing development is necessary to provide needed decent, safe, and sanitary housing at rentals or prices which persons or families of low income or families of moderate income can afford;

(2) the housing sponsor or sponsors undertaking the proposed housing development in this state will supply well-planned and well-designed housing for persons or families of low income or families of moderate income and that such sponsors are financially responsible;

(3) the financing of the housing development pursuant to the provisions of this Act will constitute a public purpose and will provide a public benefit; and

(4) the housing development will be undertaken within the authority conferred by this Act upon the agency and the housing sponsor or sponsors.

Exemption from Taxation

Sec. 16. The property of the agency, its income, and operations are exempt from all taxes and assessments imposed by the state and all public agencies on property acquired or used by the agency under the provisions of this Act. The agency may, under its terms, conditions, and rules, make payments to public agencies in lieu of ad valorem taxes on any property which the agency has acquired through foreclosure or sale under a deed of trust. It shall be the policy of the agency to make these payments in lieu of taxes whenever practicable with any money lawfully available for this purpose, subject to the provisions, requirements, and restrictions of any bond resolution.

Fiscal Year; Annual Report; Audit

Sec. 17. The agency shall operate on a fiscal year beginning September 1 and ending August 31. The agency shall have an audit of its books and accounts for each fiscal year by the state auditor or by a certified public accountant. The cost of the audit is an expense of the agency. A copy of the audit shall be filed with the governor and the legislature on or before January 1 of each year, except if the audit is being made by the state auditor and is not available by January 1, it shall be filed as soon as it is available. Also, on or before January 1 of each year, the agency shall prepare a report of its activities for the preceding fiscal year for the governor and the legislature. The report shall set forth a complete operating and financial statement.

Annual Budget

Sec. 18. (a) On or before August 1 of each year, the administrator shall file with the board a proposed annual budget for the succeeding fiscal year. The budget shall set forth the general categories of expected expenditures out of revenues and income of the agency, and the amount on account of each, and may include a provision or reserve for contingencies or over expenditures. On or before September 1 in each year, the board shall consider the proposed annual budget and shall approve it or change it as the board determines necessary or advisable. Copies of the annual budget certified by the chairman of the board shall be filed promptly

with the governor and the legislature. The annual budget is not effective until it is filed.

(b) If for any reason the agency does not adopt the annual budget before September 2, the budget for the preceding year shall remain in effect until a new budget is adopted.

(c) The agency may adopt an amended annual budget for the current fiscal year, but the amended annual budget may not supersede a prior budget until it is filed with the governor and the legislature.

(d) All expenses incurred in carrying out the provisions of the Act shall be payable solely from revenues or funds provided or to be provided pursuant to the provisions of this Act, and nothing in this Act shall be construed to authorize the agency to incur any indebtedness or liability on behalf of or payable by the State of Texas, except as provided in this Act, or as otherwise provided by law.

Selection of Depository

Sec. 19. (a) The agency shall choose a depository for its revenues and funds, other than appropriated funds, after inviting bids for favorable interest rates. The agency shall publish notice in at least one newspaper of general circulation in the state at least 14 days before the last day set for the receipt of the bids. The notice shall state the types of deposits planned, the last day on which bids will be received, and the time and place for opening bids.

(b) Sealed bids that are identified as bids on the envelope must be submitted to the agency before the deadline for receiving bids. The state auditor or a member of the auditor's staff must be present at the bid opening. The agency shall provide a tabulation of all submitted bids for public inspection.

(c) The agency shall choose the depository submitting the bid with the most favorable interest rate.

(d) If covenants related to the agency's bonds specify one or more depositories or set out a method of selecting depositories different from the method prescribed by this section, the covenants prevail with respect to the funds to which they apply.

Agency Records

Sec. 20. (a) The agency shall keep complete records and accounts of its business transactions according to generally accepted methods of accounting.

(b) The agency shall keep complete minutes of its meetings. The agency accounts, minutes, and other records shall be kept at its principal office.

Issue of Housing Finance Agency Bonds

Sec. 21. (a) The board of directors of the agency by resolution from time to time may provide for the issuance of negotiable bonds as authorized by the Texas Constitution. The bonds shall be on a parity and shall be called Texas Housing Bonds. The

board may issue them in one or several installments and shall date the bonds of each issue.

(b) In addition to the authority to issue general obligation bonds as provided in Subsection (a) of Section 21 of this Act, the agency may issue its revenue bonds for the purpose of providing money with which to carry out, achieve, or effectuate any purpose, power, or duty of the agency under this Act. The agency's bonds may be issued from time to time in one or more series or issues, payable as to principal, interest, and redemption premium, if any, from and secured by a first lien or a subordinate lien on and pledge of all or any part of the revenues, income, or other resources of the agency including, without limitation, the repayments of mortgage loans, the earnings from investment or deposit of the reserve fund and other funds of the agency, the fees, charges, and any other amounts or payments received pursuant to this Act, and any appropriations, grants, allocations, subsidies, rent supplements, guaranties, aid, contribution, or donations from the federal government.

(c) Also, the agency may issue its bonds, which may be designated as "bond anticipation notes," which may be made payable as to principal, interest, and redemption premium, if any, solely from the proceeds from the sale of the agency's definitive refunding bonds if or when issued and delivered for the purpose of refunding such bond anticipation notes or payable as to principal, interest, and redemption premium, if any, from such definitive refunding bonds and any other revenues, income, or resources of the agency, and the agency may covenant that it will issue, sell, and deliver such definitive refunding bonds in such manner as will provide the money necessary to pay any required part of the principal of and interest and redemption premium, if any, on the bond anticipation notes when due; provided that such bond anticipation notes may be refunded in any other manner permitted by the Act.

(d) The payment of the principal of and the interest and redemption premium, if any, on the agency's bonds additionally may be secured by a first lien or a subordinate lien on and pledge of all or any part of the assets and real, personal, or mixed property of the agency (including mortgages and obligations securing same, and investments), and the reserve fund, or other reserves or funds of the agency.

(e) All bonds issued by the agency shall be authorized by resolution of the board and may be secured by mortgages or deeds of trust on property, and/or by trust agreements or trust indentures administered by one or more corporate trustees, in such manner as may be prescribed by the board; and the substantial form of any such mortgage, deed of trust, trust agreement, or trust indenture shall be set forth in and constitute a part of the resolution authorizing the issuance of the bonds. Any resolution authorizing the issuance of the bonds of the agency may provide that part of the proceeds from the sale thereof may be used for paying the costs

and expenses of issuing the bonds, for paying interest on the bonds during such period as may be prescribed by the board, and for paying or repaying operation and maintenance expenses of the agency to the extent and for the period of time specified in said resolution, and also for the funding, increasing, or restoring any depletions of the reserve fund or other reserves or funds for any purposes.

(f) The agency may provide for the subsequent issuance of additional parity bonds, or subordinate lien bonds, under such terms or conditions as may be set forth in the resolution authorizing the issuance of the bonds.

(g) The agency also may issue its bonds for the specific purpose of providing all or any part of the money required for funding or increasing the reserve fund or other reserves or funds of the agency.

Interest on Bonds

Sec. 22. The agency's bonds may be issued to bear interest at any rate or rates as shall be determined by the board.

Form; Denomination; Place of Payment

Sec. 23. (a) The agency's bonds may be issued as serial bonds, or as term bonds, or any combination of each as shall be determined by the board.

(b) The agency's bonds may be issued in coupon form payable to bearer, or in fully registered form, or as coupon bonds payable to bearer but registrable as to principal alone, or as to both principal and interest, or in any other form.

(c) The agency's bonds may be payable at any place or places, may be made redeemable prior to maturity, and may be issued in such form, denominations, and manner, and under such terms, conditions, and details, and shall be executed, all as provided by the board in the resolution authorizing the issuance of said bonds.

(d) The agency's bonds may be sold in such manner, at such price, and under such terms and conditions, as shall be determined by the board.

Maturity of Bonds

Sec. 24. The agency's bonds may mature within any period as shall be determined by the board.

Redemption Before Maturity; Conversion

Sec. 25. (a) The board may provide and covenant for the conversion of any form of bond into any other form or forms of bond, and for reconversion of bonds into any other form.

(b) If the duty of replacement, conversion, or reconversion of bonds is imposed upon a place of payment (paying agent) of any bonds, or upon a corporate trustee under a trust agreement or trust indenture, the replacement, converted, or reconverted bond need not be reapproved by the attorney general or reregistered by the comptroller of public accounts as provided in Section 27 of this Act.

Otherwise, all replacement, converted, or reconverted bonds must be so approved and registered as provided in Section 27 of this Act, in accordance with the procedures established in the resolution authorizing the bonds.

Agency's Bonds not Obligations of the State

Sec. 26. (a) The agency's bonds are solely obligations of the agency and are payable solely from funds of the agency, and this Act and the agency's bonds are not and do not create or constitute in any way an obligation, a debt, or a liability of the state, or create or constitute a pledge, giving, or lending of the faith or credit or taxing power of the state except bonds authorized by the Texas Constitution and as provided in Subsection (a) of Section 21 of this Act.

(b) Each bond of the agency not authorized by Subsection (a) of Section 21 of this Act shall contain on its face a statement to the effect that the state is not obligated to pay the principal thereof or interest thereon; and that neither the faith or credit nor the taxing power of the state is pledged, given, or loaned to such payment.

(c) However, the state hereby pledges to and agrees with the holders of any bonds issued under this Act that the state will not limit or alter the rights hereby vested in the agency to fulfill the terms of any agreements made with the said holder thereof or in any way impair the rights and remedies of such holders until such bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The agency is authorized to include this pledge and agreement of the state in any agreement with the holders of such bonds.

Approval of Bonds; Registration

Sec. 27. All bonds issued by the agency and the appropriate proceedings authorizing their issuance shall be submitted to the Attorney General of the State of Texas for examination. If the attorney general finds that such bonds have been authorized in accordance with this Act, the attorney general shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas.

Execution of Bonds

Sec. 28. The bonds authorized by Subsection (a) of Section 21 of this Act shall be executed on behalf of the board as general obligations of the state in the following manner: the chairman of the board shall sign the bonds; the board shall impress its seal on the bonds; the governor shall sign the bonds; and the secretary of state shall attest the bonds and impress on them the state seal.

Facsimile Signatures and Seals

Sec. 29. The resolution authorizing the issuance of an installment or series of bonds may prescribe the extent to which the board in executing the bonds and appurtenant coupons may use facsimile signatures and facsimile seals instead of manual signatures and manually impressed seals. Interest coupons may be signed by the facsimile signatures of the chairman of the board of the agency.

Signature of Former Officer

Sec. 30. If an officer whose manual or facsimile signature appears on a bond or whose facsimile signature appears on any coupon ceases to be an officer before the bond is delivered, the signature is valid and sufficient for all purposes as if the officer had remained in office until the delivery had been made.

Bonds Incontestable

Sec. 31. (a) After approval by the attorney general and registration by the comptroller of public accounts, the bonds shall be incontestable in any court or other forum for any reason and shall be valid and binding obligations in accordance with their terms for all purposes.

(b) In addition, general obligation bonds issued as provided in Subsection (a) of Section 21 of this Act and after approval and registration as provided in this Act shall constitute general obligations of the state.

Reserve Fund

Sec. 32. (a) There may be created and established by the agency, with the State Treasurer of the State of Texas, a separate and special fund to be entitled the Texas Housing Agency Reserve Fund. The reserve fund may be used for the purpose of paying principal of and interest, and redemption premium, if any, on any of the agency's bonds secured by the reserve fund, or any account therein, in order to prevent or cure a default, if, when, and to the extent the revenues, income, and receipts of the agency are insufficient for such payment, and for such other purposes as are provided in any resolution authorizing the issuance of the agency's bonds. The agency may establish separate accounts within the reserve fund to secure and be applicable only to the agency's bonds for which they are established.

(b) It shall be an additional duty of the State Treasurer, in the State Treasurer's official capacity, ex officio, to accept the reserve fund, as custodian thereof, in accordance with the provisions of this section; but the reserve fund shall not be commingled with the General Revenue Fund of the state or any other special funds or accounts in the State Treasury, and the reserve fund shall not constitute or be a part of the State Treasury. The reserve fund and any account therein shall be kept and maintained separate and apart from all other mon-

ey, funds, deposits, and accounts and shall be kept and held in escrow and in trust by the State Treasurer, for and on behalf of, and charged with an irrevocable lien and pledge in favor of, the holders of the agency's bonds secured thereby; and the reserve fund shall be used only as provided in this Act. Legal title to the reserve fund shall be in the agency unless or until paid out as herein provided, but the State Treasurer, as custodian, shall administer the reserve fund strictly and solely as provided in this Act and the agency's bond resolutions, and the State Treasurer shall take no action with respect to the reserve fund other than that specified in this Act and in said bond resolutions.

(c) Out of proceeds from the sale and delivery of its first series or issue of bonds which are secured by the reserve fund, or from any other source available to it, the agency may provide for depositing into the reserve fund, or an account therein, such amount as is specified in the bond resolution, and thereafter the reserve fund, or such accounts therein, shall be increased to, when necessary, and maintained at, said amount with respect to all bonds at any time outstanding which are secured by the reserve fund, or such account therein. The board is authorized to establish the procedures for funding, increasing, and maintaining the reserve fund, or any account therein, and the operation and use of, and the priorities of bondholders in connection with, the reserve fund, or any account therein, in the resolutions authorizing the issuance of its bonds. The State Treasurer shall be furnished certified copies of said bond resolutions, and the State Treasurer shall comply therewith.

(d) Amounts in the reserve fund, or any account therein, at any time in excess of the amount then required to be on hand therein, whether by reason of investment or deposit earnings or otherwise, shall be paid by the State Treasurer directly to, or upon the order of, the agency, upon written request by the agency, or disposed of and disbursed by the State Treasurer as provided in any bond resolution of the agency.

(e) The State Treasurer shall place the money in the reserve fund, or any account therein, in demand or time deposits, or invest said money in any direct obligations of, or obligations the payment of the principal of and interest on which are guaranteed by, the federal government, and such deposits and/or investments shall be made by the State Treasurer at the places and in the amounts and manner as provided in written instructions from the agency as to the procedures and details thereof, or as provided in any bond resolution of the agency. If said money is placed in demand or time deposits, such deposits shall be secured at all times by the same type of obligations as those in which the reserve fund may be invested. Earnings from such deposits and investments shall be credited to the reserve fund, or the account therein from which the money was deposited or invested, or disposed of as provided in any bond resolution. Said investments

shall be sold promptly by the State Treasurer if and when necessary to prevent or cure any default in connection with the agency's bonds, as provided in this Act and the resolutions authorizing such bonds.

(f) The State Treasurer's surety bond required by law, and conditioned that the State Treasurer will faithfully execute the duties of the treasurer's office, shall be applicable to and cover the execution of the State Treasurer's duties with respect to the reserve fund as required by this Act.

(g) Notwithstanding the foregoing provisions of this section, the agency may or may not, at its option, create or fund the reserve fund and may issue its bonds which are not secured by the reserve fund, or any account therein, but which may be secured by any other or separate reserve fund or account to be kept at any place, or secured in any other manner provided in the agency's bond resolutions.

Payment Enforceable by Mandamus

Sec. 33. The writ of mandamus and all other legal and equitable remedies shall be available to any party at interest to require the agency, the State Treasurer, and any other party to carry out its or their agreements and to perform its or their functions and duties under this Act, the Texas Constitution, or the agency's bond resolutions.

Refunding Bonds

Sec. 34. (a) Any bonds issued by the agency may be refunded, or otherwise refinanced, by the issuance by the agency of refunding bonds for such purpose, under such terms, conditions, and details as shall be determined by the board.

(b) All pertinent and appropriate provisions of this Act shall be applicable to such refunding bonds, and they may be issued in the manner provided herein for other bonds authorized under this Act; provided that such refunding bonds may be sold and delivered in amounts sufficient to provide for the payment of the principal, interest, and redemption premium, if any, of any bonds to be refunded, at maturity or on any redemption date, in accordance with such procedures as shall be determined by the board, and the comptroller of public accounts shall register such refunding bonds without the necessity of cancelling the bonds being refunded.

(c) Also, such refunding bonds may be issued to be exchanged for the bonds being refunded thereby. In any case where refunding bonds are to be exchanged, the comptroller of public accounts shall register the refunding bonds and deliver the same to the holder or holders of the bonds being refunded thereby, in accordance with the provisions of the resolution authorizing the refunding bonds; and any such exchange may be made in one delivery or in several installment deliveries.

(d) Bonds issued by the agency also may be refunded in the manner provided by any other applicable statute, including Chapter 503, Acts of the 54th

Legislature, Regular Session, 1955, as amended, and Chapter 784, Acts of the 61st Legislature, Regular Session, 1969 (Articles 717k and 717k-3, Vernon's Texas Civil Statutes).

Bonds Negotiable Instruments

Sec. 35. Notwithstanding any statute to the contrary, each bond and interest coupon issued and delivered by the agency is and constitutes a negotiable instrument within the meaning and for all purposes of the Texas Uniform Commercial Code,¹ except that said bonds may be registered or subject to registration as permitted by this Act.

¹ Business and Commerce Code, § 1.101 et seq.

Payment of Agency's Obligations

Sec. 36. It is the duty of the board to establish and collect sufficient fees and charges for services and facilities and to utilize all other available sources of revenues, income, and receipts, in order to pay all expenses of operation and maintenance of the agency, to pay the principal of and interest on its bonds, and to create and maintain the reserve fund and any other reserves or funds as provided in each resolution authorizing the issuance of its bonds. In any resolution authorizing the issuance of the agency's bonds the board may prescribe systems, methods, routines, and procedures under which the agency shall function, consistent with this Act.

Validity of Liens and Pledges

Sec. 37. Each lien on or pledge of revenues, income, or other resources of the agency, or on the assets of the agency, or on the reserve fund, or other reserves or funds of the agency, as authorized by this Act, shall be valid and binding from the time of payment for and delivery of the bonds authorized by the resolution of the board creating or confirming any such lien or pledge. All such liens and pledges shall be fully effective as to items then on hand or thereafter received, and said items shall be subject to such liens or pledges without any physical delivery thereof or further act. All such liens and pledges shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the agency or other party, irrespective of whether such parties have notice thereof. Neither any resolution authorizing the issuance of bonds of the agency nor any other instrument by which any such lien or pledge is created or confirmed need be filed or recorded except in the records of the agency, and except that each bond resolution of the agency shall be submitted to the Attorney General of the State of Texas as required by Section 27 of this Act.

Bonds not Taxable

Sec. 38. As set forth in this act the agency will be performing an essential governmental function in the exercise of the powers conferred upon it by this Act, and the bonds of the agency issued pursu-

ant to this Act, and the interest and income therefrom, including any profit made on the sale thereof, and all its fees, charges, gifts, grants, revenues, receipts, and other money received or pledged to pay or secure the payment of such bonds shall at all times be free from taxation and assessments of every kind by this state and by all public agencies.

Authorized Investments

Sec. 39. (a) All bonds issued by the agency under this Act shall be legal and authorized investments for all:

- (1) banks;
- (2) savings banks;
- (3) trust companies;
- (4) building and loan associations;
- (5) savings and loan associations;
- (6) insurance companies of all kinds and types;
- (7) fiduciaries;
- (8) trustees;
- (9) guardians; and
- (10) sinking and other public funds of the state, cities, towns, villages, counties, school districts, and other political subdivisions and public agencies of the state.

Security for Deposit of Funds

Sec. 40. All bonds also shall be eligible and lawful security for all deposits of public funds of the state and all public agencies, to the extent of the par or market value of said bonds, whichever is greater, when accompanied by any unmatured interest coupons appurtenant thereto.

Mutilated, Lost, Stolen, Destroyed Bonds

Sec. 41. The board may provide procedures for the replacement of any mutilated, lost, stolen, or destroyed bond or interest coupon.

No Gain Allowed

Sec. 42. Neither the administrator, chairman of the board, nor any director of the agency, for purposes of personal pecuniary gain, shall have or attempt to have any pecuniary interest in any transaction to which the agency is a party.

No Discrimination

Sec. 43. No person in the state shall, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this Act.

Liberal Construction of the Act

Sec. 44. This Act shall be construed liberally to effectuate the legislative intent and the purposes of this Act, and all powers herein granted shall be

broadly interpreted to effectuate such intent and purposes and not as a limitation of powers.

Cumulative Effect of the Act; Conflicting Laws

Sec. 45. This Act shall be cumulative of all other laws, but this Act shall be wholly sufficient authority within itself for the issuance of the bonds and the performance of the other acts and procedures authorized hereby, without reference to any other laws or any restrictions, approvals, or limitations contained therein, except as herein specifically provided; and to the extent of any conflict or inconsistency between any provisions of this Act and any provisions of any other law, the provisions of this Act shall prevail and control; provided, however, that the board shall have the right to use the provisions of any other laws not in conflict with the provisions hereof to the extent convenient or necessary to carry out any power or authority, express or implied, granted by this Act.

Severability Clause

Sec. 46. In case any one or more of the sections, provisions, clauses, or words of this Act or the application of such sections, provisions, clauses, or words to any situation or circumstance shall for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other sections, provisions, clauses, or words of this Act or the application of such sections, provisions, clauses, or words to any other situation or circumstance, and it is intended that this Act shall be severable and shall be construed and applied as if any such invalid or unconstitutional section, provision, clause, or word had not been included herein.

Appropriation

Sec. 47. If the General Appropriation Act for the fiscal biennium ending on August 31, 1981, contains an appropriation for the administration of this Act, the validity of the appropriation is not affected by the fact that it refers to the Texas Housing Agency as the Texas Housing Finance Authority.

Authority to Issue General Obligation Bonds Contingent

Sec. 48. Subsection (a) of Section 21 of this Act, to the extent it authorizes the issuance of general obligation bonds, takes effect if and when the Texas Constitution is amended to permit the issuance of such bonds as contemplated by that provision of this Act.

[Acts 1979, 66th Leg., p. 2122, ch. 823, eff. Aug. 27, 1979. Amended by Acts 1981, 67th Leg., p. 3232, ch. 852, § 4(a), (b), eff. June 17, 1981; Acts 1983, 68th Leg., p. 4616, ch. 787, §§ 1, 2, eff. Aug. 29, 1983.]

Section 4(c) of the 1981 amendatory act provides:

"The terms used in Section 4 of this Act shall have the same meaning as defined in the Texas Housing Agency Act (Article 1269-6, Vernon's Texas Civil Statutes)."

Section 3 of the 1983 amendatory act provides:

"In case any one or more of the sections, provisions, clauses, or words of this Act or the application of such sections, provisions, clauses, or words to any situation or circumstance shall for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other sections, provisions, clauses, or words of the Act or the application of such sections, provisions, clauses, or words to any other situation or circumstance, and it is intended that the Act shall be severable and shall be construed and applied as if any such invalid or unconstitutional section, provision, clause, or word had not been included herein."

Art. 1269/7. Housing Finance Corporations Act

Short Title, Captions, Sections, Subsections, and Paragraphs

Sec. 1. A. This Act shall be known and may be cited as the "Texas Housing Finance Corporations Act."

B. The division of this Act into sections, subsections, and paragraphs and the use of captions in connection therewith are solely for convenience and shall have no legal effect in construing the provisions of this Act.

Definitions

Sec. 2. Wherever used in this Act, unless a different meaning clearly appears in the context, the following terms, whether used in the singular or plural, shall be given the following respective interpretations:

"Bonds" means the revenue bonds authorized under this Act and includes notes and any and all other limited obligations payable as provided hereunder.

"City" means any city or town of this state presently existing or hereafter created, whether existing or created by general law or pursuant to a home-rule charter.

"Corporation" means any public nonprofit corporation organized pursuant to the provisions of this Act.

"County" means any county of the State of Texas.

"Development costs" means and includes the sum total of all reasonable or necessary costs incidental to the providing, acquisition, construction, reconstruction, rehabilitation, repair, alteration, improvement, and extension of a residential development, including, without limitation, the following: the cost of studies and surveys; plans and specifications; architectural and engineering services; financial advisory, mortgage banking and administrative services; underwriting fees; legal, accounting, marketing, and other special services relating to residential development or incurred in connection with the issuance and sale of bonds; necessary application and other fees to federal, state, and local government agencies for any requisite approvals for construction, for assisted financing or otherwise; financing, acquisition, demolition, construction, equipment, and site development of new and rehabilitated buildings; the relocation of utilities, public ways, and parks; the construction of recreational, cultural, and com-

mercial facilities; rehabilitation, reconstruction, repair, or remodeling of existing buildings and all other necessary and incidental expenses, including trustee and rating agency fees and an initial bond and interest reserve together with interest on bonds issued to finance a residential development to a date 12 months subsequent to the estimated date of completion; any premiums for mortgage insurance or insurance with respect to bonds; and such other expenses as the corporation may deem appropriate to effectuate the purposes of this Act.

"Economically depressed or blighted area" means: (i) an area that has been determined by the issuer to be a qualified census tract or an area of chronic economic distress pursuant to the requirements of Section 103A, Internal Revenue Code of 1954 (26 U.S.C. Sec. 103A), or (ii) an area established within a city that has a substantial number of substandard, slum, deteriorated, or deteriorating structures, that suffers from a high relative rate of unemployment, or (iii) that has been designed and included in a tax increment district created under Chapter 695, Acts of the 66th Legislature, Regular Session, 1979 (Article 1066d, Vernon's Texas Civil Statutes). To establish an economically depressed or blighted area, pursuant to the provisions of (ii) or (iii) of this subsection, the governing body of the city must hold a public hearing and find that the area substantially impairs or arrests the sound growth of the city, or that it constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use. The governing body of a city holding such a hearing must give notice as provided by Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), except that notice must be published not less than 10 days before the day of the hearing.

"Federally assisted new communities" shall mean those federally assisted areas which have received or will receive assistance in the form of loan guarantees under Title X of the National Housing Act¹ and a portion of the federally assisted area has received grants under Section 107(a)(1) of the Housing and Community Development Act of 1974, as amended.²

"Governing body" means, with reference to a local governmental unit, as herein defined, the council, commission, commissioners court, or similar body charged by law with the governance of a local governmental unit.

"Home" means real property and improvements thereon located within a local governmental unit (but as to a county, not within a city within the county without approval of the governing body of the city if the population of the city exceeds 20,000 as determined by the corporation's rules or regulations, resolutions relating to the issuance of bonds, or financing documents relating to such issuance) consisting of not more than four connected dwelling

units, including but not limited to condominium units, owned by one mortgagor who occupies or intends to occupy one of such units.

"Home mortgage" means an interest-bearing loan to a mortgagor, or a participation therein, for the purpose of purchasing, improving, or constructing a home, evidenced by a promissory note, secured by a mortgage, mortgage deed, deed of trust, or other instrument which constitutes a lien on such home, and which is guaranteed or insured by the United States or any agency, department, or instrumentality thereof, or by any private mortgage insurance or surety company, to the extent that such loan exceeds 80 percent of the lesser of (i) the appraised value of the home at the time of its making or (ii) the sales price of such home. Such guaranty or insurance shall not be required on home mortgages if the principal of and interest on the corporation's bonds issued to make or purchase such home mortgages or to make loans to lending institutions are guaranteed or insured by an agency, department or instrumentality of the United States government or any insurance or surety company authorized to issue municipal bond insurance.

"Lending institution" means any bank, trust company, savings bank, national banking association, savings and loan association, building and loan association, mortgage banker, mortgage company, credit union, life insurance company, or other financial institution or governmental agency which customarily provides service or otherwise aids in the financing of mortgages on single family residential housing or multifamily residential housing located in the local governmental unit, or any holding company for any of the foregoing.

"Local governmental unit" means any city or county.

"Mortgagor" means a person or persons of low or moderate income whose adjusted gross aggregate income, together with the adjusted gross aggregate income of all persons who intend to reside with such person or persons in one dwelling unit, did not, for the immediately preceding taxable year, exceed the maximum amount established as constituting moderate income by the corporation's rules or regulations, resolutions relating to the issuance of bonds, or financing documents relating to such issuance. In economically depressed or blighted areas or in federally assisted new communities located within a home-rule city, "mortgagor" may include a person or persons whose adjusted gross aggregate income exceeds the amount constituting moderate income if at least 90 percent of the total mortgage amount available under a home mortgage revenue bond issue is designated for persons of low or moderate income.

"Person" means any individual, partnership, co-partnership, firm, company, corporation, lending institution, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or its legal representative, agent,

or assigns, but shall, when used with reference to a mortgagor or owner of a home, mean a natural person or a trust for the benefit of such natural person.

"Residential development" means the acquisition, construction, reconstruction, rehabilitation, repair, alteration, improvement, or extension of any land, interest in land, building, structure, facility, system, fixture, improvement, addition, appurtenance, machinery, or equipment or any combination thereof, all real and personal property deemed necessary in connection therewith, and all real and personal property or improvements functionally related and subordinate thereto, substantially (at least 90 percent) for use by or intended to be occupied substantially (at least 90 percent) by persons of low and moderate income whose adjusted gross income, together with the adjusted gross income of all persons who intend to reside with such persons in one dwelling unit, did not, for the immediately preceding taxable year, exceed the maximum amount established as constituting moderate income by the corporation's rules or regulations, resolutions relating to the issuance of bonds, or financing documents relating to such issuance, for the purpose of obtaining decent, safe, and sanitary housing, and in connection therewith nonhousing facilities which are an integral part of or functionally related to such residential development. Any such residential development shall be located within the local governmental unit.

¹ 12 U.S.C.A. § 1749aa et seq.

² 42 U.S.C.A. § 5307(a)(1).

Purpose of Act—Liberal Construction

Sec. 3. It is hereby determined and declared that the purpose of this Act is to provide a means of financing the cost of residential ownership and development that will provide decent, safe, and sanitary housing for residents of local governmental units at prices they can afford; it is further determined and declared that such residential ownership and development will (a) provide for and promote the public health, safety, morals, and welfare; (b) relieve conditions of unemployment and encourage the increase of industry and commercial activity and economic development so as to reduce the evils attendant upon unemployment; (c) provide for efficient and well-planned urban growth and development including the elimination and prevention of potential urban blight and the proper coordination of industrial facilities with public services, mass transportation, and residential development; (d) assist persons of low and moderate income in acquiring and owning decent, safe, and sanitary housing which they can afford; and (e) preserve and increase ad valorem tax bases of local governmental units; and the foregoing are hereby determined and declared to lessen the burdens of government and to be public purposes and functions; and it is the intent of the legislature by the passage of this Act to authorize local governmental units to create and utilize public nonprofit corporations to issue obligations to accomplish such public purposes. This Act

shall be liberally construed in conformity with its intention.

**Application to Governing Body of Local
Governmental Unit**

Sec. 4. A. Whenever any number of individuals, not less than three, each of whom shall be a citizen of the State of Texas, of the age of 18 years or more and residents of the local governmental unit, shall file with the governing body of the local governmental unit an application in writing seeking the incorporation of a housing finance corporation under the provisions of this Act, the governing body shall proceed to consider such application. If the governing body shall by appropriate resolution duly adopted find and determine that it is wise, expedient, necessary, or advisable that the corporation be formed and shall approve the form of articles of incorporation proposed to be used in organizing the corporation, then articles of incorporation for the corporation may be filed as hereinafter provided. No corporation may be formed unless such application shall have first been filed with the governing body of the local governmental unit and the governing body shall have adopted a resolution as provided in this section. The approval of the articles of incorporation of one corporation shall not preclude the approval by the governing body of the local governmental unit of the articles of incorporation of other corporations with names or designations sufficient to distinguish them from any corporation theretofore incorporated; provided that the governing body of the local governmental unit shall not permit the existence of more than one corporation created on its behalf which has the power to make or acquire home mortgages, or make loans to lending institutions, the proceeds of which will be used to make home mortgages or to make loans on residential developments.

B. Corporations acting on behalf of more than one local governmental unit may be created as set forth in this subsection. Not less than three residents of each local governmental unit on whose behalf the corporation is to be formed who are of the age of 18 years or more, and citizens of the state shall file with the governing body of each local governmental unit on whose behalf the corporation is to be formed (the sponsoring local governmental units) an application in writing seeking the incorporation of a joint housing finance corporation under the provisions of this Act.

If the governing body of each sponsoring local governmental unit shall by appropriate resolution duly adopted find and determine that it is wise, expedient, necessary, or advisable that the joint corporation be formed and shall approve the form of articles of incorporation proposed to be used in organizing the joint corporation, then articles of incorporation for the joint corporation may be filed as hereinafter provided. No joint corporation may be formed unless such application shall have first been filed with the governing body of each proposed

sponsoring local governmental unit and the governing body of each such unit shall have adopted a resolution as provided in this subsection. The approval of the articles of incorporation of one joint corporation shall not preclude the approval by the governing body of the local governmental unit of the articles of incorporation of other corporations with names or designations sufficient to distinguish them from any corporation theretofore incorporated; provided, however, (without affecting the power of corporations heretofore created) a local governmental unit that creates a joint corporation may not thereafter create a corporation that has power to make home mortgages or make loans to lending institutions, the proceeds of which will be used to make home mortgages or to make loans on residential developments.

Incorporators or directors of a joint corporation shall reside in one of the sponsoring local governmental units. Initial directors of a joint corporation shall be appointed by all sponsoring local governmental units. Succeeding directors appointed to the board shall be appointed by one or more of the sponsoring local governmental units as provided in the articles of incorporation or the bylaws.

All sponsoring local governmental units of a joint corporation shall be deemed to be one local governmental unit for purposes of this Act. When action of the governing body of a local governmental unit is required, this Act shall be construed to mean action by the governing body of each sponsoring local governmental unit of a joint corporation. A joint corporation shall have all powers granted to corporations pursuant to this Act. A joint corporation shall be deemed to be acting on behalf of all sponsoring local governmental units as provided in the articles of incorporation. Net earnings of a joint corporation and funds and properties of a joint corporation upon dissolution shall be disbursed to the sponsoring local governmental units as provided in the articles of incorporation. Joint corporations may not operate in more than one State planning region.

Articles of Incorporation—Contents

Sec. 5. A. The articles of incorporation of a housing finance corporation shall set forth:

- (1) the name of the corporation;
- (2) a statement that the corporation is a public nonprofit corporation;
- (3) the period of duration, which may be perpetual;
- (4) a statement that the corporation is organized solely to carry out the purposes of this Act;
- (5) a statement that the corporation is to have no members;
- (6) any provision, not inconsistent with law, including any provision which under this Act is required or permitted to be set forth in the bylaws,

for the regulation of the internal affairs of the corporation;

(7) the street address of its initial registered office (which shall be within the local governmental unit) and the name of its initial registered agent at such street address;

(8) the number of directors constituting the initial board of directors, and the names and addresses of the persons who are to serve as the initial directors together with a recital that each of them resides within the local governmental unit;

(9) the name and street address of each incorporator together with a recital that each of them resides within the local governmental unit;

(10) a recital that a resolution approving the form of the articles of incorporation has been duly adopted by the governing body of the local governmental unit and the date of the adoption of such resolution.

B. It shall not be necessary to set forth in the articles of incorporation any of the corporate powers enumerated in this Act; provided, however, that the articles of incorporation may prohibit the exercise by the corporation of any power or powers enumerated in this Act.

C. Unless the articles of incorporation provide that a change in the number of directors shall be made only by amendment to the articles of incorporation, a change in the number of directors made by amendment to the bylaws shall be controlling. In all other cases, whenever a provision of the articles of incorporation is inconsistent with a bylaw, the provision of the articles of incorporation shall be controlling.

Incorporators

Sec. 6. Three or more residents of the local governmental unit, of the age of 18 years or more, may act as incorporators of a corporation by signing, verifying, and delivering in duplicate to the secretary of state articles of incorporation for such corporation. An incorporator may be a member of the governing body, an officer, or an employee of the local governmental unit.

Filing of Articles of Incorporation—Effect of Issuance of Certificate of Incorporation

Sec. 7. A. Duplicate originals of the articles of incorporation shall be delivered to the secretary of state. If the secretary of state finds that the articles of incorporation conform to this Act, he shall, when a fee of \$25 has been paid:

(1) endorse on each duplicate original the word "Filed," and the month, day, and year of the filing thereof;

(2) file one of such duplicate originals in his office;

(3) issue a certificate of incorporation to which he shall affix the other duplicate original.

B. The certificate of incorporation, together with the duplicate original of the articles of incorporation affixed thereto by the secretary of state, shall be delivered to the incorporators or their representatives.

C. Upon the issuance of the certificate of incorporation, the corporate existence shall begin, and such certificate of incorporation shall be conclusive evidence that all conditions precedent required to be performed by the local governmental unit and the incorporators have been complied with, and that the corporation has been duly incorporated under this Act. The corporation shall constitute a public instrumentality and nonprofit corporation under the name set out in the articles of incorporation. The corporation does not and will not constitute a county, city, or other political corporation or subdivision of the state, but the corporation is authorized to issue bonds and to carry out the public purposes for which it is incorporated on behalf of and for the benefit of the general public, the governmental unit, and the state.

Amendment of Articles of Incorporation—Articles of Amendment

Sec. 8. A. The articles of incorporation may at any time and from time to time be amended so as to make any changes therein and add any provisions thereto which might have been included in the articles of incorporation in the first instance. Any such amendment shall be effected in either of the following manners: (i) the members of the board of directors of the corporation shall file with the governing body of the local governmental unit an application in writing seeking permission to amend the articles of incorporation, specifying in such application the amendment proposed to be made, such governing body shall consider such application and, if it shall by appropriate resolution duly find and determine that it is wise, expedient, necessary, or advisable that the proposed amendment be made and shall authorize the same to be made, and shall approve the form of the proposed amendment, then the board of directors of the corporation may amend the articles of incorporation by adopting such amendment at a meeting of the board of directors and delivering articles of amendment to the secretary of state, or (ii) the governing body of the local governmental unit may, at its sole discretion, and at any time, alter or change the structure, organization, programs, or activities of the corporation (including the power to terminate the corporation) subject to any limitation on the impairment of contracts entered into by the corporation, by adopting an amendment to the articles of incorporation of the corporation at a meeting of the governing body of the local governmental unit and delivering articles of amendment to the secretary of state.

B. The articles of amendment shall be executed in duplicate by the corporation by its president or by a vice-president and by its secretary or an assistant secretary, or by the local governmental unit by its

presiding officer and secretary or clerk, shall be verified by one of the officers signing such articles, and shall set forth:

- (1) the name of the corporation;
- (2) if the amendment alters any provision of the original or amended articles of incorporation, an identification by reference or description of the altered provision and a statement of its text as it is amended to read. If the amendment is an addition to the original or amended articles of incorporation, a statement of that fact and the full text of each provision added;
- (3) the date of the meeting of the board of directors, or of the governing body of the local governmental unit, at which the amendment was adopted, and a statement of the fact that such amendment received the vote of a majority of the directors, or of the members of the governing body of the local governmental unit, in office.

Filing of Articles of Amendment—Effect of Certificate of Amendment

Sec. 9. A. Duplicate originals of the articles of amendment shall be delivered to the secretary of state. If the secretary of state finds that the articles of amendment conform to law, he shall, when a fee of \$25 has been paid:

- (1) endorse on each of such duplicate originals the word "Filed," and the month, day, and year of the filing thereof;
- (2) file one of such duplicate originals in his office;
- (3) issue a certificate of amendment to which he shall affix the other duplicate original.

B. The certificate of amendment, together with the duplicate original of the articles of amendment affixed thereto by the secretary of state, shall be delivered to the corporation or its representative.

C. Upon the issuance of the certificate of amendment by the secretary of state, the amendment shall become effective and the articles of incorporation shall be deemed to be amended accordingly.

D. No amendment shall affect any existing cause of action in favor of or against the corporation, or any pending suit to which the corporation shall be a party, or the existing rights of persons other than members; and, in the event the corporate name shall be changed by amendment, no suit brought by or against the corporation under its former name shall abate for that reason.

Board of Directors

Sec. 10. The corporation shall have a board of directors in which all powers of the corporation shall be vested and which shall consist of any number of directors all of whom shall be residents of the local governmental unit. A director may be a member of the governing body, an officer, or an employee of the local governmental unit. The initial board

of directors shall be named in the articles of incorporation approved by the local governmental unit and shall hold office for such period as may be specified in the articles of incorporation. Thereafter, directors shall be appointed by the governing body of the local governmental unit in the manner and for the terms provided in the articles of incorporation or the bylaws. Directors may be divided into classes and the terms of office of the several classes need not be uniform. Each director shall hold office for the term for which he is elected or appointed and until his successor shall have been elected or appointed and qualified. A director may be removed from office pursuant to any procedure therefor provided in the articles of incorporation or bylaws. Any vacancy occurring in the board of directors shall be filled by appointment by the governing body of the local governmental unit in the manner provided in the articles of incorporation or the bylaws. A majority of the directors shall constitute a quorum, and when a quorum is present action may be taken by a majority vote of the directors present. Meetings of the board of directors, regular or special, may be held within or without the state. Regular meetings may be held with or without notice as prescribed in the bylaws. Special meetings shall be held upon such notice as is prescribed in the bylaws. The officers of the corporation shall consist of a president, one or more vice-presidents, a secretary, a treasurer, and such other officers and assistant officers as may be deemed necessary, each of whom shall be elected or appointed at such times and in such manner and for such terms as may be prescribed in the articles of incorporation or the bylaws.

Organization Meeting

Sec. 11. After the issuance of the certificate of incorporation, an organization meeting of the board of directors named in the articles of incorporation shall be held, either within or without this state, at the call of a majority of the incorporators, for the purpose of adopting bylaws, electing officers, and for such other purposes as may come before the meeting. The incorporators calling the meeting shall give at least three days' notice thereof by mail to each director named in the articles of incorporation, which notice shall state the time and place of the meeting.

Registered Office and Registered Agent

Sec. 12. The corporation shall maintain a registered office and registered agent in accordance with the provisions of Article 2.05, Texas Non-Profit Corporation Act.¹ The corporation may change its registered office and registered agent in accordance with the provisions of Article 2.06, Texas Non-Profit Corporation Act.² Process may be served on the corporation in accordance with the provisions of Article 2.07, Texas Non-Profit Corporation Act.³

¹ Article 1396-2.05.

² Article 1396-2.06.

³ Article 1396-2.07.

Powers of Corporation

Sec. 13. A corporation organized under this Act shall have the following powers together with all powers incidental thereto or necessary for the performance of those hereinafter stated:

(1) to have perpetual succession by its corporate name, unless a limited period of duration is stated in its articles of incorporation;

(2) to sue and be sued, complain and defend, in its corporate name;

(3) to have a corporate seal which may be altered at pleasure, and to use the same by causing it, or a facsimile thereof, to be impressed on, affixed to, or in any manner reproduced upon, instruments of any nature required to be executed by its proper officers;

(4) to purchase, receive, lease, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with, real or personal property, or any interest therein, wherever situated, as the purposes of the corporation shall require, or as shall be donated to it;

(5) to sell, convey, mortgage, pledge, lease, exchange, transfer, and otherwise dispose of all or any part of its property and assets;

(6) to purchase, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, mortgage, lend, pledge, sell, or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, or obligations of, other domestic or foreign corporations, whether for profit or not for profit, associations, partnerships, or individuals, or direct or indirect obligations of the United States or of any other government, state, political subdivision of a state, territory, government district, or of any instrumentality thereof;

(7) to make contracts and incur liabilities, borrow money at such rates of interest as the corporation may determine, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of all or any of its property, franchises, and income;

(8) to lend money for its corporate purposes, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested;

(9) to elect or appoint officers and agents of the corporation for such period of time as the corporation may determine and define their duties and fix their compensation;

(10) to make, alter, amend, and repeal bylaws, not inconsistent with its articles of incorporation or with this Act, for the administration and regulation of the affairs of the corporation;

(11) to make donations for the public welfare or for charitable, scientific, or educational purposes;

(12) to plan, conduct research, study, develop, and promote the establishment of residential development;

(13) to acquire, and contract and enter into advance commitments to acquire, by assignment or otherwise, home mortgages owned by lending institutions at such purchase prices and upon such other terms and conditions as shall be determined by the corporation or such other person as it may designate as its agent;

(14) to make, and contract and enter into advance commitments to make, home mortgages; provided, however, that such home mortgages shall be originated and serviced by lending institutions;

(15) to make and execute contracts with lending institutions for the origination, administration, and servicing of home mortgages and to pay the reasonable value of services rendered under those contracts;

(16) to make loans to lending institutions under terms and conditions which, in addition to other provisions as determined by the corporation, shall require the lending institutions to use substantially all of the net proceeds thereof, directly or indirectly, for the making of home mortgages in an aggregate principal amount substantially equal to the amount of such net proceeds; provided that such loans to lending institutions shall be fully secured in the same manner as deposits of public funds of the local governmental unit to the extent not secured by home mortgages;

(17) to establish, by rules or regulations, in resolutions relating to any issuance of bonds, or in any financing documents relating to such issuance, such standards and requirements applicable to the making or purchase of home mortgages or the making of loans to lending institutions as the corporation deems necessary or desirable, including but not limited to: (i) the time within which lending institutions must make commitments and disbursements for home mortgages; (ii) the location and other characteristics of homes to be financed by home mortgages; (iii) the terms and conditions of home mortgages to be made or acquired; (iv) the amounts and types of insurance coverage required on homes, home mortgages, and bonds; (v) the representations and warranties of lending institutions confirming compliance with such standards and requirements; (vi) restrictions as to interest rate and other terms of home mortgages or the return realized therefrom by lending institutions; (vii) the type and amount of collateral security to be provided to assure repayment of any loans from the corporation and to assure repayment of bonds; and (viii) any other matters related to the making or purchase of home mortgages or the making of loans to lending institutions as shall be deemed relevant by the corporation;

(18) to require from each lending institution from which home mortgages are proposed to be purchased or to which loans are made, the submission

of evidence satisfactory to the corporation of the ability and intention of such lending institution to make home mortgages, and the submission, within the time specified by the corporation for making disbursements for home mortgages, of evidence satisfactory to the corporation of the making of home mortgages and of compliance with any standards and requirements established by the corporation;

(19) to issue its bonds to defray, in whole or in part, the development costs of any residential development; to issue its bonds the aggregate principal amount of which issued in any calendar year shall not exceed the total of (a) the costs of issuance of such bonds, any reserves or capitalized interest required by the resolution or resolutions authorizing the bonds, plus any bond discounts, and (b) the greater of (i) \$20,000,000, (ii) a figure determined by multiplying \$150 times the population of the local governmental unit as determined by the corporation's rules or regulations, resolutions relating to the issuance of bonds, or financing documents relating to such issuance, which determination shall be conclusive, or (iii) an amount equal to 25 percent of the total dollar amount of the market demand for home mortgages during such calendar year as determined by the corporation's rules or regulations, resolutions relating to the issuance of bonds, or financing documents relating to such issuance, which determination shall be conclusive, to defray, in whole or in part, the costs of purchasing, or funding the making of, home mortgages including, but not limited to, the costs of studies and surveys, insurance premiums, financial advisory, mortgage banking and administrative services, underwriting fees, legal, accounting, and marketing services incurred in connection with the issuance and sale of such bonds, including bond and interest reserve accounts, capitalized interest accounts, and trustee, custodian, and rating agency fees; and to designate appropriate names for such bonds. The corporation need not acquire or hold title to or any interest in a residential development or home mortgage;

(20) to rent, lease, sell, or otherwise dispose of any residential development or home mortgages, in whole or in part, or to loan sufficient funds to any person to defray, in whole or in part, the development costs of any residential development or the costs of purchasing home mortgages, so that the rents or other revenues to be derived with respect to the residential development or home mortgages, together with any insurance proceeds, reserve accounts and earnings thereon shall be designed to produce revenues and receipts at least sufficient to provide for the prompt payment at maturity of principal, interest, and redemption premiums, if any, upon all bonds issued to finance such costs;

(21) to pledge all or any part of the revenues, receipts, or resources of the corporation, including the revenues and receipts to be received from any residential development or home mortgages to the punctual payment of bonds authorized under this

Act, and the interest and redemption premiums, if any, thereon;

(22) to mortgage, pledge, or grant security interests in any residential development, home mortgages, notes, or other property in favor of the holder or holders of bonds issued therefor;

(23) to sell and convey any residential development or home mortgages, including, without limitation, the sale and conveyance thereof subject to a mortgage, pledge, or security interest, if any, as provided in the resolution relating to the issuance of the bonds for such prices and at such times as the board of directors of the corporation may determine;

(24) to issue its bonds to refund in whole or in part at any time bonds theretofore issued by the corporation under authority of this Act;

(25) to apply for and accept on its own behalf or on behalf of any person, advances, loans, grants, contributions, guarantees, rent supplements, mortgage assistance, and any other form of financial assistance from the federal government, the state, any county or city, or any other public or quasi-public body, corporation or foundation, or from any other source, public or private, including any person, for any of the purposes of this Act, and to include in any contract for financial assistance such conditions as it may deem reasonable and appropriate and which are not inconsistent with the purposes of this Act;

(26) to make and execute contracts and other instruments necessary or convenient to the exercise of any of the powers granted herein;

(27) whether included in the foregoing or not, to have and exercise all powers necessary or appropriate to effect any or all of the purposes for which the corporation is organized.

Bonds of Corporation

Sec. 14. The exercise of any or all powers granted by this Act may be authorized and the bonds may be authorized to be issued under this Act for the purposes set forth in this Act, by resolution of the board of directors of the corporation, which shall take effect immediately upon adoption. The bonds shall bear interest at such rate or rates as authorized by the provisions of Chapter 3, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 717k-2, Vernon's Texas Civil Statutes), may be payable at such times, may be in one or more series, may bear such date or dates, may mature at such time or times, may be payable in such medium of payment at such place or places, may carry such registration privileges, may be subject to such terms of redemption at such premiums, may be executed in such manner, may contain such terms, covenants, and conditions, and may be in such form, either coupon or registered, as such resolution may provide. The bonds may be sold at public or private sale in such manner and upon such

terms as may be provided in such resolution. Pending the preparation of definitive bonds, interim receipts, or certificates in such form and with such provisions as may be provided in such resolution, may be issued to the purchaser or purchasers of bonds sold pursuant to this Act.

Covenants in Bonds

Sec. 15. Any resolution authorizing the issuance of bonds under this Act may contain covenants as to (a) the use and disposition of the proceeds of the bonds and the revenues and receipts from any residential development or home mortgages for which the bonds are to be issued, including the creation and maintenance of reserves; (b) the issuance of other or additional bonds relating to any residential development or any rehabilitation, improvements, renovations, enlargements, or additions thereto; (c) the maintenance and repair of such residential development or any homes; (d) the insurance to be carried on any residential development, home, home mortgage, or bonds and the use and disposition of insurance moneys; (e) the appointment of one or more banks or trust companies within or outside the State of Texas, having the necessary trust powers, as trustee and/or custodian for the benefit of the bondholders, paying agent, or bond registrar; (f) the appointment of one or more mortgage bankers to provide requisite administrative and mortgage servicing functions to assure the proper administration, for the benefit of the bondholders, of the corporation's portfolio of home mortgage loans; (g) the investment of any funds held by such trustee or custodian; (h) the maximum interest rate payable on any home mortgage; and (i) the terms and conditions upon which the holders of the bonds or any portion thereof or any trustees therefor, are entitled to the appointment of a receiver by a court of competent jurisdiction, and said terms and conditions may provide that the receiver may enter and take possession of the residential development or home mortgages, or any part thereto, and maintain, lease, sell, or otherwise dispose of such development or mortgages, prescribe rentals or other payments, and collect, receive, and apply all income and revenues thereafter arising therefrom. Any resolution authorizing the issuance of bonds under this Act may provide that the principal of and interest on any bonds issued under this Act shall be secured by a mortgage, pledge, security interest, insurance agreement, or indenture of trust covering such residential development or home mortgages for which the bonds are issued and may include any improvements or extensions thereafter made. Such mortgage, pledge, security interest, insurance agreement, or indenture of trust may contain such covenants and agreements to properly safeguard the bonds as may be provided for in the resolution authorizing such bonds and shall be executed in the manner as may be provided for in the resolution. The provisions of this Act and any such resolution and any such mortgage, pledge, security interest, or indenture of trust shall constitute a contract with

the holder or holders of the bonds and continue in effect until the principal of, the interest on, and the redemption premiums, if any, on the bonds so issued have been fully paid or provision made therefor, and the duties of the corporation and its corporate authorities and officers under this Act and any such resolution and any such mortgage, pledge, security interest, or indenture of trust shall be enforceable as provided therein by any bondholder by mandamus, foreclosure of any such mortgage, pledge, security interest, or indenture of trust or other appropriate suit, action, or proceeding in any court of competent jurisdiction; provided the resolution or any mortgage, pledge, security interest, or indenture of trust under which the bonds are issued may provide that all such remedies and rights to enforcement may be vested in a trustee (with full power of appointment) for the benefit of all the bondholders, which trustee shall be subject to the control of such number of holders or owners of any outstanding bonds as provided therein.

Signature of Officers on Bonds—Validity of Bonds

Sec. 16. The bonds shall bear the manual or facsimile signatures of such officers of the corporation as may be designated in the resolution authorizing such bonds, and such signatures shall be the valid and binding signatures of the officer of the corporation, notwithstanding that before the delivery thereof and payment therefor any or all of the persons whose signatures appear thereon have ceased to be officers of the corporation issuing such bonds. The validity of the bonds is not dependent on nor affected by the validity or regularity of any proceedings relating to the residential development or home mortgages for which the bonds are issued. The resolution authorizing the bonds may provide that the bonds shall contain a recital that they are issued pursuant to this Act, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

Lien of Bonds

Sec. 17. Bonds issued under this Act may be secured by a pledge of or lien upon all or any part of the revenues, receipts, or resources of the corporation, including the revenues and receipts derived from the residential development or home mortgages or from any notes or other obligations of lending institutions with respect to which the bonds have been issued, and the board of directors may provide in the resolution authorizing such bonds for the issuance of additional bonds to be equally and ratably secured by a lien upon such revenues and receipts or may provide that the lien upon such revenues and receipts is subordinate. Subordinate lien bonds also may be issued unless prohibited in any bond resolution.

Liability for Bonds

Sec. 18. All bonds issued under and pursuant to this Act shall be limited obligations of the corpora-

tion payable solely out of the revenues, receipts, and resources pledged to their payment. No holder of any bonds issued under this Act has the right to compel the local governmental unit to pay the bonds, the interest or redemption premium, if any, thereon, and the bonds shall not constitute an indebtedness or obligation of the local governmental unit or any other county, city, or other municipal or political corporation or subdivision of the state or of the state, or a loan of credit of any of them, within the meaning of any constitutional or statutory provision, nor shall the bonds be construed to create any moral obligation on the part of the local governmental unit or any other county, city, or other municipal or political corporation or subdivision of the state or of the state, with respect to the payment of such bonds, and all such entities are hereby prohibited from making any payments with respect to said bonds. It shall be plainly stated on the face of each bond that it has been issued under the provisions of this Act and that it does not constitute an indebtedness or obligation of the local governmental unit or any other county, city, or other municipal or political corporation or subdivision of the state or of the state, or a loan of credit of any of them, within the meaning of any constitutional or statutory provisions.

Investment of Funds

Sec. 19. The corporation, or any trustee or custodian on behalf of the corporation, may invest any funds held by it as provided in the resolution authorizing the issuance of the bonds.

Exception From Construction and Bidding Requirements for Public Buildings

Sec. 20. The acquisition, construction, or rehabilitation of a private residential development or a home shall not be subject to any requirements relating to public buildings, structures, grounds, works, or improvements imposed by the laws of the State of Texas or any other similar requirements, and any requirement of competitive bidding or restriction imposed on the procedure for award of contracts for such purpose or the lease, sale, or other disposition of property of the local governmental unit is not applicable to any action taken under authority of this Act.

Exemption From Taxation

Sec. 21. It is hereby determined that the creation of the corporation is in all respects for the benefit of the people of the state, for the improvement of their health and welfare, and for the promotion of the economy, and that said purposes are public purposes and the corporation, being a public instrumentality and nonprofit corporation, will be performing an essential governmental function on behalf of and for the benefit of the general public, the local governmental unit, and the state. Accordingly, the corporation and all properties at any time owned by it and the income therefrom and all bonds issued by it, and their transfer, and the income

therefrom shall be exempt from the franchise tax, license and recording fees, and all other taxes imposed by the State of Texas or any political subdivision thereof as public property used for public purposes. However, a corporation is exempt from the franchise tax imposed by Chapter 171, Tax Code, only if the corporation is exempted by that chapter.

Bonds and Coupons are Securities

Sec. 22. Bonds issued under the provisions of this Act, and coupons, if any, representing interest thereon, shall when delivered be deemed and construed to be a "security" within the meaning of Chapter 8, Investment Securities, of the Uniform Commercial Code, as amended (Chapter 8, Title 1, Business & Commerce Code), and shall be exempt securities under the Texas Securities Act, as amended (Article 581-1 et seq., Vernon's Texas Civil Statutes). No contract under this Act shall be a security within the meaning of the Texas Securities Act.

Bonds are Legal and Authorized Investments and Security

Sec. 23. Bonds issued under the provisions of this Act shall be and are hereby declared to be legal and authorized investments for any banks; savings banks; trust companies; building and loan associations; insurance companies; fiduciaries; trustees and guardians; and sinking funds of cities, towns, villages, counties, school districts, and other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas and any and all public funds of cities, towns, villages, counties, school districts, and other political corporations or subdivisions of the State of Texas, and they shall be lawful and sufficient security for said deposits at their face value when accompanied by all unmatured coupons, if any, appurtenant thereto.

Nonliability of Local Governmental Unit and the State

Sec. 24. The local governmental unit and the state shall not in any event be liable in any manner for or with respect to the bonds of the corporation, and none of the corporation's agreements or obligations shall be construed to constitute an agreement, obligation, or indebtedness of the local governmental unit or the state within the meaning of any constitutional or statutory provision whatsoever.

Nonprofit Corporation—Disposition of Earnings

Sec. 25. The corporation shall be a public nonprofit corporation. No dividends shall ever be paid, and no part of the net earnings of the corporation shall be distributed to, or enure to the benefit of, its directors or officers, or other private person, association, or corporation, except in reasonable amounts for services rendered, and except that in the event the board of directors of the corporation shall determine that sufficient provision has been made for the full payment of the expenses, bonds, and other

obligations of the corporation, then any net earnings of the corporation thereafter accruing shall be paid to the local governmental unit on behalf of which the corporation was organized; provided, however, that nothing herein contained shall prevent the board of directors from transferring all or any part of its properties in accordance with the terms of any contract or agreement entered into by the corporation.

Books and Records

Sec. 26. The corporation shall keep correct and complete books and records of account and shall keep minutes of proceedings of its board of directors.

Completion of Corporate Purpose—Dissolution

Sec. 27. Whenever the board of directors of the corporation shall by resolution determine that the purposes for which the corporation was formed have been substantially complied with and all bonds theretofore issued and all obligations theretofore incurred by the corporation have been fully paid, then the directors of the corporation shall thereupon execute and file for record in the office of the secretary of state a certificate of dissolution reciting such facts and declaring the corporation to be dissolved. Such certificate of dissolution shall be executed under the corporate seal of the corporation. Upon the filing of such certificate of dissolution the corporation shall stand dissolved, the title to all funds and properties owned by it at the time of such dissolution shall vest in the local governmental unit, and possession of such funds and properties shall forthwith be delivered to such local governmental unit.

Powers Not Restricted—Law Complete in Itself

Sec. 28. Neither this Act nor anything herein contained shall be construed as a restriction or limitation upon any powers which the corporation might otherwise have under any laws of this state, but shall be construed as cumulative of any such powers. No proceedings, notice, or approval shall be required for the organization of the corporation or the issuance of any bonds or any instrument as security therefor, except as herein provided, any other law to the contrary notwithstanding; provided, that nothing herein shall be construed to deprive the state and its governmental subdivisions of their respective police powers over properties of the corporation, or to impair any power thereover of any official or agency of the state and its governmental subdivisions which may be otherwise provided by law.

Residential Development Sites

Sec. 29. Any local governmental unit may transfer any residential development site to a corporation by sale or lease. Such transfer may be authorized by a resolution of the governing body of the local governmental unit without submission of the ques-

tion to the voters, and without regard to the requirements, restrictions, limitations, or other provisions contained in any other general, special, or local law. Such project site may be within or without the local governmental unit or partially within and partially without the local governmental unit.

Powers Additional to Those Granted by Other Laws—Severability

Sec. 30. The powers conferred by this Act shall be in addition and supplementary to, and the limitations by this Act shall not affect the powers conferred by any other general, special, or local law. If any one or more sections or provisions of this Act, or the application thereof to any person or circumstance, shall ever be held by any court of competent jurisdiction to be invalid, the remaining provisions of this Act and the application thereof to persons or circumstances other than those to which it is held to be invalid, shall not be affected thereby, it being the intention of this legislature to enact the remaining provisions of this Act notwithstanding such invalidity.

[Acts 1979, 66th Leg., p. 2186, ch. 835, eff. June 14, 1979. Amended by Acts 1981, 67th Leg., p. 1776, ch. 389, § 23, eff. Jan. 1, 1982; Acts 1981, 67th Leg., p. 3237, ch. 852, § 8, eff. June 17, 1981.]

Section 1 of Acts 1981, 67th Leg., p. 1490, ch. 389, enacted Title 2 of the Tax Code.

Art. 1269I-8. State Ceiling, Allocation, and Local Share of Housing Bonds

Definitions

Sec. 1. In this Act:

(1) "Executive director" means the executive director of the Texas Department of Community Affairs of the State of Texas.

(2) "Housing bonds" means bonds that are issued by the Texas Housing Agency or a housing finance corporation and that are subject to the state ceiling imposed by Section 103A, Internal Revenue Code of 1954, as amended (26 U.S.C. Section 103A).

(3) "Housing finance corporation" means a corporation created under the Texas Housing Finance Corporations Act (Article 1269I-7, Vernon's Texas Civil Statutes).

(4) "Local population" means the population in the local governmental unit or units on whose behalf the housing finance corporation is created as determined in the 1980 decennial census. If two local governmental units which overlap have created housing finance corporations that have the power to issue bonds to provide financing for home mortgages, prior to the sale of housing bonds by either corporation there shall be excluded from the population of the larger local governmental unit that portion of the population of any smaller local governmental unit having a population as determined in the 1980 decennial census of 20,000 or more which is within the larger local governmental unit, unless the smaller local governmental unit assigns its au-

thority to issue bonds prior to September 1, 1981, or June 1 of 1982 or 1983, based upon its population, to the larger local governmental unit.

(5) "Local share" means the product which results from multiplying the state ceiling by 70 percent.

(6) "State ceiling" means the state ceiling imposed on housing bonds for each calendar year by Section 103A, Internal Revenue Code of 1954, as amended (26 U.S.C. Section 103A).

(7) "State population" means the population of the state as determined by the 1980 decennial census.

(8) "State share" means the product which results from multiplying the state ceiling by 30 percent.

Determination of State Ceiling

Sec. 2. The state ceiling shall be determined for each calendar year by the board of directors of the Texas Housing Agency on or before July 1, 1981, and on or before February 1 of the calendar years 1982 and 1983 based upon such evidence as the board of directors shall determine.

Allocation of State Ceiling

Sec. 3. (a) There is hereby allocated to the Texas Housing Agency for the calendar years 1981, 1982, and 1983, the state share of the state ceiling.

(b) Subject to the receipt of a reservation certificate there is hereby allocated jointly to housing finance corporations and the Texas Housing Agency for the calendar years 1981, 1982, and 1983, the local share of the state ceiling.

(c) The allocation made by Subsection (b) of this section is not available to the Texas Housing Agency in a calendar year until it has exhausted its allocation under Subsection (a) of this section for that year.

Amendments to Texas Housing Agency Act

Sec. 4. [Amends §§ 2 and 8(a) of art. 1269L-6].

Reservation of Local Share

Sec. 5. (a) Upon the determination of the state ceiling in each calendar year, a housing finance corporation or the Texas Housing Agency in accordance with the terms of Section 3 of this Act, may reserve a portion of the local share by filing a reservation request, accompanied by a bond purchase contract executed by the issuer and the purchaser of such bonds, with the executive director. Such reservation request must be on such forms as the executive director may prescribe and must contain the following information: (i) identify the issuer of the bonds; (ii) identify the series of bonds which are the subject of the bond purchase contract; (iii) state the execution date of the bond purchase contract; and (iv) state the aggregate amount of the bonds.

(b) Prior to September 1, 1981, and June 1 of 1982 and 1983, the maximum amount of the local share which may be reserved by a housing finance corporation may not exceed \$100 times the local population of such housing finance corporation, except (i) if the local population is 200,000 or more but less than 300,000, the maximum amount of the local share which may be reserved prior to the foregoing dates may not exceed \$150 times the local population, (ii) if the local population is 100,000 or more but less than 200,000, the maximum amount of the local share which may be reserved prior to the foregoing dates may not exceed \$200 times the local population, and (iii) if the local population is less than 100,000, the maximum amount of the local share which may be reserved prior to the foregoing dates may not exceed \$300 times the local population. In each calendar year following the applicable dates set forth in the preceding sentence, reservation of the local share shall not be restricted other than as otherwise provided by the laws of the State of Texas.

(c) Any reservation of a portion of the local share shall lapse and no longer be effective upon the expiration of 45 days following the date of filing the reservation request with the executive director, if prior thereto the issuer has failed for whatever reason to file with the executive director a certificate evidencing that the bonds for which the reservation was filed have been delivered and paid for along with the final official statement or disclosure document relating to the housing bonds.

Reservation Certificate

Sec. 6. (a) Upon the filing of a reservation request complying with Section 5 of this Act, the executive director shall promptly issue a reservation certificate. The executive director shall issue certificates according to the order in which the requests are filed. If two or more reservation requests are filed on the same date, certificates shall be issued in the order of the date of execution of the bond purchase contracts. If both the date of filing of the requests and the date of execution of the bond purchase contracts are the same, the executive director shall issue certificates in an order determined by lot, unless otherwise agreed by the affected housing finance corporations or the Texas Housing Agency.

(b) Each reservation certificate must contain the following information: (i) the local share; (ii) the name of the issuer; (iii) the amount and identity of the bonds sold by the issuer under the bond purchase contract of which the certificate applies; (iv) the date of execution of the bond purchase contract; and (v) the aggregate amount of the local share reserved by all issuers in the current calendar year for which reservation requests have been received and certificates have been issued which have not expired, including the bonds for which the certificate was issued.

Specification of Forms

Sec. 7. The executive director may prescribe forms for use in connection with any filing required under this Act.

Amendment to Definitions in Housing Finance Corporations Act

Sec. 8. [Amends §§ 2 and 4 of art. 1269l-7].

Definitions

Sec. 9. Except as otherwise provided herein, the terms used in this Act shall have the same meaning as in the Texas Housing Finance Corporations Act (Article 1269l-7, Vernon's Texas Civil Statutes).

Severability

Sec. 10. The powers conferred by this Act shall be in addition and supplementary to, and the limitations by this Act shall not affect the powers conferred by any other general, special, or local law. If any one or more sections or provisions of this Act, or the application thereof to any person or circumstance, shall ever be held by any court of competent jurisdiction to be invalid, the remaining provisions of this Act and the application thereof to persons or circumstances other than those to which it is held to be invalid, shall not be affected thereby, it being the intention of this legislature to enact the remaining provisions of this Act notwithstanding such invalidity.

[Acts 1981, 67th Leg., p. 3231, ch. 852, §§ 1 to 3, 5 to 7, 9, 10, eff. June 17, 1981.]

**CHAPTER TWENTY-TWO. CIVIL SERVICE
FIREMEN AND POLICEMEN**

- Art. 1269m. Firemen's and Policemen's Civil Service in Cities Over 10,000.
- 1269n. Political Campaigns; Coercing Policeman or Fireman.
- 1269o. Two Platoon Fire System and Hours of Labor in Certain Counties.
- 1269p. Hours of Labor and Vacation of Firemen and Policemen in Certain Cities.
- 1269q. Compensation of Employees of Fire, Police, and Sheriff's Departments in Certain Counties.
- 1269r. Compensation of Firemen and Policemen for Court Appearances.
- 1269s. Defense of Civil Suits Against Peace Officers.
- 1269t. Disease Benefit.

Art. 1269m. Firemen's and Policemen's Civil Service in Cities Over 10,000

Creation of Firemen's and Policemen's Civil Service

Sec. 1. There is hereby established in all cities in this State having a population of ten thousand (10,000) or more inhabitants, according to the last preceding Federal Census, and having a paid Fire Department and Police Department, a Firemen's and Policemen's Civil Service.

Definitions

Sec. 2. By the term "Fireman" is meant any member of the Fire Department appointed to such position in substantial compliance with the provisions of Sections 9, 10 and 11 of this Act, or entitled to Civil Service Status under Section 24 of this Act. The term includes firemen who perform fire suppression, fire prevention, fire training, fire safety education, fire maintenance, fire communications, fire medical emergency technology, fire photography, or fire administration. By the term "Policeman" is meant any member of the Police Department appointed to such position in substantial compliance with the provisions of Sections 9, 10 and 11 of this Act, or entitled to Civil Service Status under Section 24 of this Act. By the term "Commission" as used herein is meant the Firemen's and Policemen's Civil Service Commission. The term "Director" means Director of Firemen's and Policemen's Civil Service.

Firemen's and Policemen's Civil Service Commission

Sec. 3. There is hereby established in all such cities a Firemen's and Policemen's Civil Service Commission, which shall consist of three (3) members, to be selected as follows: Members of the Commission shall be appointed by the chief executive of any such city, and such appointment shall be confirmed by the City Council or legislative body of any such city before any such appointments shall be effective. Of the first three (3) Commissioners so selected under the provisions of this Act to comprise the Commission, one (1) shall be appointed for a term of one (1) year, one (1) shall be appointed for a term of two (2) years, and one (1) shall be appointed for a term of three (3) years. Thereafter the term of office of each Commissioner shall be for three (3) years, or until a successor is appointed, confirmed, and qualified. Any such vacancies in said Commission, caused by death, resignation, or otherwise, or by failure of any appointee to qualify within ten (10) days after appointment, shall be filled in the manner hereinabove specified, and such appointment shall be for the unexpired term of the retiring Commissioner of the appointee failing to qualify.

All such Commissioners shall be of good moral character, resident citizens of the particular city for which they are appointed, shall have resided in said city for a period of more than three (3) years, shall each be over the age of twenty-five (25) years, and shall not have held any public office within the preceding three (3) years.

It is provided however, that in all such cities which have in existence a Civil Service Commission, that said Civil Service Commission shall constitute the Firemen's and Policemen's Civil Service Commission of that city, but said Commissioner shall administer the Civil Service of Firemen and Policemen in accordance with this law.

It is further provided that in any such city which has in existence a Civil Service Commission, the

appointment of members to such Civil Service Commission shall be made in conformity with provisions of this Act, after the expiration of presently existing term or terms of the members comprising such Civil Service Commission and, if necessary, in such cities having staggered terms of membership on such Civil Service Commission, the first appointment made under the provisions of this Act shall be made for terms of such number of years less than three (3) as will cause a staggered or rotating system of terms to conform with the provisions of this Act.

Organization of Commission

Sec. 4. The Commissioners shall within ten (10) days after the qualification of the membership, and annually thereafter during the month of January, elect a Chairman and a Vice-chairman.

Powers of Commission

Sec. 5. Two (2) members of the said Commission shall constitute a quorum to transact business. The Commission shall make such rules and regulations for the proper conduct of its business as it shall find necessary and expedient, provided that no rules or regulations shall ever be adopted which will permit the appointment or employment of any person without good moral character; or any person unfit mentally or physically; or any person incompetent to discharge the duties of such appointment or employment. Such rules and regulations shall prescribe what shall constitute cause for removal or suspension of Firemen or Policemen, but no rule for the removal or suspension of such employees shall be valid unless it involves one or more of the following grounds:

Conviction of a felony or other crime involving moral turpitude; violations of the provisions of the charter of said city; acts of incompetency; neglect of duty; discourtesy by said employee to the public or to fellow employees while said employee is in line of duty; acts of said employees showing a lack of good moral character; drinking of intoxicants while on duty, or intoxication while off duty; or whose conduct was prejudicial to good order; refusal or neglect to pay just debts; absence without leave; shirking duty, or cowardice at fires; violation of any of the rules and regulations of the Fire Department or Police Department or of special orders, as applicable.

Investigations and Inspections

Sec. 5a. The Commission may make investigations concerning, and report upon all matters touching, the enforcement and effect of the provisions of this Act, and the rules and regulations prescribed hereunder; and shall ascertain whether this Act and all such rules and regulations are being obeyed. Such investigations may be made by the Commission or by any Commissioner designated by the Commission for that purpose. In the course of such investigation the Commission or designated Com-

missioner shall have the power to administer oaths, subpoena and require the attendance of witnesses and the producing by them of books, papers, documents, and accounts pertaining to the investigation, and also to cause the deposition of witnesses residing within or without the State to be taken in the manner prescribed by law for like depositions in civil actions in the court of original and unlimited jurisdiction to civil suits of the United States; and the oaths administered hereunder and the subpoenas issued hereunder shall have the same force and effect as the oaths administered by a magistrate in his judicial capacity; and the failure upon the part of any person so subpoenaed to comply with the provisions of this Section shall be deemed a violation of this Act, and punishable as such.

Public Records

Sec. 5b. The Commission shall keep records of all hearings or cases that come before it. Commission decisions shall be signed by the concurring Commissioners. All rules, opinions, directives, decisions, and orders issued by the Commission shall be written and are public records that shall be retained on file by the Commission.

Director of Civil Service

Sec. 6. (a) There is hereby created the office of Director of Firemen's and Policemen's Civil Service, which shall be filled by the appointment of the Commission. The person appointed must meet the same requirements as hereinabove provided for members of the Commission, except that in a city having a population of fewer than 1,500,000, according to the most recent federal census, the Director is not required to meet the three-year local residency requirement prescribed by Section 3 of this Act. Said Director may be either a member of the Commission, another employee of said city, or some other person. The legislative body of such city shall determine what salary, if any, shall be paid to such Director. Said Director shall at all times, be subject to removal by the Commission. He shall serve as Secretary to the Commission, and shall perform all such work incidental to the Firemen's and Policemen's Civil Service as may be required of him by the Commission.

(b) In those cities which have a duly and legally constituted Director of Civil Service, by whatever name he may be called, said Director shall be the Director of the Firemen's and Policemen's Civil Service, but he shall administer civil service pertaining to Firemen and Policemen in accordance with this Law.

Office Space

Sec. 7. The City Council or governing body of any such city shall provide adequate and suitable office space for the conduct of the business of the Commission.

**Classification of Firemen and Policemen;
Educational Incentive Pay**

Sec. 8. (a) In a city having a population of 1,500,000 or more, according to the most recent federal census, the Commission shall provide for the classification of all firemen and policemen. Such classification shall be provided by ordinance of the City Council, or legislative body. Said City Council, or legislative body, shall prescribe by ordinance the number of positions of each classification.

(b) No classification now in existence, or that may be hereafter created in such cities, shall ever be filled except by examination held in accordance with the provisions of this law. All persons in each classification shall be paid the same salary and in addition thereto be paid any of the following types of pay that they may be entitled to: (1) longevity pay; (2) seniority pay; (3) educational incentive pay; or (4) assignment pay. This shall not prevent the Head of such Department from designating some person from the next lower classification to fill a position in a higher classification temporarily, but any such person so designated by the Head of the Department shall be paid the base salary of such higher position plus his own longevity pay during the time he performs the duties thereof. The temporary performance of the duties of any such position by a person who has not been promoted in accordance with the provisions of this Act shall never be construed to promote such person. All vacancies shall be filled by permanent appointment from eligibility lists furnished by the Commission within ninety (90) days after such vacancy occurs.

(c) Firemen and policemen shall be classified as above provided, and shall be under civil service protection except the Chief or Head of such Fire Department or Police Department, by whatever name he may be known.

(d) Said Chiefs or Department Heads shall be appointed by the Chief Executive, and confirmed by the City Council or legislative body except in cities where the Department Heads are elected. In those cities having elective Fire and Police Commissioners the appointments for Chiefs and Heads of those Departments shall be made by the respective Fire or Police Commissioners in whose Department the vacancy exists, and such appointments shall be confirmed by the City Council or legislative body.

(e) Said City Council or legislative body may authorize educational incentive pay in addition to regular pay for policemen and firemen within each classification, who have successfully completed courses in an accredited college or university, provided that such courses are applicable toward a degree in law enforcement-police science and include the core curriculum in law enforcement or are applicable toward a degree in fire science. An accredited college or university, as that term is used herein, shall mean any college or university accredited by the nationally recognized accrediting agency and the state board of education in the state wherein said college

or university is located and approved or certified by the Texas Commission on Law Enforcement Officer Standards and Education as teaching the core curriculum or its equivalent or, in the case of fire science degree courses, approved or certified by the Texas Commission on Fire Protection, Personnel Standards, and Education. Core curriculum in law enforcement, as used herein, shall mean those courses in law enforcement education as approved by the Coordinating Board, Texas College and University System and the Texas Commission on Law Enforcement Officer Standards and Education.

**Classification and Appointment of Certain
Firemen and Policemen**

Sec. 8A. (a) In a city having a population of less than 1,500,000 according to the most recent federal census, the Commission shall provide for the classification of all firemen and policemen. The classification shall be provided by ordinance of the city council or legislative body. The city council or legislative body shall prescribe the number of positions in each classification by ordinance.

(b) Except as prescribed by this section, a classification now in existence, or that may be hereafter created, may not be filled except by examination held in accordance with this Act. If the city council or governing body of the city approves by resolution or ordinance, the chief or head of a fire or police department in which at least four classifications exist below the classification of chief or head may appoint each person occupying authorized positions in the classification immediately below that of chief or department head, as provided by this section.

(c) The total number of persons appointed to the classification immediately below that of the police chief in the police department may not exceed the total number of persons, plus one, serving in the classification immediately below that of the police chief or head of the police department in that city on January 1, 1983. In a city having fewer than 300 certified fire fighters, the chief or head of the department may appoint not more than one person to the classification immediately below that of chief or head. In a city having 300 or more certified fire fighters but not more than 600, the chief or head of the fire department may appoint two persons. In a city having more than 600 certified fire fighters, the chief or head of the department may appoint three persons. This subsection does not apply to a city that has adopted The Fire and Police Employee Relations Act (Article 5154c-1, Vernon's Texas Civil Statutes), unless the city specifically adopts the appointment procedure prescribed by this subsection through the collective bargaining process.

(d) All persons in each classification shall be paid the same salary and in addition thereto be paid any of the following types of pay to which they may be entitled: (1) longevity or seniority pay; (2) educational incentive pay; (3) assignment pay; and (4) certification pay. This shall not prevent the head of

the department from designating some person from the next lower classification to fill a position in a higher classification temporarily, but any person designated by the head of the department shall be paid the base salary of the higher position plus his own longevity or seniority pay, educational incentive pay, and certification pay during the time he performs the duties. The temporary performance of the duties of a higher position by a person who has not been promoted as prescribed by this Act may not be construed as a promotion of the person.

(e) All vacancies in classifications other than the classification immediately below that of the chief or department head which is selected and filled by the chief or department head shall be filled by permanent appointment from eligibility lists furnished by the commission within 60 days after the vacancy occurs. If before the expiration of the current eligibility list a vacancy occurs in a classification other than a classification immediately below that of the chief or department head which is filled by the chief or department head, the commission shall submit names from the list to the department head until the vacancy is filled or the list is exhausted. If no list is in existence, the vacancy shall be filled from a list which the commission shall provide within 90 days after the vacancy occurs.

(f) Except for the chief or head of the fire or police department, and except for those persons selected and appointed to the classification immediately below the chief or department head by the chief or head of the fire or police department, firemen and policemen are classified as prescribed by this section, and are under civil service protection.

(g) Except in cities in which the department heads are elected, the chiefs or department heads are appointed by the chief executive and confirmed by the city council or legislative body. In a city with elected fire and police commissioners, the appointments of the chiefs and heads of those departments shall be made by the fire or police commissioner in whose department the vacancy exists, and the appointments shall be confirmed by the city council or legislative body.

(h) If authorized by this Act and by the city council or legislative body, each person occupying a position in the classification immediately below that of the chief or department head is appointed by the chief or department head in whose department the vacancy exists and serves at the pleasure of the chief or department head. The classification immediately below that of the chief or department head may include a person with a different title but who has the same pay grade.

(i) To be eligible for appointment in the police department, a person must be employed by the police department of that city as a sworn police officer with at least two years' continuous service in that department as a sworn police officer and must meet the requirements for appointment as the chief

or head of a police department prescribed by Section 14D(7) of this Act. To be eligible for appointment in the fire department, a person must be employed by the fire department of that city with a permanent classification in at least an officer level and must meet the requirements for appointment as the chief or head of a fire department prescribed by Section 14D(7) of this Act.

(j) Those persons already serving under permanent appointment to a position in the classification immediately below that of the chief or department head prior to the effective date of this Act are not required to be appointed or reappointed as a condition of tenure or continued employment, nor does failure by any person already serving under permanent employment to fulfill the requirements of this section make the person ineligible for continued employment in the position in his department. The chief or department head shall make all appointments not later than the 90th day after the day on which the vacancy occurs. A person appointed by the chief or department head to a position in the classification immediately below that of the chief or department head who is subsequently removed from that position by the chief or department head shall be reinstated in the department and placed in the same classification, or its equivalent, that the person held prior to appointment, and retains all rights of seniority in the department.

(k) If the person is charged with an offense in violation of civil service rules and indefinitely suspended by the chief or department head, the person shall have the same rights and privileges of a hearing before the commission, and in the same manner and under the same conditions as classified employees. If the commission, the hearing examiner, or a court of competent jurisdiction finds the charges to be untrue or unfounded, the person shall immediately be restored to the same classification, or its equivalent, that the person held prior to appointment. The person shall enjoy all the rights and privileges of his prior position according to seniority and shall be repaid for any lost wages.

(l) The city council or legislative body of a city may authorize educational incentive pay in addition to regular pay for a fireman or policeman who has successfully completed courses at an accredited college or university if the criteria for the educational incentive pay are clearly established, are in writing, and are applied equally to all firemen and policemen meeting the criteria. If all firemen or policemen are afforded an opportunity to qualify themselves for certification, certification pay may be authorized by the city council or legislative body of the city in addition to regular pay for those firemen meeting the requirements for certification set by the Commission on Fire Protection Personnel Standards and Education.

Cities of 1,500,000 or More; Assignment Pay

Sec. 8B. (a) In any city having a population of 1,500,000 or more, according to the most recent

federal census, the city council or legislative body may authorize assignment pay for emergency ambulance attendants and field training officers in an amount and payable under conditions as set by ordinance. The assignment pay shall be in addition to the regular pay received by members of the fire department. The chief of the fire department is not eligible for the assignment pay authorized by this section.

(b) In this section:

(1) "Emergency ambulance attendant" means a member of the fire department who provides emergency medical care and emergency transportation for members of the public.

(2) "Helicopter personnel" means a member of the police department who pilots helicopters or rides as an observer in helicopters.

(3) "Bomb squad personnel" means a member of the police department who is assigned to the bomb squad and actually participates in the detection, handling, or disarming of explosive devices or materials.

(4) "Special weapons and tactics personnel" means a member of the police department who is assigned to the special weapons and tactics squad and actually performs the duties and responsibilities of the special weapons and tactics squad.

(5) "Field training officer" means a member of the fire department who is assigned to the field training officers program and who actually performs the duties and responsibilities of the field training officers program.

(c) In any city having a population of 1,200,000 or more according to the most recent federal census, the city council or legislative body may authorize assignment pay for helicopter personnel, bomb squad personnel, and special weapons and tactics personnel. Assignment pay shall be in an amount and payable under conditions as set by ordinance. The assignment pay shall be in addition to the regular pay received by members of the police department. The chief of the police department is not eligible for the assignment pay authorized by this section.

Field Training Officers; Assignment Pay

Sec. 8C. (a) In this section, "field training officer" means a member of the police department who is assigned to the field training officers program and actually performs the duties and responsibilities of the field training officers program.

(b) The city council or legislative body of a city that adopts this Act may authorize assignment pay for field training officers. Assignment pay shall be in an amount and payable under conditions as set by ordinance. The assignment pay shall be in addition to the regular pay received by members of the police department. The chief of the police department is not eligible for the assignment pay authorized by this section.

Assignment Pay

Sec. 8D. In any city having a population of less than 1,500,000 according to the most recent federal census, the city council or legislative body may authorize assignment pay for fire fighters and police officers performing specialized functions in their respective departments. The assignment pay is in an amount and is payable under conditions as set by ordinance, and is in addition to the fire fighters' and police officers' regular pay. If the ordinance applies equally to all persons meeting criteria established by the ordinance, the ordinance may provide for payment to each fire fighter and police officer who meets training or education criteria for an assignment, or the ordinance may set criteria that provide for payment only to a fire fighter or police officer in a special assignment. The chief or head of the fire or police department is not eligible for the assignment pay authorized by this section.

Examination for Eligibility Lists

Sec. 9. The Commission shall make provisions for open, competitive and free examinations for persons making proper application and meeting the requirements as herein prescribed. All eligibility lists for applicants for original positions in the Fire and Police Departments shall be created only as a result of such examinations, and no appointments shall ever be made for any position in such Departments except as a result of such examination, which shall be based on the applicant's knowledge of and qualifications for fire fighting and work in the Fire Department, or for police work and work in the Police Department, as shown by competitive examinations in the presence of all applicants for such position, and shall provide for thorough inquiry into the applicant's general education and mental ability. Fire Department entrance examinations may be given at different locations if all applicants are given the same examination and examined in the presence of other applicants. An applicant may not take the examination more than once for each eligibility list. An applicant may not take an examination unless at least one (1) other applicant being tested is present.

An applicant who has served in the armed forces of the United States and who received an honorable discharge shall receive five (5) points in addition to his competitive grades.

The Commission shall keep all eligibility lists for applicants for original positions in the Fire Department or Police Department in effect for not less than six (6) months nor more than twelve (12) months unless the names of all applicants have been referred to the appropriate Department. The Commission shall give a new examination at the end of the twelve (12) month period or sooner, if applicable, or if all names on the list have been referred to the appropriate Department. The Commission shall determine how long each eligibility list shall remain in effect within the six (6) to twelve (12) month period.

and shall include this information on the eligibility announcement.

Appropriate physical examinations shall be required of all applicants for beginning or promotional positions, and the examinations shall be given by a physician appointed by the Commission and paid by such city; and in the event of rejection by such physician, the applicant may call for further examination by a board of three (3) physicians appointed by the Commission, but at the expense of the applicant, whose findings shall be final. The age and physical requirements shall be set by the Commission in accordance with provisions of this law and shall be the same for all applicants.

No person shall be certified as eligible for a beginning position with a Fire Department who has reached his thirty-sixth birthday. No person shall be certified as eligible for a beginning position with a Police Department who has reached his thirty-sixth birthday unless the applicant has at least five (5) years prior experience as a peace officer, or 5 years of military experience. No person shall be certified as eligible for a beginning position with a Police Department who has reached his forty-fifth birthday.

All police officers and firemen coming under this Act must be able to intelligently read and write the English language.

When a question arises as to whether a fireman or policeman is sufficiently physically fit to continue his duties, the employee shall submit a report from his personal physician to the Commission. If the Commission, the head of the Department, or the employee questions the report, the Commission shall appoint a physician to examine the employee and to submit a report to the Commission, to the head of the Department, and to the employee. If the appointed physician's report disagrees with the report of the employee's personal physician, the Commission shall appoint a board of three (3) physicians to examine the employee. Their findings as to the employee's fitness for duty shall determine the issue. The cost of the services of the employee's personal physician shall be paid by the employee. All other costs shall be paid by the city.

A fireman or policeman who has been certified by a physician selected by a firemen's or policemen's relief or retirement fund as having recovered from a disability for which he has been receiving a monthly disability pension shall, with the approval of the Commission and if otherwise qualified, be eligible for reappointment to the classified position that he held as of the date that he qualified for a monthly disability pension.

Method of Filling Positions

Sec. 10. When a vacancy occurs in the Fire Department or Police Department, the Fire Chief or head of the Fire Department or the Police Chief or head of the Police Department shall request in writing from the Commission the names of suitable

persons from the eligibility list, and the Director shall certify to the chief executive of said city, the names of three (3) persons having the highest grades on the eligibility list, and the said chief executive shall thereupon make an appointment from said three (3) names. The appointment shall be of the person with the highest grade, except there be a valid reason why such appointment should be given to the one making the second or third highest grade. Whenever such appointment is made of one not holding the highest grade, such reasons shall be reduced to writing and filed with the Commission, and there shall be set forth plainly and clearly good and sufficient reasons why said appointment was not made to the person holding the highest grade in the event the one holding the third highest grade shall receive the appointment. In the event the person holding the highest is not certified for the appointment, he shall be furnished with a copy of the reasons therefor as filed with the Commission, and in the event the one having the third highest grade is appointed a copy of such reasons shall also be furnished to the one holding the second highest grade. This Section shall be limited by the other provisions hereof relating to promotions.

Certification of Employees

Sec. 11. Whenever a person is certified and appointed in the said Fire Department or Police Department, the Director shall forward a record of the person so certified and appointed to the Fire Chief or head of the Department or Police Chief or head of that Department, forward a similar copy to the chief executive, and retain a copy in the civil service files. The record shall show: The date notice of examination was posted, date on which person certified took examination to be placed on eligibility list, name of person or persons conducting examination, relative position of person on eligibility list, date when person certified took physical examination, name of physician making examination, with information as to whether or not applicant was accepted or rejected, date on which request for filling such vacancy was made, date on which applicant was notified to report for duty and date on which his pay is to start. If the Director shall willfully fail to comply with any provisions of this Section, it shall be the duty of the Commission to forthwith remove him from office. The failure however, of the Director of Civil Service to comply with any of the provisions of this Section shall in no way impair the civil service standing of any employee.

Probationary and Full-fledged Firemen and Policemen

Sec. 12. (a) A person who has received appointment to the Fire Department or Police Department hereunder, shall serve a probationary period of one (1) year from date of employment with the Department as a Fireman, Policeman, or trainee in an academy.

(b) In any city having a population of 1,200,000 or more, according to the most recent federal census, a

person who has received appointment to the Police Department and has ended his service with the Department for any reason shall serve a probationary period of six (6) months from date of reappointment. A reappointed officer is not entitled to full civil service protection until the officer has served the full probationary period after reappointment. For purposes of determining classification, pay status, and eligibility for promotion of the reappointed officer, the probationary period after reappointment is counted as if the reappointed officer were not on probation.

(c) During such probationary period, it shall be the duty of the Fire Chief or head of the Fire Department or Police Chief or head of the Police Department to discharge all Firemen or Policemen whose appointments where not regular, or not made in compliance with the provisions of this Act, or of the rules or regulations of the Commission, and to eliminate from the payrolls any such probationary employee. When Firemen or Policemen, however, have served the full probationary period, having been appointed in substantial compliance with Sections 9, 10, and 11 of this Act and not otherwise, they shall automatically become full-fledged civil service employees and shall have full civil service protection. All positions in the Fire Department, except that of Chief or head of the Department, and in the Police Department, except that of Chief or head of the Department, shall be classified by the Commission and the positions filled from the eligibility lists as provided herein.

(d) All offices and positions in the Fire Department or Police Department shall be established by ordinance of the City Council or governing body, provided however that the failure of a City Council or governing body to establish a position by ordinance shall not result in the loss of Civil Service benefits under this Act by any person appointed to such position in substantial compliance with the provisions of Sections 9, 10, and 11 of this Act, or entitled to Civil Service Status under Section 24 of this Act.

Employee Organization Membership Requirements Prohibited

Sec. 12A. An employee who is on probation may not be prohibited from joining or required to join an employee organization. Joining or not joining an employee organization is not a ground for retention or nonretention of an employee who is serving a probationary period.

Notice of Examinations

Sec. 13. At least ten (10) days in advance of any entrance examination and at least thirty (30) days in advance of any examination for promotion, the Commission shall cause to be posted on a bulletin board located in the main lobby of the city hall, and the office of the Commission, and in plain view, a notice of such examination, and said notice shall show the position to be filled or for which examination is to

be held, with date, time, and place thereof, and in case of examination for promotion, copies of such notice shall be furnished in quantities sufficient for posting in the various stations or subdepartments in which position is to be filled. No one under eighteen (18) years of age shall take any entrance examination, and appointees to the Police and Fire Department shall not have reached their thirty-sixth birthday for entrance into the Fire Department or Police Department. The results of each examination for promotion shall be posted on a bulletin board located in the main lobby of the city hall by the Commission within twenty-four (24) hours after such examination.

Promotions; Filling Vacancies

Sec. 14. The Commission shall make rules and regulations governing promotions and shall hold promotional examinations to provide eligibility lists for each classification in the Police and Fire Departments, which examinations shall be held substantially under the following requirements:

A. (1) All promotional examinations shall be open to all policemen who have held a continuous position for two (2) years or more immediately prior to the examination in the classification immediately below, in salary, that classification for which the examination is to be held. In police departments that have adopted a classification plan that classifies positions on the basis of similarity in duties and responsibilities, all promotional examinations shall be open to a policeman who has held a continuous position for two (2) years or more immediately prior to the examination at the next lower paygrade, if it exists, in the classification for which the promotional examination is being offered. When there is not a sufficient number of members in the next lower position with two (2) years' service in that position to provide an adequate number of persons to take the examination, the Commission shall open the examination to members in that position with less than two (2) years' service. If there is still an insufficient number, the Commission may extend the examination to the members in the second lower position in salary to that for which the examination is to be held.

(2) All promotional examinations shall be open to all firemen who have ever held a continuous position for two (2) years or more in the classification immediately below, in salary, that classification for which the examination is being held. In fire departments that have adopted a classification plan that classifies positions on the basis of similarity in duties and responsibilities, all promotional examinations shall be open to a fireman who has ever held a continuous position for two (2) years or more at the next lower paygrade, if it exists, in the class for which the promotional examination is being offered. This section may not be construed to prohibit lateral crossover between classes. If there are not enough members in the next lower position with two (2) years' service in that position to provide an ade-

quate number of persons to take the examination, the Commission may open the examination to members in that position with less than two (2) years' service. If there is still an insufficient number, the Commission may extend the examination to the members in the second lower position in salary to that for which the examination is to be held with two (2) years' service in that position.

B. Each fireman shall be given one (1) point for each year of seniority in his Department, but never to exceed ten (10) points. Each policeman shall be given one (1) point for each year of seniority as a classified police officer in his Department, but never to exceed ten (10) points.

C. The Commission may formulate proper procedure and rules for semi-annual efficiency reports and grade of each member of the Police or Fire Departments. If the Commission compiles efficiency reports for members of the Police or Fire Department, the Commission shall provide a copy of a member's efficiency report to the member. Any fireman or policeman may, within ten (10) days after receiving his efficiency report, make a statement in writing about the efficiency report. The statement shall be placed in his personnel file with the efficiency report.

D. (1)(a) Except as prescribed by Subdivision (6) of this subsection, all applicants shall be given an identical examination in the presence of each other, which promotional examination shall be entirely in writing and no part of which shall be by oral interview, and all of the questions asked therein shall be prepared and composed in such a manner that the grading of the examination papers can be promptly completed immediately after the holding of the examination and shall be prepared so as to test the knowledge of the applicants concerning information and facts, and all of said questions shall be based upon material which is a reasonably current publication and has been made reasonably available to all members of the Fire or Police Department involved and shall be based upon the duties of the position sought and upon any study courses given by such Departmental Schools of Instruction. All promotional examination questions must be taken from sources that are listed in a notice that is posted by the Commission at least thirty (30) days before the date of the examination. Firemen or policemen may suggest source materials for promotional examinations. The notice required by Section 13 of this Act may include the name of each source used and the number of questions taken from each source. The Commission may include the chapter of each source. When one of the applicants taking an examination for promotion has completed his answers, the grading of such examination shall begin, and all of the examination papers shall be graded as they are completed, at the place where the examination is given and in the presence of any applicants who wish to remain during the grading.

(b) The Director is responsible for the preparation and security of all promotional examinations. The fairness of the competitive promotional examinations is the responsibility of the Commission, the Director, and any municipal employee involved in the preparation or administration of the examination. A person who knowingly or intentionally reveals any part of a promotional examination to an unauthorized person or a person who knowingly or intentionally receives from an unauthorized person any part of a promotional examination commits a misdemeanor and shall be fined not less than One Thousand Dollars (\$1,000) or imprisoned for not more than one (1) year in the county jail or both.

(2) Except as prescribed by Subdivision (6) of this subsection, the grade which shall be placed on the eligibility list for each policeman applicant shall be computed by adding such policeman applicant's points for seniority to his grade on such written examination. Grades on such written examinations shall be based upon a maximum grade of one hundred (100) points and shall be determined entirely by the correctness of each applicant's answers to such questions. The minimum passing score for the written examination is seventy (70) points.

(3) The grade which shall be placed on the eligibility list for each fireman applicant shall be computed by adding the fireman applicant's points for seniority to his grade on the written examination. Grades on the written examination shall be based on a maximum grade of one hundred (100) points and shall be determined entirely by the correctness of each fireman applicant's answers to the questions. The minimum passing score for the written examination is seventy (70) points.

(4) Each applicant shall have the opportunity to examine the source materials, his examination, and his answers thereto together with the grading thereof and if dissatisfied shall, within five (5) working days, appeal the same to the Commission for review in accordance with the provisions of this Act.

(5) Except as prescribed by Section 8A of this Act, a fireman is not eligible for promotion unless he has served in such Department for at least two (2) years at any time prior to the day of such promotional examination in the next lower position or other positions specified by the Commission, and no person with less than four (4) years' actual service in such Department shall be eligible for promotion to the rank of captain or its equivalent. Except as prescribed by Section 8A of this Act, a policeman is not eligible for promotion unless the policeman has served in the Department for at least two (2) years immediately preceding the date of the promotional examination in the next lower position or other positions specified by the Commission, and no person with less than four (4) years' actual service in the Department shall be eligible for promotion to the rank of captain or its equivalent. Provided, however, that the requirement of two (2) years' service in the Fire Department at any time

prior to the day of promotional examination shall not be applicable to those persons recalled on active military duty for a period not to exceed twenty-four (24) months. The Police Department's requirement of two (2) years' service immediately preceding the date of the promotional examination does not apply to persons recalled to active military duty for a period not to exceed twenty-four (24) months. Such persons shall be entitled to have time spent on active military duty considered as duty in the Department concerned. However, any person whose absence for active military duty exceeds twelve (12) months, shall be required to serve ninety (90) days upon returning to the Department before he shall become eligible to participate in a promotional examination, such period of time to be considered essential for bringing him up to date on equipment and techniques.

(6)(a) In a city having a population of less than 1,500,000 according to the last preceding federal census, the Commission may, on the recommendation of the Chief or Head of the Police Department and a majority vote of the sworn police officers, adopt an alternate promotional system to select persons to occupy nonentry level positions other than positions that are filled by appointment by the Chief or Head of the Police Department. The promotional system shall comply with the following requirements:

(1) the Commission shall order the Director to conduct an election and to submit the revised promotional system by secret ballot to all sworn police officers;

(2) the election shall be held no earlier than the thirtieth (30th) day after the day on which notice of the election is posted at the Department. The election shall be conducted throughout each regular work shift at an accessible location within the Department during a 24-hour period;

(3) the ballot shall contain the specific amendment to the promotional procedure and each sworn police officer shall be given the opportunity to vote "for" or "against" the amendment;

(4) the revised promotional system must be approved by a majority vote of the sworn police officers voting;

(5) a defeated promotional system amendment may not be placed on a ballot for vote before the sworn police officers for at least twelve (12) months after the date on which the prior election was held;

(6) if approved by the sworn police officers, the promotional system amendment becomes effective after all election disputes have been ruled on and the election votes have been canvassed by the Commission;

(7) the Commission shall canvass the votes not later than the thirtieth (30th) day after the date on which the election was held; and

(8) all appeals alleging election irregularity must be filed with the Commission not later than the fifth (5th) working day after the date on which the election closes.

(b) At any time after an alternate promotional system has been adopted under this subdivision and has been in effect for at least one hundred and eighty (180) days, the Police Chief may petition the Commission to terminate the alternate system and the Commission shall terminate the alternate system. If the alternate system is terminated, an additional list may not be created under the alternate system.

(c) At any time after an alternate promotional system has been adopted under this subdivision and has been in effect for at least one hundred and eighty (180) days, a petition signed by at least thirty-five percent (35%) of the sworn police officers may be submitted to the Commission asking that the alternate promotional system be reconsidered. If a petition is submitted, the Commission shall, not later than the sixtieth (60th) day after the date on which the petition was filed, hold an election as prescribed by Paragraph (a) of this subdivision. If a majority of those voting vote to repeal, the Commission shall terminate the alternate promotional system. If the alternate system is terminated, an additional list may not be created under the alternate system.

(d) A promotional list may not be created if an election under this subdivision is pending. An existing eligibility list, whether created under the system prescribed by this Act or created under an alternate system adopted under this subdivision, may not be terminated before or extended beyond its expiration date. A person promoted under an alternate system has the same rights and the same status as a person promoted under this Act even if the alternate system is later repealed.

(e) This subdivision does not apply to a city that has adopted The Fire and Police Employee Relations Act (Article 5154c-1, Vernon's Texas Civil Statutes).

(7) No person shall be eligible for appointment as Chief or Head of the Fire Department of any city coming under the provisions of this Act who is not eligible for certification by the Commission on Fire Protection Personnel Standards and Education at the intermediate level or its equivalent as determined by that Commission and who has not served at least five (5) years as a fully paid fireman. No person may be eligible for appointment as Chief or Head of the Police Department who is not eligible for certification by the Commission on Law Enforcement Officer Standards and Education at the intermediate level or its equivalent as determined by that Commission and who has not served as a bona fide law enforcement officer for five (5) years.

E. (1) Upon written request by the Heads of the Departments for a person to fill a vacancy in any classification, the Commission shall certify to the Head of the Department the three (3) names having

the highest grades on such eligibility list for such classification for the vacancy requested to be filled. If fewer than three (3) names remain on the eligibility list, all the names must be submitted to the Head of the Department, and the Head of such Department shall appoint the person having the highest grade, except where such Head of the Department shall have a valid reason for not appointing such highest name, and in such cases he shall, before such appointment, file his reasons in writing, for rejection of the higher name or names, with the Commission, which reasons shall be valid and subject to review by the Commission upon the application of such rejected person.

(2) The name of each person on the eligibility lists shall be submitted to the Head of the Department three (3) times; and if passed over three (3) times with written reasons filed thereafter and not set aside by the Commission, he shall thereafter be dropped from the eligibility list. All promotional eligibility lists shall remain in existence for one (1) year unless exhausted, and at the expiration of one (1) year they shall expire and new examinations may be given.

F. The Commission shall proceed to hold examinations to create eligibility lists within ninety (90) days after a vacancy in any classification occurs, or new positions are created, unless an eligibility list is in existence. If an eligibility list exists, the Commission shall certify within ten (10) days after notification of the vacancy to the Head of the Department the names of persons eligible to fill all promotional positions. The certified names must come from the eligibility list which exists on the date the vacancy occurs.

G. In the event any new classification is established either by name or by increase of salary, the same shall be filled by competitive examination in accordance with this law.

Crossover Promotions

Sec. 14A. (a) In any city in this state having a population of 1,500,000 or more inhabitants, according to the last preceding federal census, all members of the police department, who shall be employed by such department with duties in a specialized technical area, to wit: (1) technical class, which includes but is not limited to criminal laboratory analysis and interpretations, and the technical criminal aspects of identification and photography, or (2) communications class, which includes but is not limited to the technical operations of police radio communications, shall be eligible for promotions within their respective classes. In addition, all peace officers employed by the city, who shall be employed by such city department with duties in separate specialized police divisions, to wit: (1) park police class, which includes all sworn park police officers except those in ranks excluded from civil service status by this Act, or (2) airport police class, which includes all sworn airport police officers except those in ranks excluded from civil service sta-

tus by this Act, or (3) city marshal class, which includes all sworn deputy city marshals except those in ranks excluded from civil service status by this Act, shall be eligible for promotions within their respective classes.

(b) In no event shall the members of the technical class, communications class, park police class, airport police class, city marshal class, or uniformed and detective class be eligible for promotion to a position outside of their respective class. This section shall be construed so as to preclude the lateral crossover by promotion by members of the technical, communications, park police, airport police, and city marshal classes into the uniformed and detective class of the department; also to preclude the lateral crossover by promotion of members of the uniformed and detective class into the technical, communications, park police, airport police, and city marshal classes of the department. In the event a member of one class desires to change classes, such may be accomplished upon qualification and only by entry into the new class at the lowest entry level of that class.

(c) This section shall not operate so as to prevent the chief of police, assistant chiefs of police, and deputy chiefs of police, or their equivalent, by whatever name or title they may be called, from exercising the full sanctions, powers, duties, and authority of their respective offices in the supervision, management, and control over the uniformed and detective class, technical class, communications class, park police class, airport police class, and city marshal class.

(d) All provisions of this article regarding eligibility lists, examinations, appointments, and promotions shall apply to members of the technical class, communications class, park police class, airport police class, city marshal class, uniform class and detective class. However, said provisions shall apply only to the appointment and promotion of a member of a particular class to a new position within such class.

Civil Service Rights of Department Head

Sec. 15. When the services of the Chief or head of the Fire Department or Police Department are terminated as such and he is removed as such Department head, he shall be reinstated in the Department and placed in a position no lower than the rank he held at time of appointment, and he shall retain all rights of seniority in the Department; provided, that should such Department head be charged with an offense in violation of civil service rules, and be dismissed from the public service, or be discharged from his position, he shall have the same rights and privileges of a hearing before the Commission, and in the same manner and under the same conditions as may classified employees, and if the Commission should find such charges to be untrue, or unfounded, said employee shall thereupon immediately be restored to the Department as above provided, and said employee shall enjoy all

the rights and privileges thereunder according to seniority, and shall be paid his full salary for the time of suspension.

Indefinite Suspensions

Sec. 16. (a) In a city having a population of 1,500,000 or more according to the most recent federal census, the Chief or Head of the Fire Department or Police Department of the city government shall have the power to suspend indefinitely any officer or employee under his supervision or jurisdiction for the violation of civil service rules, but in every such case the officer making such order of suspension shall, within one hundred and twenty (120) hours thereafter, file a written statement with the Commission, giving the reasons for such suspension, and immediately furnish a copy thereof to the officer or employee affected by such act, said copy to be delivered in person to such suspended officer or employee by said department head. Said order of suspension shall inform the employee that he has ten (10) days after receipt of a copy thereof, within which to file a written appeal with the Commission. The Commission shall hold a hearing and render a decision in writing within thirty (30) days after it receives said notice of appeal. Said decision shall state whether or not the suspended officer or employee shall be permanently or temporarily dismissed from the Fire or Police Department or be restored to his former position or status in the classified service in the department. In the event that such suspended employee is restored to the position or class of service from which he was suspended, such employee shall receive full compensation at the rate of pay provided for the position or class of service from which he was suspended, for the actual time lost as a result of such suspension. All hearings of the Commission in case of such suspension shall be public.

(b) The written statement above provided to be filed by the department head with the Commission, shall not only point out the civil service rule alleged to have been violated by the suspended employee, but shall contain the alleged acts of the employee which the department head contends are in violation of the civil service rules. It shall not be sufficient for the department head merely to refer to the provisions of the rules alleged to have been violated and in case the department head does not specifically point out the act or acts complained of on the part of such employee, it shall be the duty of the Commission promptly to reinstate him. In any civil service hearing hereunder, the department head is hereby restricted to his original written statement and charges, which shall not be amended, and no act or acts may be complained of by said department head which did not happen or occur within six (6) months immediately preceding the date of suspension by the department head. No employee shall be suspended or dismissed by the Commission except for violation of the civil service rules, and except

upon a finding by the Commission of the truth of the specific charges against such employee.

(c) In the event the Commission orders that such suspended employee be restored to his position as above provided, it shall be the duty of the department head immediately to reinstate him as ordered and in event the department head fails to do so, the employee shall be entitled to his salary just as though he had been regularly reinstated.

(d) In the event such department head wilfully refuses to obey the orders of reinstatement of the Commission, and such refusal persists for a period of ten (10) days, it shall be the duty of the chief executive or legislative body of the city to discharge such department head from his employment with the city.

(e) The Commission may punish for contempt any department head who wilfully refuses to obey any lawful order of reinstatement of the Commission, and such Commission shall have the same authority herein to punish for contempt as has the Justice of the Peace.

Purpose of Law; Hearings

Sec. 16a. It is hereby declared that the purpose of the Firemen and Policemen's Civil Service Law is to secure to the cities affected thereby efficient Police and Fire Departments, composed of capable personnel, free from political influence, and with permanent tenure of employment as public servants. The members of the Civil Service Commissions are hereby directed to administer the civil service law in accordance with this purpose; and when sitting as a board of appeals for a suspended or aggrieved employee who has invoked any review procedures under the provisions of this Act, they are to conduct such hearing fairly and impartially under the provisions of this law and are to render a fair and just decision, considering only the evidence presented before them in such hearing.

Disciplinary Suspensions

Sec. 16b. (a) In a city having a population of 1,500,000 or more according to the most recent federal census, the head of either the fire or the police department may suspend an officer or employee under his jurisdiction or supervision for disciplinary purposes, for reasonable periods, not to exceed 15 days. If the department suspends a person, the department head shall file with the commission not later than the 120th hour after the person is suspended a written statement of action, and the commission shall, on appeal of the suspended officer or employee, hold a public hearing as prescribed by Section 17 of this Act. The commission shall determine whether just cause exists for the suspension. If the department head fails to file the statement with the commission within the 120-hour time period, the suspension is void and the employee is entitled to his full salary. The commission may reverse the decision of the department

head and instruct the department head to immediately restore the employee to his position and to repay the employee for any lost wages. If the commission finds that the period of disciplinary suspension should be reduced, it may order a reduction in the period of suspension. If the department head refuses to obey the order of the commission, the provisions of Section 16 of this Act relating to salaries of employees, the discharge of the department head, and the other provisions relating to the refusal of the department head apply.

(b) In a city having a population of less than 1,500,000 according to the most recent federal census, the chief or head of the fire department or police department may suspend an officer or employee under his supervision or jurisdiction for the violation of a civil service rule for a reasonable period not to exceed 15 calendar days, or for an indefinite period. An indefinite suspension is equivalent to permanent dismissal from the department. If offered by the chief or head of the department, the officer or employee may agree in writing to voluntarily accept, with no right of appeal, a suspension of not less than 16 or more than 90 calendar days for violation of civil service rules. The officer or employee must accept the offer not later than the fifth working day after the offer is made. If the chief or head of a department suspends a person, the chief or head shall, not later than the 120th hour after the hour of suspension, file a written statement with the commission giving the reasons for the suspension, and shall immediately furnish a copy of the statement to the suspended officer or employee. The chief or department head shall deliver the copy in person to the suspended officer or employee. The order of suspension shall inform the officer or employee that if he wishes to appeal, he must file a written appeal with the commission not later than the 10th day after the date on which the officer or employee receives a copy of the statement. If the officer or employee refuses an offer of suspension of not less than 16 or more than 90 calendar days and wishes to appeal to the commission, the officer or employee must file a written appeal with the commission not later than the 15th day after the date the officer or employee receives the statement. Unless the suspended officer or employee and the commission mutually agree to postpone the hearing for a definite period of time, the commission shall hold a hearing and render a decision in writing not later than the 30th day after the date on which it receives the notice of appeal. The decision of the commission shall state whether or not the suspended officer or employee is permanently dismissed, or temporarily suspended from the fire or police department, or restored to his former position or status in the classified service in the department. If the commission finds that the period of disciplinary suspension should be reduced, it may order a reduction in the period of suspension. If the suspended officer or employee is restored to the position or class of service from which he was suspended, the officer or employee shall receive full

compensation at the rate of pay provided for the position or class of service from which he was suspended for the actual time lost as a result of the suspension. All hearings of the commission in case of a suspension are public. The commission may deliberate the decision in closed session but may not consider evidence that was not presented at the hearing. The commission shall vote in open session. The written statement filed by the department head with the commission shall point out the civil service rule alleged to have been violated by the suspended officer or employee and shall contain the alleged acts of the officer or employee that the department head contends are in violation of the civil service rules. It is not sufficient for the department head merely to refer to the provisions of the rules alleged to have been violated. If the department head does not specifically point out the act or acts complained of on the part of the officer or employee, the commission shall promptly reinstate the officer or employee. In a civil service hearing conducted under this subsection, the department head is restricted to his original written statement and charges which may not be amended. In the original written statement and charges and in any hearing conducted under this subsection, the department head may not complain of an act or acts that occurred earlier than the 180th day immediately preceding the date on which the department head suspends the officer or employee. An officer or employee may not be suspended or dismissed by the commission except for violation of the civil service rules, and after a finding by the commission of the truth of specific charges against the officer or employee.

Hearing Examiners

Sec. 16c. (a) In a city having a population of less than 1,500,000 according to the most recent federal census, in an appeal of an indefinite suspension, a suspension, a promotional passover, or a recommended demotion, the appealing employee may elect to appeal to an independent third party hearing examiner instead of to the commission. To exercise this choice, the appealing employee must submit a letter to the director stating his decision to appeal to an independent third party hearing examiner.

(b) The decision of the hearing examiner is final and binding on all parties. If the employee decides to appeal to an independent third party hearing examiner, the employee automatically waives all rights to appeal to district court.

(c) If the appealing employee chooses to appeal to a hearing examiner, the employee and the chief shall first attempt to mutually agree on the selection of an impartial hearing examiner. If an agreement is not reached on the selection of the hearing examiner on or before the 10th day after the date the appeal is filed, the director shall immediately request a list of seven qualified neutral arbitrators from the American Arbitration Association or Federal Mediation and Conciliation Service, or their

successor in function. The employee and the chief may mutually agree on one of the seven neutral arbitrators on the list. If they do not agree within five working days after receipt of the list, each party shall alternate striking a name from the list and the name remaining shall be the hearing examiner.

(d) The appeal hearing shall commence as soon as the hearing examiner selected can be scheduled. If the hearing examiner cannot commence the hearing within 45 calendar days after the date of selection, the employee may, within two days of learning of that fact, call for the selection of a new hearing examiner using the same procedure as provided by Subsection (c) of this section.

(e) All fees and expenses of the hearing examiner are shared equally by the appealing officer or employee and by the department. The costs of witnesses for either side shall be paid by the party who calls the witnesses.

(f) A state district court may hear appeals of an award of a hearing examiner only on the grounds that the arbitration panel was without jurisdiction or exceeded its jurisdiction or that the order was procured by fraud, collusion, or other unlawful means. An appeal must be brought in the state district court having jurisdiction in the municipality in which the department is located.

Procedures After Criminal Indictment

Sec. 16d. (a) In a city having a population of less than 1,500,000 according to the most recent federal census, if a fire fighter or police officer is indicted for a felony or officially charged with the commission of a Class A or B misdemeanor, the procedures prescribed by this section apply.

(b) The head of the department may temporarily suspend the fire fighter or police officer with or without pay. The head of the department shall notify the fire fighter or police officer in writing that he is being temporarily suspended with or without pay for a period not to exceed 30 days after the date of final disposition of the specified felony or misdemeanor complaint, and that the temporary suspension is not intended to reflect an opinion on the merits of the indictment or complaint.

(c) If the action directly related to the felony indictment or misdemeanor complaint occurred or was discovered on or after the 180th day before the date of the indictment or complaint, the head of the department may, not later than the 30th day after the date of final disposition of the felony charge or misdemeanor complaint, bring a civil service charge against the fire fighter or police officer.

(d) Conviction of a felony is cause for dismissal, and conviction of a Class A or B misdemeanor may be cause for disciplinary action or indefinite suspension.

(e) Acquittal or dismissal of an indictment or a misdemeanor complaint does not mean that a fire

fighter or police officer has not violated civil service rules or regulations and does not negate the charges that may have been or may be brought against him by the department head.

(f) A fire fighter or police officer indicted for a felony or officially charged with the commission of a Class A or B misdemeanor who has also been charged by the department head with civil service violations directly related to the indictment or misdemeanor complaint may delay the civil service hearing for a period of not more than 30 days after final disposition of the indictment or complaint.

(g) If the head of the department temporarily suspends a fire fighter or police officer who has been indicted for a felony or officially charged with a Class A or B misdemeanor, and the fire fighter or police officer is not found guilty of the indictment or complaint in the court of competent jurisdiction, the fire fighter or police officer may appeal to the commission or to a hearing examiner for recovery of back pay. The commission or hearing examiner may award all or part of the back pay or reject the appeal.

(h) The department head may order an indefinite suspension based on an act or acts classified as a felony or a Class A or B misdemeanor after the 180-day period after discovery of the act or acts by the department if delay is considered necessary by the department head to protect a criminal investigation of the employee's conduct. If the department head intends to order an indefinite suspension after the 180-day period, the department head must file a statement describing the criminal investigation and its objectives with the attorney general not later than the 180th day after the date on which the act complained of occurred.

Procedure Before Commission

Sec. 17. In order for a Fireman or Policeman to appeal to the Commission from any action for which an appeal or review is provided under the terms of this Act, it shall only be necessary for him to file within ten (10) days with the Commission an appeal setting forth the basis of his appeal. The appeal shall include a statement denying the truth of the charge as made, a statement taking exception to the legal sufficiency of such charges, a statement alleging that the recommended action does not fit the offense or alleged offense, or any combination of the statements, and in addition, a request for a hearing by the Commission. In all hearings, appeals, and reviews of every kind and character, wherein the Commission is performing an adjudicatory function, the employee shall have the right to be represented by council or any person of his choice. The employee may request the Commission to subpoena any books, records, documents, papers, accounts, or witnesses that the employee considers pertinent to his case. The request to have materials subpoenaed must be made at least ten (10) days before the date of the hearing. If the Commission does not subpoena the requested material, at least

three (3) days prior to the hearing date, it shall make a written report to the employee stating the reason it will not subpoena the requested material, and this report shall be read into the public records of the Commission hearing. The witnesses may be placed under the rule. All such proceedings shall be public. The Commission shall consider only evidence submitted at the hearing. The Commission shall have the authority to issue subpoenas and subpoenas duces tecum for the attendance of witnesses and for the production of documentary material. The Commission shall maintain a permanent public record of all proceedings with copies available at cost.

Appeal to District Court

Sec. 18. In the event any Fireman or Policeman is dissatisfied with any decision of the Commission, he may, within ten (10) days after the rendition of such final decision, file a petition in the District Court, asking that the decision be set aside, and such case shall be tried de novo. The court in such actions may grant such legal or equitable relief as may be appropriate to effectuate the purposes of this Act, including reinstatement or promotion with back pay where an order of suspension, dismissal, or demotion is set aside. The court may award reasonable attorney's fees to the prevailing party and assess court costs against the nonprevailing party. If the court finds for the fireman or policeman, the court shall order the city to pay lost wages to the fireman or policeman.

Demotions

Sec. 19. Whenever the head of the Fire Department or Police Department may desire the demotion to a lower rank of an officer or employee under his supervision or jurisdiction, such Department head may recommend in writing to the Commission that such employee be so demoted, giving his reasons therefor, and requesting that the Commission make such order of demotion, furnishing a true copy of such recommendation immediately, in person, to the employee to be affected by such demotion. Said Commission shall have the authority to refuse to grant said request for demotion. If however, said Commission feels that probably¹ cause exists for said demotion, they shall give such employee ten (10) days advance written notice to appear before them at a time and place specified in said written notice to the employee, and said employee shall have the right to a full and complete public hearing upon such proposed demotion. The Commission shall not demote any employee without such hearing.

¹ Probably should read "probable".

Uncompensated Duty

Sec. 20. (a) In this section, "uncompensated duty" means days of police work without pay and in addition to regular or normal work days.

(b) In a city having a population of less than 1,500,000 according to the most recent federal census, the head of the Police Department may assign any officer or employee under his jurisdiction or supervision to uncompensated duty. The chief or department head may not impose uncompensated duty unless the officer or employee agrees. The duty may be in place of or in combination with a period of disciplinary suspension without pay. If uncompensated duty is combined with a disciplinary suspension, the total number of uncompensated duty days may not exceed 15. If the officer or employee agrees to accept uncompensated duty, the chief or department head shall give the officer or employee a written statement that specifies the date or dates on which the officer or employee will perform uncompensated duty.

(c) An officer or employee may not earn or accrue any wage, salary, or benefit arising from length of service while the officer or employee is suspended or performing uncompensated duty. A disciplinary suspension does not constitute a break in a continuous position or service in the department for the purpose of determining eligibility for a promotional examination. The days on which an officer or employee performs assigned uncompensated duty may not be taken into consideration in determining eligibility for a promotional examination. Except as provided by this subsection, an officer or employee performing assigned uncompensated duty retains all rights and privileges of his position in the Police Department and of his employment by the city.

Reduction of Force; Reinstatement List

Sec. 21. In the event that any position in the Fire Department or Police Department is vacated or abolished by ordinance of the City Council, or legislative body, the employee holding such position shall be demoted to the position next below the rank of the position so vacated or abolished; provided that when any position or positions of equal rank may be abolished or vacated, the employee or employees with the least seniority in the said rank shall be the one or ones who are demoted.

In the event that it thereby becomes necessary to demote an employee or employees to the position next below the rank of the position so vacated or abolished, such employee or employees as are involuntarily demoted without charges having been filed against them for violation of civil service rules shall be placed on a position reinstatement list in order of their seniority. If any such position so vacated or abolished is filled or re-created within one (1) year, the position reinstatement list for such position shall be exhausted before any employee not on such list is promoted to such position. Promotions from the position reinstatement list shall be in the order of seniority.

In the event positions in the lowest classifications are abolished or vacated, and it thereby becomes necessary to dismiss employees from the Department, the employee with the least seniority shall be

dismissed, but such employees as are involuntarily separated from the Department without charges having been filed against them for violation of civil service rules, shall be placed on the reinstatement list in order of their seniority. The reinstatement list shall be exhausted before appointments are made from the eligibility list. Appointments from reinstatement list shall be in the order of seniority. Those who shall have been on any such reinstatement list for a period of three (3) years shall be dropped from such list but shall be reinstated upon request from the Commission.

Political Activities; Leaves of Absence

Sec. 22. Employees in the Fire Department or Police Department shall not be permitted to take an active part in any political campaign of another for an elective position of the city if they are in uniform or on active duty. The term active part means making political speeches, passing out cards, or other political literature, writing letters, signing petitions, actively and openly soliciting votes and making public derogatory remarks about candidates for such elective positions.

Firemen and Policemen coming under the provisions of this Act are not required to contribute to any political fund or render any political service to any person or party whatsoever; and no person shall be removed, reduced in classification or salary, or otherwise prejudiced by refusing to do so; and any official of any city coming under the provisions of this Act who attempts the same shall be guilty of violating the provisions of this Act.

No fireman or policeman shall be refused reasonable leave of absence without pay, provided that a sufficient number of employees to carry out the normal functions of the Department shall be provided, for the purpose of attending any fire or police school, conventions, or meetings, the purpose of which is to secure more efficient departments and better working conditions for the personnel thereof, nor shall any rule ever be adopted affecting their constitutional right to appear before or petition the Legislature. Provided however, that no Civil Service Commission or governing body of any city shall further restrict the rights of employees of the Police and Fire Departments to engage in political activities except as herein expressly provided.

Military Leave of Absence

Sec. 22a. The Civil Service Commission on written application of a member of the fire or police department shall grant military leave of absence without pay to such member to enable him to enter military service of the United States in any of its branches. Such leave of absence may not exceed the compulsory military service or the basic minimum enlistment period for that branch of service. The Commission shall grant a leave of absence to a member of the fire or police department for initial training or annual duty in military reserves or the national guard. The Civil Service Commission shall

grant such leave retroactively back to the commencement of the Korean War. Any such member receiving military leave of absence hereunder shall be entitled to be returned to the position in the department held by him at the time the leave of absence is granted, upon the termination of his active military service, provided he receives an Honorable Discharge and remains physically and mentally fit to discharge the duties of that position; and further provided he makes application for reinstatement within ninety (90) days after his discharge. Upon being returned to said position, such member shall receive full seniority credit for the time spent in the military service. During the absence from the department of any such member to whom military leave of absence shall have been granted by the Civil Service Commission the position in the department held by such member shall be filled in accordance with the other provisions of the Firemen's and Policemen's Civil Service Act subject to the person filling such position being replaced by the member to whom military leave of absence has been granted upon his return to active duty with the department. Any person so replaced and remaining with the department and by reason of such replacement being returned to a position lower in grade or compensation shall have a preferential right for subsequent appointment or promotion to the same or similar position of that from which he has been replaced over any eligibility list for such position, provided he remains physically and mentally fit to discharge the duties of such position.

Publishing of Rules; Mailing, Posting and Distribution

Sec. 23. The Commission shall cause to be published all rules and regulations which may be promulgated by it, and shall publish classification and seniority lists for each department, and such rules and regulations and lists shall be made available upon demand.

Whenever the Commission shall have adopted any such rules or regulations by a majority vote, and shall have caused same to be reduced to writing, typewriting or printing, such rules and such regulations shall thereupon be deemed to be sufficiently published and promulgated within the meaning of this Act and shall be valid and binding, upon the Commission doing or causing to be done the following:

(1) By mailing a copy of such rules and regulations to the Commissioner of Fire and Police, the Chief of the Police Department, and the Chief of the Fire Department.

(2) By posting all such rules and regulations at a conspicuous place for a period of seven (7) days in the Central Police Station and for the same period in the Central Fire Station.

(3) By mailing a copy of all such rules and regulations to each branch fire station.

The Director of Civil Service shall keep on hand copies of said rules and regulations for free distri-

bution to members of the Fire and Police Departments requesting same, and said rules and regulations shall be kept available for inspection by any interested citizen.

No additional publication by way of insertion in a newspaper shall be required and no action need be taken by the City Council or governing body of any such city with reference to said rules or regulations; and in all cities coming under the provisions of this Act, where the Commission has heretofore adopted any such rules and regulations, and has caused same to be reduced to writing, typewriting or printing, and complied with all provisions of this Section, such rules and such regulations are hereby validated ab initio regardless of whether same have been published in a newspaper, or by posting, or otherwise, and regardless of whether any section has been taken with reference thereto by the City Council or governing body of such city.

Status of Present Employees

Sec. 24. Firemen or Policemen in the actual service of each city affected hereby, at the time of the final passage of this Act, and entitled to civil service classification, shall enjoy the status of civil service employees without having to take any competitive examinations for the position occupied at the time, provided such Firemen and Policemen have been in the service of said city for more than six (6) months.

Sec. 25. Repealed by Acts 1957, 55th Leg., p. 1171, ch. 391, § 8.

Penalties

Sec. 25a. Any chief executive of a city who knowingly or intentionally fails or refuses to appoint the Civil Service Commissioners provided by Section 3 of this Act within sixty (60) days after the city has adopted this Act commits a misdemeanor and shall be fined not less than One Hundred Dollars (\$100) nor more than Two Hundred Dollars (\$200). Each day after the 60-day deadline that the chief executive fails or refuses to make an appointment constitutes a separate offense. A chief executive or any city official who knowingly or intentionally refuses to implement this Act or attempts to obstruct the enforcement of this Act commits a misdemeanor and shall be fined not less than One Hundred Dollars (\$100) nor more than Two Hundred Dollars (\$200) for each offense.

Sick and Injury Leaves of Absence

Sec. 26. (a) Permanent and temporary employees in the classified service shall be allowed a total of sick leave with full pay computed upon a basis of one and one-fourth (1¼) full working days allowed for each full month employed in a calendar year, so as to total fifteen (15) working days to an employee's credit each twelve (12) months. Employees shall be allowed to accumulate fifteen (15) working days of sick leave with pay in one (1) calendar year.

(b) Sick leave with pay may be accumulated without limit and may be used while an employee is unable to work because of any bona fide illness. In the event that the said employee can conclusively prove that the illness was incurred while in performance of his duties, an extension of sick leave in case of exhaustion of time shall be granted.

(c) In the event that a Fireman or Policeman for any reason leaves the classified service, he shall receive, in a lump sum payment, the full amount of his salary for the period of his accumulated sick leave, provided that if the Fireman or Policeman has more than ninety (90) working days of accumulated sick leave, the employer may limit the payment to that sum equal to the sum that the employee would have been paid had he been allowed to use the ninety (90) days of accumulated sick leave during the last six (6) months of employment. The lump-sum payment provided in this section is calculated as follows: the employee is compensated for the accumulated time at the highest permanent classification of pay for which the employee was eligible during the last six (6) months of employment. The employee is paid for the same period of time the employee would have been paid if the sick leave had been taken but excluding additional holidays and any sick leave or vacation time which the employee might have accrued during the ninety (90) working days.

(d) If an active Fireman or Policeman dies as a result of a line of duty injury or line of duty illness, the entire amount of his accumulated sick leave shall be paid as provided in this section. Provided, that in order to facilitate the settlement of the accounts of deceased employees of the Fire or Police Departments, all unpaid compensation due such employee at the time of his death shall be paid to the person or persons surviving at the date of death, in the following order or precedence and such payments shall be a bar to recovery by any other person of amounts so paid.

First, to the beneficiary or beneficiaries designated by the employee in writing to receive such compensation filed with the Civil Service Commission prior to the employee's death;

Second, if there be no such beneficiary, to the widow or widower of such employee;

Third, if there be no such beneficiary or surviving spouse, to the child or children of such employee, and descendants of deceased children, by representation;

Fourth, if none of the above, to the parents of such employee, or the survivor of them;

Fifth, if there be none of the above, to the duly appointed legal representative of the estate of the deceased employee, or if there be none, to the person or persons determined to be entitled thereto under the laws of descent and distribution of the State of Texas.

(e) Provided that all such cities coming under the provisions of this Act shall provide injury leaves of absence and line of duty illness leaves of absence for Firemen and Policemen with full pay for periods of time commensurate with the nature of the line of duty illness or injuries for at least one (1) year. At the expiration of said one-year period, the City Council or governing body may extend such line of duty illness or injury leave, at full or reduced pay, provided that in cities that have a Firemen's or Policemen's Pension Fund, that if said injured employee's salary should be reduced below sixty per cent (60%) of his regular monthly salary, said employee shall have the option of being retired on pension until able to return to duty.

(f) If there are no pension benefits available to an employee who is temporarily disabled by a line of duty injury or illness and the year at full pay and any extensions which may have been granted by the employer have expired, the employee may use accumulated sick leave, vacation time, and other accrued benefits before being temporarily placed on leave.

(g) If an employee is temporarily disabled by an injury or illness not related to the employee's line of duty, the employee may use all sick leave, vacation time, and any other time the employee may have accumulated before being placed on temporary leave.

(h) After recovery from a temporary disability, a Fireman or Policeman shall be reinstated at the same rank and with the same seniority the person had before going on temporary leave. Another Fireman or Policeman may voluntarily do the work of an injured or ill Fireman or Policeman until the Fireman or Policeman returns to duty.

Vacations; Accumulations of Vacation Leave

Sec. 26(a). All firemen and policemen in the classified service shall earn a minimum of fifteen (15) working days vacation with pay in each year. In computing the length of time during which a fireman or policeman may be absent from work for the vacation provided by this Section, only those calendar days during which the member would be required to work if he were not on vacation shall be counted as vacation days. Vacation leave may not be accumulated from year to year, except as approved by the governing body of the city.

Termination of Service, Lump Sum Payments: Cities of 1,200,000 or More, Accumulated Sick Leave; Cities of 650,000 or More, Accumulated Vacation Leave

Sec. 26(b). (a) In any city in this State having a population of one million, two hundred thousand (1,200,000) or more inhabitants, according to the last preceding federal census, a fireman or policeman who leaves the classified service for any reason or the beneficiaries of any fireman or policeman who loses his life as a result of a line of duty injury or illness shall receive in a lump sum payment the full amount of his salary for the period of his accumu-

lated sick leave. Sick leave shall be accumulated without limit.

(b) In any city in this State having a population of six hundred and fifty thousand (650,000) or more inhabitants, according to the last preceding federal census, a fireman or policeman who leaves the classified service for any reason shall receive in a lump sum payment the full amount of his salary for the period of his accumulated vacation leave, provided that such payment shall be based upon not more than sixty (60) working days of accumulated vacation leave. Any fireman or policeman who leaves the classified service or loses his life as the result of a line of duty injury or illness or the beneficiaries of such fireman or policeman shall be paid the full amount of his salary for the total number of his working days of accumulated vacation leave.

Firemen or Policemen Prohibited from Striking

Sec. 27. It shall be unlawful from and after the passage of this Act for any Fireman or Policeman, coming under the provisions of this Act, to engage in any strike against the agency of the government by which they are employed.

Firemen or Policemen, coming under the provisions of this Act, who shall violate any of the provisions of this Act, shall be guilty of a misdemeanor and shall, after conviction, be fined not less than Ten Dollars (\$10) or more than One Hundred Dollars (\$100), or by confinement in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.

And in addition to such fine and imprisonment, any Fireman or Policeman who has been convicted of the violation of the provisions of this Section of this Act shall thereby be automatically released and discharged from such Police or Fire Department and shall thereafter be ineligible to receive any pay or compensation out of any public funds provided for the support of such Police or Fire Department.

Adoption of Act by Vote or Otherwise

Sec. 27(a). Provided, however, that the provisions of this Act as amended by this House Bill No. 79, passed at the Fifty-fifth Regular Session of the Legislature, shall not apply to any city unless such city has already adopted and has in effect the provisions of this Act before the effective date of this amending Act, or unless first determined at an election at which the adoption or rejection of this Act shall be submitted. Upon receiving a petition signed by qualified voters in said city in number not less than ten per cent (10%) of the total number voting in the last preceding municipal election, the governing body of said city shall call and hold an election within sixty (60) days after said petition has been filed with governing body. If at said election a majority of the votes cast shall favor the adoption of this Act, said governing body shall put such Act into effect within thirty (30) days after the beginning of the first fiscal year of said city after said

election. The question shall be submitted for the vote of the qualified electors as follows:

FOR the adoption of the Firemen's and Policemen's Civil Service Act.

AGAINST the adoption of the Firemen's and Policemen's Civil Service Act.

When any election has been held in a city, at which election the adoption or rejection of Chapter 325, Acts of the Fiftieth Legislature, 1947, (Vernon's Annotated Civil Statutes, Article 1269m) has been submitted, whether such election has been held prior to the effective date of this amending Act or subsequent thereto, a petition for another such election shall not be filed for at least one (1) year subsequent to the election so held; and said petition for any such election after the first election shall be signed by qualified voters in said city in number not less than twenty per cent (20%) of the total number voting in the last preceding municipal election; and any such election after the first election shall be held at the next general municipal election to be held in such city after the filing of such petition.

This Act may be adopted to apply only to a Fire Department or a Police Department. If the Act, as adopted, is to be limited to one or the other department, the ballot question shall be printed to reflect which department will be covered by this Act.

Repeal of Provisions in City by Vote

Sec. 27(b). In any city in which the provisions of this Act have been in effect for a period of one (1) year, if a petition of ten per cent (10%) of the qualified voters of such city shall be presented to the governing body of such city to call an election for the repeal of the provisions of this Act, then and in that event, the governing body of such city shall call an election of the qualified voters to determine if they desire the repeal of such provisions. Should a majority of the qualified voters so vote to repeal the provisions of this Act, then the provisions shall become null and void as to such city.

Repeal and Saving Clause

Sec. 28. This Act shall supersede all other civil service pertaining to Firemen and Policemen in the cities covered hereby. If any section, paragraph, portion, sentence, line, phrase, clause, or word of this Act should be held to be unconstitutional or invalid, then such unconstitutionality or invalidity of any other section, paragraph, portion, sentence, line, phrase, or word hereof, and it is hereby declared to be the legislative intent that each and all of the said portions as above specified that are not held to be unconstitutional or invalid, shall be and remain in full force and effect, just as though said unconstitutional or invalid portions, if any, were eliminated from the text of this Act.

Emergency Appointment of Persons Over 35

Sec. 28(a). When a city affected by the provisions of this Act is unable to recruit qualified employees in the Fire and Police Departments because of the maximum age limit provided by this Act, and the governing body finds that such condition consti-

tutes an emergency, then the Civil Service Commission of said city shall recommend to the governing body such additional rules and regulations governing the temporary employment of persons in the Fire and Police Departments who are over the age of thirty-five (35) years. Provided, however, that persons employed under the provisions of such rules shall:

- A. Be designated as "temporary" employees.
- B. Be ineligible for pension benefits.
- C. Be ineligible for appointment or promotion when one or more permanent applicants or employees are available.
- D. Be ineligible to become full-fledged Civil Service Employees.
- E. Be terminated before any permanent Civil Service Employee is terminated pursuant to Section 21 of this Act.

Full Civil Service Status for Certain Temporary Employees

Sec. 28(b). Any person employed under the provisions of Section 28(a) of this Act prior to January 1, 1970, and who has been continually employed in the temporary status provided by Section 28(a) shall be granted full civil service status with all the rights and privileges granted by this Act in Section 24, and shall be eligible to participate in earned pension benefits. Employees affected by this section shall be allowed to buy back service credits in the pension fund that permanent employees have been participating in since his/her employment at a rate to be determined by the actuary of the affected pension fund.

[Acts 1947, 50th Leg., p. 550, ch. 325. Amended by Acts 1949, 51st Leg., p. 1114, ch. 572, §§ 1 to 6; Acts 1951, 52nd Leg., p. 161, ch. 99, § 1; Acts 1951, 52nd Leg., p. 164, ch. 102, § 1; Acts 1951, 52nd Leg., p. 425, ch. 265, § 1; Acts 1951, 52nd Leg., p. 780, ch. 433, § 1; Acts 1951, 52nd Leg., p. 470, ch. 298, § 1; Acts 1955, 54th Leg., p. 706, ch. 255, §§ 1 to 6; Acts 1957, 55th Leg., p. 1171, ch. 391, §§ 1 to 7(a); Acts 1963, 58th Leg., p. 150, ch. 91, § 1; Acts 1971, 62nd Leg., p. 939, ch. 150, § 1, eff. May 11, 1971; Acts 1971, 62nd Leg., p. 2822, ch. 921, § 1, eff. Aug. 30, 1971; Acts 1973, 63rd Leg., p. 300, ch. 140, § 1, eff. May 21, 1973; Acts 1973, 63rd Leg., p. 1247, ch. 451, § 1, eff. June 14, 1973; Acts 1973, 63rd Leg., p. 1255, ch. 457, § 1, eff. Aug. 27, 1973; Acts 1975, 64th Leg., p. 302, ch. 131, § 1, eff. Sept. 1, 1975; Acts 1975, 64th Leg., p. 484, ch. 207, § 1, eff. Sept. 1, 1975; Acts 1975, 64th Leg., p. 1963, ch. 648, § 1, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 134, ch. 63, § 1, eff. Aug. 29, 1977; Acts 1977, 65th Leg., p. 176, ch. 86, § 1, eff. Aug. 29, 1977; Acts 1977, 65th Leg., p. 1130, ch. 424, § 1, eff. Aug. 29, 1977; Acts 1977, 65th Leg., p. 1140, ch. 431, § 1, eff. Aug. 29, 1977; Acts 1977, 65th Leg., p. 2073, ch. 824, § 1, Aug. 29, 1977; Acts 1979, 66th Leg., p. 152, ch. 83, §§ 1, 2, eff. April 26, 1979; Acts 1979, 66th Leg., p. 544, ch. 258, § 1, eff. Aug. 27, 1979; Acts 1979, 66th Leg., p. 1856, ch. 753, §§ 1 to 12, eff. Sept. 1, 1979; Acts 1981, 67th Leg., p. 525, ch. 215, § 1, eff. Aug. 31, 1981; Acts 1981, 67th Leg., p. 2630, ch. 707, § 4(7), eff. Aug. 31, 1981; Acts 1981, 67th Leg., p. 2677, ch. 728, § 1, eff. Aug. 31, 1981; Acts 1983, 68th Leg., p. 944, ch. 219, § 1, eff. Aug. 29, 1983; Acts 1983, 68th Leg., p. 1748, ch. 338, § 1, eff. Aug. 29, 1983; Acts 1983, 68th Leg., p. 2246, ch. 420, §§ 1 to 11, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 3007, ch. 517, § 1, eff. Aug. 29, 1983; Acts 1983, 68th Leg., p. 4501, ch. 730, § 1, eff. June 19, 1983.]

Savings Clause

Acts 1965, 59th Leg., p. 1158, ch. 546, codified as article 4413(29aa), provides in section 8 that nothing contained in the Act should be deemed to limit the powers and duties of municipal or county governments, nor to affect the provisions of this article. See art. 4413(29aa), § 8.

Acts 1977, 65th Leg., ch. 63, which by § 1 added § 14A to this article, provided in §§ 2 and 3:

"Sec. 2. All prior laws shall be deemed to have been superseded by the provisions hereof and, to the extent that any other law is in conflict with or inconsistent with the provisions hereof, the provisions of this Act shall take precedence and be effective. This section shall apply to each and every section of this Act.

"Sec. 3. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

Acts 1977, 65th Leg., ch. 86, which by § 1 amended § 26(b) of this article, provided in § 2:

"This Act shall take effect on August 1, 1977."

However, since the Act did not receive the requisite two-thirds record vote in each house, it became effective on August 29, 1977, 90 days after adjournment.

Acts 1981, 67th Leg., p. 2677, ch. 728, § 2, provided:

"The entitlement of field training officers to assignment pay is effective for the first full calendar month that begins on or after the effective date of this Act."

Art. 1269n. Political Campaigns; Coercing Policeman or Fireman

(a) No person may coerce a policeman or a fireman to participate or to refrain from participating in a political campaign.

(b) Any person who violates Subsection (a) of this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$500 nor more than \$2,000 or by confinement in the county jail for not more than two years, or both.

[Acts 1973, 63rd Leg., p. 1255, ch. 457, § 2, eff. Aug. 27, 1973.]

Art. 1269o. Two Platoon Fire System and Hours of Labor in Certain Counties

Sec. 1. In all cities containing more than One Hundred Thousand (100,000) inhabitants and less than One Hundred Twenty Thousand (120,000) inhabitants, in this State, according to the last preceding Federal Census, in counties containing more than Nine Hundred (900) square miles, and in all cities of Two Hundred Sixty-five Thousand (265,000) inhabitants, or more, in this State, according to the last preceding Federal Census, in counties containing more than Fifteen Hundred (1500) square miles, which maintain an organized, paid fire department, there shall be established and maintained two platoon fire system, and no employee of such department shall be compelled to be on duty more than ten (10) consecutive hours during the day time, nor more than fourteen (14) consecutive hours during the night time; provided, that in no event shall employees of such fire departments be required to

be on duty more than fourteen (14) hours in any period of twenty-four (24) consecutive hours, except as provided in Section 2 of this Act.

Sec. 2. The head or chief officer of such fire department or companies in such cities shall so arrange the working hours of the employees of such fire department or companies so that each employee shall work, as near as practicable, an equal number of hours per month; provided the two platoons may be so arranged as to work twenty-four (24) hours each on duty and twenty-four (24) hours off duty; provided, that the head or chief officer of such department, his aids or assistants may, in their discretion, in cases of emergency or great conflagrations require such employee, or employees to continue on duty during such conflagration or emergency, for a greater period than specified in Section 1 hereof.

Sec. 3. That any chief of such fire department or companies or any other officer or person who violates or causes to be violated any provision of this Act shall be guilty of a misdemeanor, and shall upon conviction be punished by a fine of not less than Ten and No/100 (\$10.00) Dollars, nor more than One Hundred and No/100 (\$100.00) Dollars; each employee required or permitted to work in violation of the provisions hereof and each and every day of such violation shall constitute a separate offense.

[Acts 1933, 43rd Leg., p. 526, ch. 170.]

Art. 1269p. Hours of Labor and Vacations of Firemen and Policemen in Certain Cities**Cities Over 25,000; Hours of Labor**

Sec. 1. No member of any fire department or police department in any city of more than twenty-five thousand (25,000) inhabitants shall be required to be on duty more than six (6) days in any one week.

Exception for Emergencies

Sec. 2. The preceding subdivision shall not apply to cases of emergency.

Cities Over 30,000; Vacations

Sec. 3. Each member of any such departments in any city of more than thirty thousand (30,000) inhabitants shall be allowed fifteen (15) days vacation in each year with pay; provided that the provisions of this Section of this Act shall not be applied to any member of any such department in any city of more than thirty thousand (30,000) inhabitants unless such member shall have been regularly employed in such department or departments for a period of at least one (1) year.

Number of Vacation Days and Holidays

Sec. 3a. Firemen and Policemen shall have the same number of vacation days and the same num-

ber of holidays, or days in lieu thereof, that is granted to other municipal employees.

Federal Census

Sec. 4. Each preceding Federal Census shall determine the population.

Designation of Vacation Days and Holidays

Sec. 5. The city officials having supervision of the fire department and police department shall designate the days of the week upon which each such member shall not be required to be on duty, and the days upon which each such member shall be allowed to be on vacation.

Cities Over 10,000; Hours of Labor

Sec. 6. It shall be unlawful for any city having more than ten thousand (10,000) inhabitants but not more than sixty thousand (60,000) inhabitants, according to the last preceding Federal Census, to require or permit any fireman to work more than seventy-two (72) hours during any one calendar week. It shall be unlawful for any city having more than sixty thousand (60,000) inhabitants but not more than one hundred twenty-five thousand (125,000) inhabitants, according to the last preceding Federal Census, to require or permit any fireman to work more than an average, during a calendar year, of sixty-three (63) hours per week. It shall be unlawful for any city having more than one hundred twenty-five thousand (125,000) inhabitants, according to the last preceding Federal Census, to require or permit any fireman to work more than an average, during a calendar year, of sixty (60) hours per week.

Provided further, that in any city having more than ten thousand (10,000) inhabitants, according to the last preceding Federal Census, the number of hours in the work week of members of the fire department whose duties to not include fighting fires, including but not limited to mechanics, clerks, investigators, inspectors, fire marshals, fire alarm dispatchers and maintenance men, shall not exceed the number of hours in the normal work week of the majority of the employees of said city other than firemen and policemen.

Provided further, that in computing the hours in the work week of firemen subject to the provisions of the preceding paragraph, there shall be included and counted any and all hours during which such firemen are required to remain available for immediate call to duty by continuously remaining in contact with a fire department office by telephone or by radio.

Provided, however, that in any such city having more than ten thousand (10,000) inhabitants, in the event of an emergency, firemen may be required to work more than the maximum number of hours herein provided; and in such event firemen working more than the maximum hours herein provided shall be compensated for such overtime at a rate equal to

one and one-half times the compensation paid to such firemen for regular hours.

Cities Over 10,000; Overtime

Sec. 6A. It shall be unlawful for any city having more than ten thousand (10,000) inhabitants, according to the last preceding Federal Census, to require any policeman to work more hours during any calendar week than the number of hours in the normal work week of the majority of the employees of said city other than firemen and policemen.

Provided, however, that in any such city having more than ten thousand (10,000) inhabitants, in the event of an emergency, policemen may be required to work more than the number of hours in the normal work week of the majority of other city employees; and in the event policemen are ordered to work a greater number of hours than the number of hours in such normal work week of other city employees, such policemen shall be compensated for any such overtime at a rate equal to one and one-half times the compensation paid to such policemen for regular hours unless a policeman decides, with the approval of the city governing body, to accept compensatory time equal to one and one-half times the number of overtime hours.

Provided, further that in cases where a majority of policemen working for a city sign a written waiver of the prohibition against cities requiring any policeman to work more hours during any calendar week than the number of hours in the normal work week of the majority of the employees of said city other than firemen and policemen, a city may adopt a work schedule for policemen requiring any policeman to work more hours than the number of hours in the normal work week of the majority of the employees of said city other than firemen and policemen, so long as no policeman works more hours during any calendar month than the number of hours in the normal work month of the majority of the employees of said city other than firemen and policemen without overtime pay. An emergency shall be defined as any unexpected happening or event; or unforeseen situation or crisis that calls for immediate action and requires the police chief or head of the department to order policemen to work overtime.

Effectiveness of Act

Sec. 6B. The governing body of each city which comes under the provisions of this Act¹ shall put into effect the provisions hereof, without referendum or election, on or before the first day of the next fiscal year of such city after the effective date of this Act.

Uncompensated Duty

Sec. 6C. This Act does not prohibit the chief or head of a police department from assigning a policeman under his jurisdiction or supervision to work periods of uncompensated duty as prescribed by Section 20, Chapter 325, Acts of the 50th Legisla-

ture, 1947 (Article 1269m, Vernon's Texas Civil Statutes). A period of uncompensated duty may not be considered or otherwise taken into account in determining compliance with this Act, and Sections 1, 3, 3a, and 6A of this Act do not apply to or include periods of uncompensated duty to which a policeman is assigned.

Working Extra Hours

Sec. 7. The provisions of this Act shall not be construed to prevent firemen and policemen from working extra hours when exchanging hours of work with each other with the consent of the department head.

Penalty

Sec. 8. The city official having charge of the fire department or police department in any such city who violates any provision of this Act shall be fined not less than Ten (\$10.00) Dollars nor more than One Hundred (\$100.00) Dollars, and each day on which said city official shall cause or permit any Section of this Act to be violated shall constitute and be a separate offense.

Cumulative Effect of Act

Sec. 9. Nothing in this Act shall be construed as amending, altering or changing in any manner whatsoever the provisions of Article 1583, Penal Code of Texas, as amended,² Acts 1935, 44th Legislature, page 377, Chapter 139, Section 1; Acts 1937, 45th Legislature, page 358, Chapter 173, Section 1; Acts 1943, 48th Legislature, page 309, Chapter 201, Section 1. This Act is cumulative and in addition to said laws set out in this Section.

[Acts 1945, 49th Leg., p. 55, ch. 38. Amended by Acts 1951, 52nd Leg., p. 436, ch. 270, §§ 1, 2; Acts 1955, 54th Leg., p. 309, ch. 65, § 1; Acts 1959, 56th Leg., p. 781, ch. 356, §§ 1, 2; Acts 1979, 66th Leg., p. 1045, ch. 475, § 1, eff. Aug. 27, 1979; Acts 1979, 66th Leg., p. 1062, ch. 492, § 1, eff. June 7, 1979; Acts 1981, 67th Leg., p. 1861, ch. 440, § 1, eff. June 11, 1981; Acts 1983, 68th Leg., p. 2273, ch. 420, § 12, eff. Sept. 1, 1983.]

¹ Acts 1959, 56th Leg., p. 781, ch. 356, amending § 6 of this article and adding §§ 6A, 6B.

² Repealed by Acts 1959, 56th Leg., p. 781, ch. 356, § 3.

Art. 1269q. Compensation of Employees of Fire, Police, and Sheriff's Departments in Certain Counties

Sec. 1. (a) In any city of this State of not less than one hundred seventy-five thousand (175,000) inhabitants, according to the last preceding Federal Census, or any succeeding Federal Census, each member of the Fire Department and of the Police Department shall receive and be paid the sum of not less than Two Hundred Twenty (\$220.00) Dollars per month, and the additional sum of Three Dollars and Fifty Cents (\$3.50) per month commencing January 1, 1974, which shall be increased to Four (\$4.00) Dollars per month commencing January 1, 1975, for each year of service in such Police or Fire Department up to and including twenty-five (25)

years of service in such department, as a minimum wage for the services so rendered. This longevity or service pay shall be paid in addition to all other moneys paid for services rendered in said department.

(b) In all cities in this State with inhabitants thereof between ten thousand (10,000) and one hundred seventy-five thousand (175,000), according to the last preceding Federal Census, each member of the Fire Department and of the Police Department shall receive and be paid the following sums per month according to the population of each such city of ten thousand (10,000) or more and up to forty thousand and one (40,001), such salary shall be One Hundred Sixty-five (\$165.00) Dollars per month minimum; in all such cities with inhabitants of forty thousand and one (40,001) to one hundred thousand and one (100,001) inhabitants, such minimum salaries shall be One Hundred Ninety-five (\$195.00) Dollars per month; and in all such cities from one hundred thousand and one (100,001) to one hundred seventy-five thousand (175,000) inhabitants, such minimum salaries shall be Two Hundred Ten (\$210.00) Dollars per month; and in all such cities the additional sum of Three Dollars and Fifty Cents (\$3.50) per month commencing January 1, 1974, which shall be increased to Four (\$4.00) Dollars per month commencing January 1, 1975, for each year of service in such Fire or Police Department up to and including twenty-five (25) years of service in such department, as a minimum wage for the services so rendered. This longevity or service pay shall be paid in addition to all other moneys paid for services rendered in said departments.

(c) In all cities in this State having a population in excess of ten thousand (10,000), according to the last preceding Federal Census, or any succeeding Federal Census, the minimum salary of each member of the Fire Department, the Police Department, or both may be increased to not less than the minimum amount stated in a petition signed by not less than twenty-five (25%) per cent of the qualified voters who voted in the last preceding municipal election. The petition shall designate five (5) qualified voters as a committee of petitioners who are authorized to negotiate with the governing body of the city as prescribed by Subsection (d) of this section. The petition shall state the amount of the proposed minimum salary for each rank, pay grade, or classification and the effective date of the proposed salary increase. Except as prescribed by Subsection (d) of this section when a petition is filed with the governing body of a city said governing body shall call an election on the first uniform election date authorized by Section 9b, Texas Election Code (Article 2.01b, Vernon's Texas Election Code), that occurs at least sixty-five (65) days after the petition is filed to determine whether said proposed minimum salary shall be adopted. If at said election a majority of the votes cast shall favor the adoption of said proposed minimum salary, said governing body shall put such salary into effect on

or before the date specified in the petition. No other issue shall be joined on the same ballot with the proposition submitted at the election as herein provided. The question shall be submitted for the vote of the qualified electors and the ballot shall be printed to provide for voting for or against the proposition: "Adoption of the proposed minimum salaries of _____ applicable to _____." The requested salary for each rank, pay grade, or classification, the affected department or departments, and the effective date of the proposed salary increase set forth in the petition mentioned above shall be inserted in lieu of the blank spaces in the proposition.

(d) Nothing herein shall be construed to prevent the city concerned from adopting under the provisions of this Act without an election the minimum salary set forth in the petition filed with the governing body of said city. After the petition prescribed by Subsection (c) of this section is filed, the governing body of the city may confer with the committee of petitioners designated in the petition and offer an alternate salary proposal. If the committee accepts the alternate salary proposal, the governing body is not required to call an election.

(e) When an election has been held as prescribed by Subsection (c) of this section or the committee has accepted an alternate salary proposal as prescribed by Subsection (d) of this section, a petition for another election in the city may not be filed for at least one year after the date on which the first election was held or the alternate salary proposal was accepted.

Sec. 2. (a) In any county in this state having a population of more than seventy-five thousand (75,000) according to the most recent Federal Census, the minimum salary of each member of the Sheriff's Department may be increased to not less than the minimum amount stated in a petition signed by not less than twenty-five (25%) per cent of the qualified voters who voted in the last preceding countywide election for county officers. The petition shall designate five (5) qualified voters as a committee of petitioners who are authorized to negotiate with the governing body of the county as prescribed by Subsection (c) of this section. The petition shall state the amount of the proposed minimum salary for each rank, pay grade, or classification.

(b) Except as prescribed by Subsection (c) of this section, when a petition is filed with the governing body of a county, the governing body shall call an election on the first uniform election date authorized by Section 9b, Texas Election Code (Article 2.01b, Vernon's Texas Election Code), that occurs at least sixty-five (65) days after the petition is filed to determine whether the proposed minimum salary shall be adopted. If at the election a majority of the votes cast favor the adoption of the proposed minimum salary, the salary shall take effect on or before the date specified in the petition. No other issue may be joined on the same ballot. The ballot

shall be printed to provide for voting for or against the proposition: "Adoption of the proposed minimum salaries of _____ for members of the Sheriff's Department." The requested salary for each rank, pay grade, or classification set forth in the petition mentioned above shall be inserted in place of the blank space in the proposition.

(c) A county may adopt the minimum salary set forth in the petition filed with the governing body without calling an election. After the petition prescribed by Subsection (a) of this section is filed, the governing body of the county may confer with the committee of petitioners designated in the petition and offer an alternate salary proposal. If the committee accepts the alternate salary proposal, the governing body is not required to call an election.

(d) When an election has been held as prescribed by Subsection (b) of this section or the committee has accepted an alternate salary proposal as prescribed by Subsection (c) of this section, a petition for another election in the county may not be filed for at least one year after the date on which the first election was held or the alternate salary proposal was accepted.

Sec. 3. Any city or county official, or officials, who have charge of the Fire Department, Police Department, or Sheriff's Department, or who are responsible for the fixing of the wages herein provided in any such city or county, who violate any provisions of this Act, shall be fined not less than Ten (\$10.00) Dollars nor more than One Hundred (\$100.00) Dollars; and each day on which such city or county official, or officials, shall cause or permit any violation of this Act shall constitute and be a separate offense.

Sec. 4. All municipal and county governments affected by this Act, shall, within thirty (30) days following enactment, set up classifications in the Sheriff's, Police, and Fire Departments providing for duties under such classifications and specifying salary for each classification; and thereafter any member of any Sheriff's, Fire, or Police Department who is called upon to perform the duties under any such classification shall be paid the salary provided therefor for such period as he performs such duties.

[Acts 1947, 50th Leg., p. 246, ch. 143, § 1. Amended by Acts 1949, 51st Leg., p. 951, ch. 522, § 1; Acts 1951, 52nd Leg., p. 674, ch. 390, § 1; Acts 1953, 53rd Leg., p. 481, ch. 168, § 1; Acts 1969, 61st Leg., p. 691, ch. 236, § 1, eff. Sept. 1, 1969; Acts 1973, 63rd Leg., p. 506, ch. 218, § 1, eff. Aug. 27, 1973; Acts 1983, 68th Leg., p. 2432, ch. 433, § 1, eff. Aug. 29, 1983.]

Art. 1269r. Compensation of Firemen and Policemen for Court Appearances

Sec. 1. (a) A municipality shall pay firemen and policemen for appearances, made on their time off, as witnesses in criminal suits or in suits in which the municipality or other political subdivision or governmental agency is a party in interest.

(b) Payment for court appearances made on time off shall be at the fireman's or policeman's regular rate of pay and shall be limited to required appearances made by the fireman or policeman in his capacity as a fireman or policeman.

Sec. 2. Payment made under the provisions of this Act may be taxed as court costs in civil suits in which a fireman or policeman appears as a witness.

Sec. 3. Nothing contained herein shall be construed to reduce or prohibit compensation paid in excess of the regular rate of pay.

[Acts 1969, 61st Leg., p. 696, ch. 238, eff. Sept. 1, 1969.]

Art. 1269s. Defense of Civil Suits Against Peace Officers

Sec. 1. An incorporated city or town or special purpose district shall provide a peace officer employed by it with legal counsel without cost to the peace officer, on the officer's request, to defend the officer against a suit for damages by a party other than a governmental entity if the claim involves an official act of the peace officer in the scope of the officer's authority. The city, town, or special purpose district may provide counsel already employed by it or may employ and pay private counsel to defend the officer against the claim. In this Act, "peace officer" has the meaning given in Article 2.12, Code of Criminal Procedure, 1965, as amended.

Sec. 2. If the municipality or district fails to provide counsel as required by Section 1 of this Act, the officer may recover from it the reasonable attorney's fees incurred in defending the suit if the trier of fact finds that the fees were incurred in defend-

ing a suit covered by Section 1 of this Act and determines that the officer is without fault or finds that the officer acted with a reasonable good faith belief that his actions were proper.

[Acts 1979, 66th Leg., p. 1078, ch. 507, §§ 1, 2, eff. Aug. 27, 1979.]

Art. 1269t. Disease Benefit

(a) In this article, "employee" means a peace officer, fire fighter, or emergency medical services employee of this state or a political subdivision of this state.

(b) An employee who is exposed to a contagious disease is entitled to reimbursement from the employing governmental entity for reasonable medical expenses incurred in treatment for the prevention of the disease if:

(1) the disease is not an "ordinary disease of life" as that term is used by the Industrial Accident Board;

(2) the exposure to the disease occurs during the course of the employment; and

(3) the employee requires preventative medical treatment because of exposure to the disease.

(c) An employee who is exposed to such a disease is entitled to be treated for the prevention of that disease by the physician of the employee's choice.

[Acts 1983, 68th Leg., p. 5627, ch. 1064, § 1, eff. Sept. 1, 1983.]

Section 2 of the 1983 Act provides:

"This Act takes effect September 1, 1983, and applies only to reimbursement for treatment that occurs on or after that date."

TITLE 29

COMMISSIONER OF DEEDS

Art.

1270. Appointment.

1271. Oath.

1272. Seal.

1273. Authority.

Art. 1270. Appointment

The Governor is authorized to biennially appoint and commission one or more persons in each or any of the other states of the United States, the District of Columbia, and in each or any of the territories of the United States, and in each or any foreign country, upon the recommendation of the executive authority of said state, District of Columbia or territory or foreign country to serve as commissioner of deeds. Such commissioner shall hold office for two years.

[Acts 1925, S.B. 84.]

Art. 1271. Oath

Such commissioner, before he shall proceed to perform any duty under and by virtue of this title,

shall take and subscribe an oath or affirmation, before the clerk of any court of record in the city, county or country in which such commissioner may reside, well and faithfully to execute and perform all the duties of such commissioner under the laws of this State; which oath or affirmation, certified to by the clerk under his hand and seal of office, shall be filed in the office of the Secretary of State in this State.

[Acts 1925, S.B. 84.]

Art. 1272. Seal

Every such commissioner shall provide for himself a seal with a star of five points, in the center, and the words, "Commissioner of the State of Texas," engraved thereon, which seal shall be used to certify all the official acts of such commissioner; and without the impress of said seal upon any instrument, or to certify any act of such commissioner, said act shall have no validity in this State.

[Acts 1925, S.B. 84.]

Art. 1273. Authority

The commissioner of deeds shall have the same authority as to taking acknowledgments and proofs of written instruments, administering oaths, and

taking depositions to be used or recorded in this State, as is conferred by law upon a notary public of this State.

[Acts 1925, S.B. 84.]

TITLE 29A**COMMISSIONERS ON UNIFORM LAWS****Art.**

1273a. Repealed.

1273b. Commission on Uniform State Laws.

Art. 1273a. Repealed by Acts 1951, 52nd Leg., p. 763, ch. 415, § 6

Art. 1273b. Commission on Uniform State Laws**Appointment of Commission**

Sec. 1. (a) A Commission is hereby created to be known as the Commission on Uniform State Laws which shall consist of six recognized members of the bar who shall be appointed by the Governor for staggered terms of six years, with the terms of two members expiring on September 30 of each even-numbered year; and in addition thereto, any residents of this state who because of long service in the cause of the uniformity of state legislation shall have been elected life members of the National Conference of Commissioners on Uniform State Laws.

(b) A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes), by virtue of his activities for compensation in or on behalf of a profession related to the operation of the Commission may not serve as a member of the Commission or act as the general counsel to the Commission.

(c) Appointments to the Commission shall be made without regard to the race, creed, sex, religion, or national origin of the appointees.

(d) At least one of the Commissioners, at the time of his most recent appointment, must be a state judge, and at least one of the Commissioners, at the time of his most recent appointment, must be a legal educator.

(e) As the terms of members of the Commission expire or as their offices are vacated, the Governor first shall appoint to the Commission a state judge or legal educator if that appointment is required to comply with Subsection (d) of this section.

Application of Sunset Act

Sec. 1a. The Commission on Uniform State Laws is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by

that Act the commission is abolished, and this Act expires effective September 1, 1995.

Appointments to Fill Vacancies

Sec. 2. Upon the death, resignation, failure or refusal to serve, or removal of any appointed Commissioner, his office becomes vacant; and the Governor shall make an appointment to fill the vacancy, such appointment to be for the unexpired term of the former appointee.

Removal

Sec. 2a. (a) It is a ground for removal from the Commission if a member:

(1) does not have at the time of appointment the qualifications required by Subsections (a) and (d) of Section 1 of this Act for appointment to the Commission;

(2) does not maintain during the service on the Commission the qualifications required by Subsection (a) of Section 1 of this Act for appointment to the Commission;

(3) violates a prohibition established by Subsection (b) of Section 1 of this Act; or

(4) becomes ineligible to participate in National Conference activities.

(b) The validity of an action of the Commission is not affected by the fact that it was taken when a ground for removal of a member of the Commission existed.

Meeting and Organization

Sec. 3. (a) The Commissioners shall meet at least once in two years and shall organize by the election of one of their number as Chairman and another as Secretary, who shall hold their respective offices for a term of two years and until their successors are elected.

(b) The Commission is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

Duties of Commissioners

Sec. 4. Each Commissioner shall attend the meeting of the National Conference of Commissioners on Uniform State Laws, and both in and out of such National Conference shall do all in his power to promote uniformity in state laws, upon all subjects where uniformity may be deemed desirable and practicable; said Commission shall submit a biennial report to the Legislature before January 1 of each odd-numbered year and may supplement the report from time to time as said Commission may deem proper. The biennial report must contain an account of the Commission's transactions, and its advice and recommendations for legislation. It shall also be the duty of said Commission to bring about as far as practicable the uniform judicial interpretation of all uniform laws.

Expenses

Sec. 5. A Commissioner may not receive compensation for service as a Commissioner but is entitled to be reimbursed for reasonable expenses incurred in the performance of official duties.

Audit

Sec. 6. The State Auditor shall audit the financial transactions of the Commission during each fiscal year.

Administrative Functions

Sec. 7. The Texas Legislative Council shall provide accounting, clerical, and other support services necessary for the Commission to carry out its duties.

[Acts 1951, 52nd Leg., p. 763, ch. 415. Amended by Acts 1977, 65th Leg., p. 341, ch. 168, § 1, eff. May 20, 1977; Acts 1977, 65th Leg., p. 1843, ch. 735, § 2.078, eff. Aug. 29, 1977; Acts 1983, 68th Leg., p. 2871, ch. 487, § 1, eff. Sept. 1, 1983.]

Section 2 of Acts 1977, 65th Leg., ch. 168, amending § 1 of this article, provided:

"In making the initial appointments following the effective date of this Act, the governor shall designate two members for terms expiring September 30, 1978, two for terms expiring September 30, 1980, and two for terms expiring September 30, 1982."

Section 2 of the 1983 amendatory act provides:

"A person holding office as a member of the Commission on Uniform State Laws on the effective date of this Act continues to hold the office for the term for which the member was originally appointed."